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IN THE HIGH COURT OF BOMBAY AT GOA.**CRIMINAL WRIT PETITION NO. 58 OF 2026**

Mr. Gaurav Bakshi
S/o. B S Bakshi
49 years of age, Indian National
R/o. B 402, Martins Palm Fringe,
Cardozo Waddo, Behind SBI
Taleigao Branch, Caranzalem,
North Goa, Goa, 403002

...PETITIONER**~ VERSUS ~**

1. State of Goa
Through The Police Inspector
Panaji Police Station
Panaji Goa
2. Mr. Dattaprasad Toraskar
C/o. Office of the Mamlatdar
Of Tiswadi Taluka, Panaji Goa

...RESPONDENTS**APPEARANCES:****For the Petitioner.**

Mr. Digaj Bene.

For the Respondent No.1.Ms. Swati Kamat Wagh, Additional Public
Prosecutor.**CORAM : AMIT S. JAMSANDEKAR, J.****RESERVED ON : 13th August 2026.****PRONOUNCED ON 18th August 2026.**

ORDER

1. By the present Petition, the Petitioner seeks quashing of FIR No. 182/2025, registered by the Panaji Police Station, Panaji – Goa. The Petitioner also seeks quashing of the Chargesheet No. 10/2026 and the subsequent Criminal Case No. IPC/29/2026/F filed before the learned Judicial Magistrate First Class ‘F’ Court (*the JMFC*) at Merces pursuant to the said FIR. Additionally, the Petitioner also seeks quashing of the Order dated 9th March 2026 passed by the JMFC taking cognisance and issuing process against the Petitioner in the said criminal case.
2. Heard Mr. Digaj Bene, learned Counsel appearing on behalf of the Petitioner and Ms. Swati Kamat Wagh, Additional Public Prosecutor appearing on behalf of the State, i.e. the 1st Respondent.
3. Though the 2nd Respondent has been served twice, none appears from the 2nd Respondent. It was made clear on the earlier occasion that the matters shall be heard finally at the admission stage. In view thereof, I have proceeded to hear the matter finally.
4. The FIR was lodged on 12th December 2025 by the Panaji P.S., for offences under Sections 132, 352, and 351(3) of the Bharatiya Nyaya Sanhita (*the BNS*), 2023. The FIR was lodged on the basis of a

complaint dated 12th December 2025 filed by the 2nd Respondent against the Petitioner. Subsequently, on 9th February 2026, the said Chargesheet was filed under Sections 132, 352, and 351(3) of the BNS. The Petitioner is the sole accused.

5. The case of the Prosecution, in a nutshell, is that on 12th December 2025 at the office of the Mamlatdar of Tiswadi Taluka, Panaji – Goa, the Petitioner approached the 2nd Respondent while he was performing his official duties, in connection with his file pertaining to conversion of use of land, and abused the 2nd Respondent with filthy language. It is further the case that while the 2nd Respondent attempted to explain to him, the Petitioner threatened the 2nd Respondent with dire consequences and said that *“I will show you”, “I will see that you lose your job by registering vigilance case against you”,* and as such the Petitioner created disturbance in the office, causing breach of peace and obstructing the 2nd Respondent while performing his official duties.

6. Case of the Petitioner:

- a. It is the case of the Petitioner that even if the allegations made in the FIR and the chargesheet are accepted in their entirety, the essential ingredients of Sections 132, 352 and 351(3) of the BNS are not made out.

- b. The Petitioner submits that in order to attract Section 132 of the BNS, there must exist assault or use of criminal force against a public servant to prevent or deter that person from discharging his lawful duty. It is further submitted that the definition of 'force' under Section 128 of the BNS clearly shows that there can be said force, to use of only when one makes another to cause motion, change of motion or cessation of motion in one of the three ways expressly provided therein, i.e. by his own bodily power or by disposing any substance in such a manner that the motion or change or cessation of motion takes place and inducing any animal to move to change its motion or to cease to move. In the absence of adoption of any one of the three ways, or in the absence of causing motion, change or cessation thereof, the above definition would not attract.
- c. The Petitioner submits that 'criminal force' as defined in Section 129 of the BNS indicates that whoever intentionally uses force to any person, without that person's consent, in order to commit any offence or intending by the use of such force to cause or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other. It is therefore

submitted that when the ingredients of Section 128 are absent, Section 129 cannot come into play. In other words, when there is absence of force altogether, there cannot be any criminal force attributable.

- d. The Petitioner further submits that the definition of 'assault' under Section 130 of the BNS indicates that whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause a person to apprehend that he is about to use criminal force to that person is said to commit an assault. According to the explanation thereto, mere words do not amount to an assault, but the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures amount to an assault. Upon reading Section 130 with illustrations, it can be concluded that, in order to constitute that to be an assault, the Section indicates that there has to be a clear intention appearing from the gesture that the person is intending to cause to believe that he is about to strike the other.
- e. It is pointed out that there is no allegation in the FIR of any assault upon the 2nd Respondent. There is no allegation that the Petitioner used any criminal force against the 2nd Respondent.

There is no allegation of pushing, touching, catching hold of, manhandling or any other physical act against the 2nd Respondent. The allegation, therefore, is essentially of an exchange of words, abusive language and an alleged threat to approach the vigilance authorities.

