

**NATIONAL COMPANY LAW TRIBUNAL**  
**INDORE SPECIAL BENCH**



ITEM No.3  
IA/423(MP)2024  
in  
CP(IB)/25(MP)2024

**Order under Section Sec. 379 r.w. Sec. 215 of BNSS 2023 a.w. 424(4) 2013**

**IN THE MATTER OF:**

M/s Delhi Liquors  
V/s  
Badri Prasad

.....Applicant

.....Respondent

**Coram:**

Mohan P. Tiwari, Hon'ble Member(J)  
Sanjeev Sharma, Hon'ble Member(T)

**PRONOUNCEMENT ORDER**

**Delivered on 30/01/2026**

The case is fixed for pronouncement of the order. The order is pronounced in open Court *vide* separate sheet.

Sd/-

**SANJEEV SHARMA**  
**MEMBER (TECHNICAL)**

Neeraj

Sd/-

**MOHAN P. TIWARI**  
**MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**INDORE BENCH**

**IA/423(MP)/2024  
IN  
C.P. (IB) No. 25 of 2024**

**IN THE MATTER OF:**

**M/s Delhi Liquors**

Having office at:

House No. 90, Panki Katra,  
Near Panki Hanuman Mandir,  
Pankabahadur Nagar,  
Kanpur, Uttar Pradesh – 208020

...Applicant / Operational Creditor

**Versus**

**Badri Prasad S/o Shri Lakhpat Singh**  
R/o G-11, 119-A, Gulmohar Colony,  
Bhopal, Madhya Pradesh – 462039

...Respondent

**Coram:**

Hon'ble Shri **Mohan P. Tiwari**, Member (Judicial)  
Hon'ble Shri **Sanjeev Sharma**, Member (Technical)

**Appearances:**

**For the Applicant:**

Mr. Sunil Fernandes, Senior Advocate  
with Mr. Abhishek Prasad, Advocate

**For the Respondent:**

Mr. Vijayesh Atre, Advocate  
with Ms. Aarya Chhangani, Advocate

**ORDER**

**Delivered on 30.01.2026**

1. The present Interlocutory Application has been filed by the Applicant–Operational Creditor seeking initiation of inquiry and prosecution against the Respondent under Section 379 read with Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), alleging that the Respondent has deliberately made false statements on oath and has produced false and fabricated documents before this Tribunal with intent to mislead the judicial process.
2. The Applicant had earlier instituted the captioned Company Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against Raisen Marketing Private Limited, the Corporate Debtor. The present application arises from the reply filed by the Respondent in opposition to the said insolvency petition.
3. It is the case of the Applicant that the Respondent, while filing reply to the Section 9 petition, raised an objection of pre-existing dispute by relying upon an alleged demand letter dated 16.11.2022, annexed as Annexure R-T.
4. According to the Applicant, no such letter was ever issued or received, and the said document has been fabricated solely to create an artificial defence to defeat the insolvency proceedings.
5. The Applicant further asserts that the speed-post receipt relied upon by the Respondent does not relate to the alleged demand letter at all, but in fact corresponds to a legal notice dated 18.11.2022 issued by M/s Som Distilleries & Breweries Limited, which notice was admittedly received by the Applicant.



6. Copies of the said legal notice, postal envelope bearing identical tracking number, and pleadings from the commercial suit filed by the said company have been placed on record by the Applicant to demonstrate the falsity of the Respondent's claim.
7. The Applicant has also produced a certificate dated 04.04.2025 issued by Neveen Jewellers, supported by photographs, certifying that the envelope along with the SOM notice weighs 18.93 grams, which exactly corresponds to the 20-gram speed-post receipt relied upon by the Respondent.
8. It has been demonstrated that inclusion of the alleged Corporate Debtor's notice or even two additional pages would cause the weight to exceed the said limit, thereby probabilistically establishing that the envelope could not have contained both notices as claimed.
9. On the basis of the above material, the Applicant has alleged commission of perjury and fabrication of evidence and has sought initiation of proceedings under Sections 215 and 379 of the BNSS.
10. The Respondent has denied the allegations and has relied upon an affidavit of Advocate Shri Mradul Mohan Singh Parmar, stating that two notices were drafted for two clients within a short span of time and that a junior associate had allegedly placed both notices in the same envelope, resulting in confusion.
11. The Respondent has further contended that the provisions of Sections 215 and 379 of the BNSS are attracted only where the alleged offence relates to a document produced before a "Court" and that the National Company Law Tribunal, being a Tribunal and not a Court, lacks jurisdiction to invoke the said provisions.
12. The Applicant, in rejoinder, has denied the explanation and submitted that the affidavit relied upon is vague, unsupported by personal knowledge, and



does not disclose the identity of the alleged junior associate. No original envelope or contemporaneous postal record has been produced.

