



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1055 OF 2026

- 1] Dwarka Dnyanoba Khandagale
Age : 32 years, Occu. : Labour,
- 2] Venubai Dnyanoba Khandagale,
Age : 65 years, Occu. : Labour,
- 3] Kaveri Dnyanoba Khandagale,
Age : 30 years, Occu. : Labour,
- 4] Kalpana Gautam Misal,
Age : 38 years, Occu. : Household,
All R/o. Punandangaon,
Tq. Majalgaon, Dist. Beed.

... Applicants
(Accused)

Versus

- 1] State of Maharashtra,
Through Police Inspector,
Majalgaon City Police Station,
Tq. Majalgaon, Dist. Beed.
- 2] Ashwini Rohidas Kure,
Age : 32 years, Occupation-Household &
Sarpanch, R/o. Punandangaon,
Tq. Majalgaon, Dist. Beed.

... Respondents
(Respondent No.2 is informant)

.....
Mr. Subhash S. Nade, Advocate for Applicants.
Mr. V. K. Kotecha, APP for Respondent – State.
Mr. Akash Rodge h/f. Mr. Sharad S. Solanke, Advocate for
Respondent No.2.

.....

CORAM : HITEN S. VENEGAVKAR, J.

RESERVED ON : 08th OCTOBER, 2026

PRONOUNCED ON : 15th OCTOBER, 2026

ORDER :

1. By this application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicants seek quashing of charge-sheet No. 151 of 2025 dated 26 August 2025 and the proceedings in Regular Criminal Case No. 329 of 2025 pending before the Judicial Magistrate First Class, Court No. 2, Majalgaon, District Beed. The prosecution arises from Crime No. 236 of 2025 registered with Majalgaon City Police Station for offences punishable under Sections 132, 351(2) and 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023. The applicants have also challenged the order dated 3rd September, 2025 passed below Exhibit 1, by which process was issued against them.

2. Respondent No. 2 states that she is the Sarpanch of village Punandgaon. According to her, on 27th June 2025 at about 10.15 a.m., when she was outside her house, the four applicants approached her and questioned why water was not being supplied to their lane. She explained that the electricity wire connected with the distribution transformer had burnt and that the interruption affected the entire village. She states that, despite this explanation, the applicants abused her, accused her of not properly carrying out her work as Sarpanch and threatened to kill her if water was not supplied. She further states that their conduct obstructed the work

of the Gram Panchayat. Her husband and another villager thereafter arrived, and the applicants left. On this complaint, the crime was registered and, after investigation, the impugned charge-sheet came to be filed.

3. Learned Advocate for the applicants submits that the prosecution has arisen out of longstanding hostility between the applicants and the informant's family. He points out that applicant No. 2 had complained to the police in June 2023 about an assault and had subsequently approached the Block Development Officer in October 2024 concerning interference with her residence and denial of documents and benefits. He further submits that applicant No. 1 had lodged Crime No. 95 of 2025 on 12th March 2025 against the informant's husband, father-in-law and others, alleging assault, threats and setting fire to the house. A subsequent non-cognizable complaint is also relied upon. According to him, the present prosecution is a retaliatory proceeding instituted against the women who had approached the authorities for protection and redress.

4. Learned Advocate for the applicants further submits that the immediate occasion was a request for drinking water, which the applicants were entitled to make. He submits that the FIR attributes abuse and threats to all the applicants together

without explaining the conduct of each of them. No actual assault or use of force is alleged in the FIR, and a general assertion that Gram Panchayat work was obstructed does not disclose the ingredients of Section 132 of BNS. He also points out that applicant No. 4 is the wife of an advocate who had represented applicant No. 1 in the earlier proceedings and submits that this association explains her implication. The statements recorded during investigation, according to him, introduce further allegations but do not provide a sufficiently clear account of the acts constituting the offences alleged. He therefore submits that allowing the prosecution to continue would amount to abuse of the process of the Court.

5. Learned Advocate for respondent No. 2 submits that the informant is a woman Sarpanch and a statutory functionary entrusted with responsibilities concerning the welfare of the village. He submits that the applicants repeatedly threatened her in connection with the discharge of those responsibilities. The prosecution material also includes statements of persons who claim to have witnessed the confrontation. The response of the informant is, therefore, that the incident cannot be reduced to an innocent demand for water merely because it occurred near her residence.

6. I have considered these submissions and examined the FIR, the statements accompanying the charge-sheet and the documents relied upon by the applicants. At this stage, this court is not concerned with deciding whether a particular witness should ultimately be believed. Nevertheless, the filing of a charge-sheet does not relieve this Court of its duty to examine whether the allegations, read as a whole, furnish the necessary factual foundation for the offences alleged and whether continuation of the proceedings would serve a legitimate purpose. In *Umashankar Yadav and another v. State of Uttar Pradesh, 2025 SCC OnLine SC 1066*, the Supreme Court reiterated that the availability of a remedy before the trial Court does not exclude the exercise of inherent jurisdiction to prevent an unmerited prosecution. The inquiry must address the actual allegations rather than merely defer every objection to trial.

7. The fact that respondent No. 2 was outside her house is not, by itself, decisive of the applicability of Section 132 of BNS. Equally, her position as Sarpanch does not bring every confrontation with her within that provision. The statutory requirement is assault or criminal force bearing the prescribed connection with public duty. Assault need not involve physical

contact, but it must involve a gesture or preparation conveying apprehension of imminent criminal force. A demand for water, criticism of its non-supply or a verbal disagreement with an elected officeholder cannot, without the further ingredients, be treated as that offence being committed.