- f. It is submitted that mere use of abusive language, speaking loudly or rudely, or expressing an intention to complain against a public servant does not, by itself, constitute assault or criminal force. In the absence of the essential ingredients of Section 132 of the BNS, the said provision is not attracted in the present case and the continuation of the proceedings against the Petitioner for the said offence would amount to an abuse of the process of law.
- g. With respect to Section 352 of the BNS, the Petitioner submits that the essential ingredients of the section are not made out in the present case. Mere use of abusive or insulting words, without the intention to provoke the person insulted to cause a breach of peace or commit any other offence, would not constitute the said offence. In the present case, there is no allegation that the alleged words were used by the Petitioner with

any intention to provoke the 2nd Respondent to cause a breach of peace or to commit any offence.

h. The Petitioner further submits that the only allegation of use of words is “*I will show you*” and “*I will see that you lose your job by registering vigilance case against you.*” There is no allegation whatsoever of any intimidation by threat to cause death or grievous hurt or any other ingredient of Section 351(3) of the BNS.

i. The Petitioner submits that to constitute the offence of criminal intimidation, there must be a threat of injury to the person, reputation or property of the person threatened, coupled with an intention to cause alarm to that person, or to compel such person to do an act which he is not legally bound to do, or to omit an act which he is legally entitled to do.

7. Mr. Bene, learned counsel for the Petitioner, has relied on the following judgments in support of his submissions: ***Amer Khan v. State of Maharashtra and Ors.***, 2023 SCC OnLine Bom 818; ***Paresh S/o Ramchandra Kothari v. State of Maharashtra and Anr.***, Criminal Application (APL) No. 1114/2022, Bombay High Court, Nagpur Bench; ***Ashish S/o Yuvraj Shinde v. State of Maharashtra and Anr.***, Criminal Writ Petition No. 1288/2017, Bombay High Court,

Aurangabad Bench; Fakruddin Ahmad Lohar v. State of Maharashtra and Anr., 2017 SCC OnLine Bom 6606; Vivekanand D. Gupta v. State of Maharashtra and Anr., Writ Petition No. 2898/2019; Sudhir Kumar v. State of Maharashtra, Criminal Application (APL) No. 209/2025; Manoj v. State of Kerala and Anr., Crl. M.C. No. 4290/2019, Kerala High Court; K. Dhananjay v. Cabinet Secretary and Ors., SLP (Crl.) No. 5905/2022, Supreme Court; B. N. John v. State of U.P. and Anr., SLP (Crl.) No. 2184/2024, 2025 INSC 4.

8. Ms Kamat vehemently opposed the petition and submitted that the Petitioner has a habit of committing such acts. The behaviour of the Petitioner with the public servant has not been in accordance with law. The record establishes that the Petitioner has committed offences as mentioned in the charge sheet and at this stage the Petitioner ought not to be granted any relief. She submitted that the Petitioner should face the trial.
9. I have heard the parties and have perused the record, including the charge sheet and the related documents.
10. I am satisfied that even if all the statements made in the complaint filed by the 2nd Respondent are accepted in their entirety, they do not

disclose any threat of physical injury, injury to reputation or injury to property.

11. The alleged words also do not disclose any intention on the part of the Petitioner to cause alarm to the 2nd Respondent. There is no allegation that the 2nd Respondent was put in a state of sudden fear or apprehension of any immediate danger to his person, reputation or property. The allegation that the Petitioner would approach the vigilance authorities or lodge a complaint against the 2nd Respondent cannot, by itself, amount to criminal intimidation. A person informing another that he would take recourse to a lawful remedy cannot be treated as threatening that person with injury within the meaning of Section 351(3) of the BNS.
12. Further, it is submitted that the prosecution also relies upon the allegation that the Petitioner disturbed the peaceful working of the office and obstructed the 2nd Respondent in discharge of his official duties. However, the mere use of rude or abusive words, or an argument between two persons, cannot automatically result in criminal liability unless the statutory ingredients of the particular offence are satisfied.
13. In addition, the Petitioner submits that the Petitioner had already filed a complaint dated 6th February 2025 against the 2nd Respondent

before the competent authorities regarding dereliction of duty, harassment and demanded disciplinary proceedings for violation of CCS Conduct Rules. The present FIR was thereafter lodged by the 2nd Respondent against the Petitioner on 12th December 2025. The chronology assumes significance because the 2nd Respondent, who was already the subject matter of a complaint made by the Petitioner, subsequently became the complainant in the present criminal case. The existence of the earlier complaint, therefore, provides the necessary background to the present prosecution and demonstrates that the FIR cannot be viewed in isolation. Therefore, I am accepting all the submissions made by Mr. Bene on behalf of the Petitioner as narrated in paragraph 6 hereinabove and reject the submissions made on behalf the State.

14. Considering the material on record, I am satisfied that it would be unfair and contrary to the interests of justice to continue the criminal proceedings, and their continuation would amount to an abuse of process. Therefore, I am exercising the inherent powers to quash the FIR and the charge sheet registered against the Petitioner.
15. In view thereof, the Petition is allowed in terms of prayer clause (a), (a.1), (a.2) and (a.3) quoted as below:

- (a) *Issue order or direction to quash and set aside the FIR bearing No. 182/2025 and the complaint registered at Panaji Police Station, Panaji, Goa pursuant to which the said FIR is registered as against the Petitioner;*
- (a.1) *Issue order or direction to quash and set aside Chargesheet bearing number 10/2026 filed before the Judicial Magistrate First Class at Mercas Goa, pursuant to the aforesaid FIR and registered as Criminal Case No. IPC/29/2026/F;*
- (a.2) *Issue order or direction to quash and set aside the Order dated 09/03/2026 passed by the learned Magistrate at Mercas taking cognizance and issuing process against the petitioner in Criminal Case No. IPC/29/2026/F;*
- (a.3) *Issue order or direction to quash and set aside all further and consequential proceedings arising out of F.I.R. No. 182/2025, including Criminal Case No. 29/2026/F pending before Ld. J.M.F.C at Mercas, Goa;*

16. No order as to costs.

17. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]