

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1143 OF 2026

Hitesh Ramesh Gandhi .. Applicant
Versus
The State of Maharashtra and Anr. .. Respondents

WITH
CRIMINAL APPLICATION NO.1360 OF 2025

Anil Kumar Bherulal Jagetiya .. Applicant
Versus
The State of Maharashtra and Anr. .. Respondents

WITH
(93) CRIMINAL APPLICATION NO.1211 OF 2026

Ladulal Harakchand Kanther and Anr. .. Applicants
Versus
The State of Maharashtra and Anr. .. Respondents

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- Mr. Shreyansh R. Mithare a/w. Mr. Avinash S. Kori a/w. Mr. Shobhit Desai a/w. Ms. Pooja Sharma, Advocates for Applicants in Criminal Application Nos.1143 of 2026 and 1360 of 2025 .
 - Mr. Saurabh Mittal, Advocate for Applicant in Criminal Application No.1211 of 2026.
 - Mr. Sukanta A. Karmakar, APP for Respondent – State in Criminal Application Nos.1143 of 2026 and 1360 of 2025.
 - Ms. Rajeshree V. Newton, APP for Respondent – State in Criminal Application No.1211 of 2026.
 - Mr. Akash Sabale a/w Aditya Talpade i/b T & K Law Chambers Advocates for Respondent No.2.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 29, 2026

P.C.:

1. Heard Mr. Mithare, learned Advocates for Applicants in Criminal Application Nos.1143 of 2026 and 1360 of 2025; Mr. Mittal,

learned Advocate for Applicant in Criminal Application No.1211 of 2026; Mr. Karmakar, learned APP for Respondent – State in Criminal Application Nos.1143 of 2026 and 1360 of 2025; Ms. Newton, learned APP for Respondent – State in Criminal Application No.1211 of 2026 and Mr. Sabale, learned Advocate for Respondent No.2.

2. All 3 Criminal Applications are filed under Section 528 of Bhartiya Nagarik Suraksha Sanhita, 2023 in connection with C.R. No.812 of 2025 dated 05.08.2025 registered with L. T. Marg Police Station for offences punishable under Sections 316(5), 318(4) r/w 3(5) of the Bhartiya Nyaya Sanhita, 2023. Applicants are arraigned as Accused in the offences.

3. Parties have reconciled their disputes and claims which pertain to exchange of money and transactions related to share trading account during the COVID period. The Affidavits of consent dated 30.06.2026 and 24.07.2026 of the Complainant - Pranam Harish Mehta, who is present in Court gives his consent to quash all proceedings as stated in paragraph No.5 and 7 thereof. It also states that he has no surviving grievances, claims and disputes whatsoever against accused persons and the same have been amicably resolved and settled out of Court by the parties.

4. I have no reason to disbelieve what Mr. Mehta submits, since he is present before the Court and confirms his consent affidavit. The

Applicants are also present before the Court. They are duly represented by Advocates - Mr. Mithare and Mr. Mittal. In my opinion, there can be no impediment to allow the present Applications since the *lis* between them emanates purely out of a contractual issue and is now resolved finally by them.

5. Hence common order is passed in all the 3 applications before me.

6. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CRPC, 1973 High Courts invoke this provision to step in where cases have been instituted with *malafide* motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CRPC and now Section 528 of BNSS remains discretionary and varies from case to case.

7. In *State of Harayana vs Bhajan Lal*¹ the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has furthered asserted that power under Section 482 is an acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

8. In the above context, when parties settle their private dispute or the *lis* between them is purely civil and commercial or matrimonial and the offence is not heinous or does not impact the society at large, the Court can consider such request. In such a case awarding costs for putting the criminal law into motion on the act of the accused persons and thereafter both parties seeking quashing of proceedings by consent, in my opinion, can be considered by Court which can impose costs on the parties, especially so in matters coming before the Court by "consent quashing".

9. For above levy of costs the legal principle rests on the logic that criminal law cannot be used as a bargaining chip or a tool for

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private settlements after draining the State and judicial resources. In simple words, Courts cannot be used as a recovery mechanism to settle scores and/or bring the parties into subjugation. I am of the firm opinion that imposition of costs in consent quashing matters is required to be levied for three main reasons viz., wastage of public resources, consumption of valuable judicial time and for deterrence against vexatious litigation. This is because after criminal machinery is set into motion, the Police Department is forced to take cognizance, conduct investigations, attend courts, deploy personnel, collect evidence and draft chargesheets, all using public funds/ public exchequer. Equally substantial judicial time of the Trial Courts and Sessions Courts is wasted for handling a case, presentation of a case, issuance of summons, scheduling of trial dates, appointment of prosecutors and their fees, etc. and ultimately if consent quashing is allowed such judicial time stands completely wasted, which could have otherwise been used for genuine Trial Court matters/ litigation. In one way such matters result in clogging the legal system and lead to humongous pendency which becomes difficult to tackle.