13. It is further contended that under Section 106 of the Bharatiya Sakshya Adhiniyam, 2023, the burden of proving dispatch and authenticity of the alleged letter lies upon the Respondent, which burden has remained wholly undischarged.

14. It is also submitted that the reply to the Section 9 petition is unsigned by the Respondent and has been verified only by counsel on matters of fact, rendering the reply legally defective and non-est.

### **Findings -**

15. We have heard learned counsel for both sides at length and have perused the pleadings and documents placed on record. Before examining the factual allegations, it is necessary to examine the statutory framework under which the present application has been filed.

16. Section 215 of the Bharatiya Nagarik Suraksha Sanhita, 2023 reads as under:

**“215. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.—**

(1) No **Court** shall take cognizance—

(a)(i) of any offence punishable under sections 206 to 223 (both inclusive but excluding section 209) of the Bharatiya Nyaya Sanhita, 2023; or

(ii) of any abetment of, or attempt to commit, such offence; or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;



(b) (i) of any offence punishable under sections 229 to 233, 236, 237, 242 to 248 and 267 of the Bharatiya Nyaya Sanhita, 2023, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court; or

(ii) of any offence described in sub-section (1) of section 336, or punishable under sub-section (2) of section 340 or section 342 of the said Sanhita, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court;

except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise.”

18. Section 379 of the BNSS provides the procedural mechanism and reads as under:

**“379. Procedure in cases mentioned in section 215.—**

(1) When, upon an application made to it in this behalf or otherwise, any **Court** is of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 215, which appears to have been committed in or in relation to a proceeding in that Court, such Court may—

- (a) record a finding to that effect;
- (b) make a complaint thereof in writing;
- (c) send it to a Magistrate of the First Class having jurisdiction;
- (d) take sufficient security for the appearance of the accused; and
- (e) bind over any person to appear and give evidence.”

19. A conjoint reading of the above provisions makes it abundantly clear that the legislature has consciously and repeatedly used the expression



“Court”, and the power to initiate prosecution is vested exclusively in a Court.

20. The National Company Law Tribunal is a statutory tribunal constituted under Section 408 of the Companies Act, 2013. It is not a civil court or a criminal court.
21. The Tribunal does not possess powers akin to those of a civil court under the Code of Civil Procedure, nor does it exercise criminal jurisdiction under the Bharatiya Nagarik Suraksha Sanhita. Its powers are limited, confined and circumscribed strictly by the statute creating it. It cannot assume jurisdiction by implication, analogy or equity. Penal provisions must receive strict construction. In the absence of express legislative inclusion of tribunals within the meaning of “Court” under BNSS, this Tribunal cannot invoke Sections 215 or 379 of the said enactment.
22. Consequently, this Tribunal holds that proceedings under Section 215 read with Section 379 of the Bharatiya Nagarik Suraksha Sanhita, 2023 are **not maintainable before the National Company Law Tribunal**.
23. However, rejection of the application on the ground of jurisdiction does not denude this Tribunal of its authority to examine the reliability of pleadings and documents placed before it for the purpose of adjudicating insolvency proceedings.
24. Upon evaluation of the material on record, it is evident that the Respondent has failed to prove dispatch or service of the alleged demand letter dated 16.11.2022. The explanation furnished through the Advocate’s affidavit is unsupported by personal knowledge and is not corroborated by any affidavit of the alleged junior associate, postal acknowledgment, or original envelope.
25. In view of the jeweller’s certificate dated 04.04.2025 and the absence of rebuttal evidence, an adverse inference is attracted under Section 106 of



the Bharatiya Sakshya Adhiniyam, 2023. Accordingly, the alleged demand letter dated 16.11.2022 is held to be unproved and unreliable and cannot be taken into consideration for determining the existence of any pre-existing dispute under Section 9 of the Insolvency and Bankruptcy Code.

26. Accordingly, while criminal prosecution under BNSS cannot be initiated by this Tribunal, appropriate procedural consequences within insolvency jurisdiction must follow.

27. In view of the above discussion, the application seeking initiation of proceedings under Section 379 read with Section 215 BNSS stands rejected as not maintainable.

28. It is clarified that this order shall not preclude the Applicant from pursuing remedies, if any, before the competent criminal court or authority in accordance with law.

Sd/-

**(Sanjeev Sharma)**  
**Member (Technical)**

Sd/-

**(Mohan P. Tiwari)**  
**Member (Judicial)**