8. The FIR does not describe the use of force or a particular gesture or preparation by any applicant. It states collectively that the applicants abused the informant, obstructed Gram Panchayat work and threatened her if water was not supplied. It does not identify an official act being carried out at that time, which was physically interfered with, or describe conduct intended to prevent a particular lawful act. This court recognise that the confrontation concern's demand for water supply and, therefore, had an alleged connection with the informant's office. That connection, however, cannot substitute for the essential allegation of assault or criminal force against the Informant.

9. The witness statements require separate consideration because they contain allegations beyond the FIR. Witness Muktabai's statement at paper-book page 35 attributes to applicant No. 4 an exhortation to catch and beat the informant and describes the other applicants advancing towards her. Pralhad's statement

at page 37 refers to threatening gestures and attributes words to applicant No. 1 concerning his support to the informant and further atrocities proceedings. Other statements also refer generally to gestures and preparation to beat the informant. It would, therefore, be inaccurate to say that the entire chargesheet contains no attribution of words or conduct. The finding of this court is narrower. When all these statements are read together, these statements do not sufficiently particularise the alleged gestures or preparations, the overt conduct giving effect to the exhortation, or the conduct attributable to each applicant which is said to have conveyed an imminent use of criminal force. Expressions concerning gestures and readiness to beat are employed in general terms, while the informant's own statement describes an exchange of words over water supply followed by abuse and a conditional threat, she does not state anything about the preparation, atrocities or exhortation. In the circumstances of this case, I find that these additions do not provide a sufficiently definite foundation for prosecution under Section 132 of BNS.

10. This court have not overlooked the statements of witness Haribhau Solanke and Parmeshwar Mule, who claim to have witnessed the occurrence. Their statements cannot be excluded merely because other witnesses are members of the

informant's family. The difficulty is with the particulars supplied by the prosecution material, rather than with a presumption that a relative or a villager must be untruthful. These statements repeat the allegations of abuse and threats and, in one account, gestures, but do not resolve the deficiency identified above. The principle explained in *Umashankar Yadav's* case (Supra) is that the statutory ingredients must be disclosed at the very threshold; its factual result cannot be applied mechanically to every dispute with a public servant. My conclusion here follows from my assessment of the allegations in this particular charge-sheet in its entirety.

11. So far as Section 351(2) is concerned, the FIR contains an allegation that the applicants threatened to kill the informant if water was not supplied. I do not disregard that allegation merely because the words are attributed collectively. However, the existence of threatening words must be considered with the circumstances said to disclose the requisite intention to cause alarm. Here, the applicants' demand concerned restoration of an essential service, the informant explained the electricity fault, and the allegation of a death threat is made against all four applicants in substantially the same general terms. The investigation does not sufficiently clarify who issued the threat, how the remaining applicants participated in it, or the conduct and circumstances

distinguishing a criminally intended threat from the angry exchange alleged. Considered with the existing pending litigation between the two sides, this court find that the allegation does not provide an adequate foundation for continuing this prosecution for criminal intimidation.

12. The allegation under Section 352 of BNS also requires more than the statement that filthy abuses were uttered. The material must disclose intentional insult giving provocation, accompanied by the intention or knowledge contemplated by that provision. In *Vikram Johar v. State of Uttar Pradesh and another, (2019) 14 SCC 207*, the Supreme Court explained that, abuse by itself does not supply the ingredients of intentional insult or criminal intimidation. In the present case, the FIR and statements do not sufficiently set out the insulting conduct and circumstances from which the required intention to provoke a breach of peace or another offence can be discerned. The prosecution cannot be continued under Section 352 of BNS merely because an acrimonious exchange is alleged.

13. The reference to Section 3(5) does not require a separate overt act by every accused where the material otherwise discloses a criminal act committed in furtherance of their common

intention. I have examined the applicants' alleged conduct together on that basis. Nevertheless, their coming to the informant to demand water cannot, without adequate particulars of the criminal act and their participation in it, supply the deficiencies in the allegations of the substantive offences. My conclusion is not founded on a rule that collective allegations can never sustain a prosecution. It rests on the insufficiency of the allegations in the present record when considered in their entirety.

14. The earlier complaints and Crime No. 95 of 2025 do not, merely by preceding the present FIR, establish that the latter is false. They do, however, disclose the existing hostility and provide material context for examining the applicants' contention of retaliation. Considering that background together with the insufficient particulars in the present prosecution, this Court is satisfied that requiring the applicants to face trial on this material would amount to abuse of the process of the Court. This conclusion is reached upon examining the chargesheet and the contrary witness statements, it does not rest solely on the place of occurrence, absence of physical injury, relationship of witnesses or absence of an individually described overt act for every applicant.

ORDER

- a) The Criminal Application is accordingly allowed.

b) Charge-sheet No. 151 of 2025 dated 26th August 2025, the order dated 3rd September 2025 passed below Exhibit 1 and the proceedings in Regular Criminal Case No. 329 of 2025 pending before the Judicial Magistrate First Class, Court No. 2, Majalgaon, District Beed, arising from Crime No. 236 of 2025 registered with Majalgaon City Police Station for offences under Sections 132, 351(2) and 352 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, are quashed and set aside as against all the four applicants.

c) The application stands disposed of.

(HITEN S. VENEGAVKAR)
JUDGE