10. Another aspect to consider for imposing costs is that it curbs the growing trend of filing strategically exaggerated criminal complaints (especially matrimonial or commercial disputes) simply to force financial and legal settlements. In a given case made out on merits of the matter, even the Complainant can be put to costs while

considering a quashing Petition purely on merits depending upon the facts of each case before Court. In some strong circumstances, even the State machinery can be put to costs if a purely civil dispute between parties strongly emanating from the facts on record is registered as criminal case and given the flavor of criminality. This Court is also equally conscious about not imposing costs blindly or mechanically if a particular party is not found to be remiss or at explicit fault for abusing the law, as also conscious about heinous offences impacting the society at large while considering consent quashing.

11. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Applicants for their actions resulting in the complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Applicants should pay costs. Hence, all 3 Applicants are directed to pay costs of Rs.5,000/- each to **A.K. Munshi Yojana's J.T. Sheth Mandbuddhi Vikas Kendra**, a Special School imparting education and training to the needs of 150 special children in the field of Education (Classes for 6 to 18 years), early intervention (upto 6 years) and vocational training (18 years above) having its school address and building at A.K. Munshi Yojana Chowk, 3rd Panjarapole Lane, C.P. Tank, Mumbai – 400 004 [Contact Nos. 22425513 / 22423654] registered under the Society Registration Act, XXI of 1980 under No. : 387/81 GBBSD and the Public Trust Act, XXIX of 1950 under No. F-6809. RCI Reg. No.0163 within a period of two

weeks from today. All Applicants are present in Court and through their learned Advocates agree to pay the aforesaid costs amount to the charity as directed hereinabove.

12. In view of the above, all 3 Applications deserve to be allowed subject to payment of costs as directed herein above. They are so allowed in terms of prayer clauses 'a' in all 3 Applications which reads thus:-

"In Criminal Application No.1143 of 2026:-

- (a) *that this Hon'ble Court be pleased to quash and set aside the F.I.R. bearing C.R. No.812/2025 registered with L.T. Marg Police Station, Mumbai for the offence punishable u/s. 316(5), 318(4) r/w 3(5) of BNS against Applicant on such terms and conditions as this Hon'ble Court may deem fit and proper;*

In Criminal Application No.1360 of 2025:-

- (a) *that this Hon'ble Court be pleased to quash and set aside the F.I.R. bearing C.R. No.812/2025 registered u/s. 316(5), 318(4) r/w 3(5) of BNS with L.T. Marg Police Station, Mumbai alongwith cognizance order dated 04/11/2025 passed by Ld. Judicial Magistrate First Class, 28th Court Esplanade Mumbai and subsequent criminal proceedings of C.C. No. 1116/PW/2025 pending on the files of Ld. Judicial Magistrate First Class, 28th Court Esplanade Mumbai on such terms and conditions as this Hon'ble Court may deem fit and proper;*

In Criminal Application No.1211 of 2026:-

- (a) *that this Hon'ble Court be pleased to quash and set aside the F.I.R. bearing C.R. No.812/2025 registered u/s. 316(5), 318(4) r/w 3(5) of BNS with L.T. Marg Police Station, Mumbai alongwith chargesheet and cognizance order dated 04/11/2025 passed by Ld. Judicial Magistrate First Class, 28th Court Esplanade Mumbai and subsequent criminal proceedings of C.C. No. 1116/PW/2025 pending in the file of Ld. Judicial Magistrate First Class, 28th Court Esplanade Mumbai on such terms and conditions as this Hon'ble Court may deem fit and proper;"*

13. List the Writ Petition for compliance of this order on 11th September 2026.

14. Advocates for Applicants in all 3 Applications shall remain present and show compliance on behalf of all Applicants on the returnable date for compliance. If they do not remain present and there is non-compliance of this order, Court will pass appropriate order for recall of this order, which shall be noted by the Applicants/parties to all Applications.

15. All 3 Criminal Application Nos.1143 of 2026; 1360 of 2026 and 1211 of 2026 are allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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