



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 199 OF 2025

1. Ashok Patil (Wagadiwale)
@ Ashok Murlidhar Patil,
Age: 58 years, Occu. Agriculture,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.
2. Aba Patil (Wagadiwale)
@ Chotu Murlidhar Patil,
Age : 53 years, Occu. Agriculture,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.
3. Sagar Wagh @ Sagar Chotu Patil,
Age: 21 years, Occu. Education,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.
4. Monya Wagadhi @ Avinash Ashok Patil,
Age: 26 years, Occu. Agriculture,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.
5. Rinku Wagadhi @ Sunil Rajesh Patil,
Age : 27 years, Occu. Agriculture,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.
6. Bhurya Wagadhi @ Paresh Sanjay Patil,
Age : 20 years, Occu. Education,
R/o. Shivshakti Chowk, Tambepura,
Amalner, Taluka - Amalner,
District Jalgaon.

.... Applicants.
(Orig. Accused Nos. 6, 7,
21, 27, 28 & 29)

Versus

1. The State of Maharashtra,
Through Police Inspector,
Amalner Police Station, Amalner,
Taluka - Amalner, District – Jalgaon.

2. X.Y.Z.

.... Respondents
(No.2-Orig. Complainant)

WITH
CRIMINAL REVISION APPLICATION NO. 202 OF 2025

1. Kailas Namdev Patil,
Age : 53 years, Occu : Business,
R/o Tambepura, Tal. Amalner,
Dist. Jalgaon
2. Sunny @ Jitesh Kailas Patil
Age : 28 years, Occu : Student,
R/o Tambepura, Tal. Amalner,
Dist. Jalgaon
3. Dadu Rikshawala @ Nilesh Devidas Patil,
Age : 39 years, Occu : Labour,
R/o Wipro Road, Front of Hanuman Temple,
Ganesh Colony, Tambepura,
Tal. Amalner, Dist. Jalgaon
4. Jijabrao Prahlad Patil,
Age : 36 years, Occu : Job,
R/o Near Mahadev Temple, Sane Nagar,
Tal. Amalner, Dist. Jalgaon
5. Bhagwat @ Sonu Prahlad Patil,
Age : 35 years, Occu : Labour,
R/o Appa Nagar, Shiv Shakti Chowk,
Nandgaon Road, Tal. Amalner, Dist. Jalgaon
6. Salati Bhausahab @ Dipak Ramesh Patil,
Age : 47 years, Occu : Labour,
R/o Sane Nagar, Tambepura,
Tal. Amalner, Dist. Jalgaon

7. Ravsaheb Vilas Patil,
Age : 27 years, Occu : Student,
R/o Sane Nagar, Tambapura,
Tal. Amalner, Dist. Jalgaon
8. Nikhil Krushna Patil,
Age : 26 years, Occu : Labour,
Rio Ganesh Colony, Tambapura,
Tal. Amalner, Dist. Jalgaon

... Applicants

Versus

1. State of Maharashtra,
Through Police Inspector
of Amalner Police Station, Dist. Jalgaon
2. X.Y.Z.

... Respondents

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Mr. G. S. Rane, Advocate for Applicants in REVN/199/2025
Mr. M. D. Deshpande h/f. Mr. K. B. Suryawanshi, Advocate for Applicants
in REVN/202/2025
Mrs. P. V. Diggikar, APP for Respondent No1 – State.
Mr. M. B. Sandanshiv, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 10 NOVEMBER 2025

PRONOUNCED ON : 13 NOVEMBER 2025

JUDGMENT :

1. Revisionists herein, who are original accused, assail the order dated 16.06.2025 passed by learned Additional Sessions Judge, Amalner, Dist. Jalgaon, on application below Exh.1 in Criminal Miscellaneous Application No.20 of 2025 by which powers under section 175(3) of BNSS (Old section 156(3) of Cr.P.C.) are exercised.

2. Respondent no.2 herein filed above Criminal Miscellaneous Application when her report with police as well as Superintendent of Police fell on deaf ears. According to her, she belongs to scheduled caste and resides with her husband and family. In the backdrop of love relations between one Rajveer, who is nephew of her husband, with daughter of one of the accused namely Ravindra Patil, on 16.03.2025 as many as 39 accused charged over her house, manhandled her and touched her inappropriately. One of the accused also outraged the modesty of her minor daughter and hurled caste abuses and thereby committed offences under both, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well as Bharatiya Nyaya Sanhita (BNS). When she approached police with a request to register FIR, the same was not registered. When she approached Superintendent of Police, he too did not act, and therefore, she approached court of law by invoking section 175(3) of the BNSS.

After going through the complaint, learned Additional Sessions Judge, Amalner, was pleased to allow the application directing Amalner police to carryout the investigation vide order dated 16.06.2025. Precisely said order is now questioned by learned counsel for revisionist and the same is also opposed by learned counsel representing original complainant.

3. Heard. Learned counsel Shri Rane as well as Shri Deshpande representing revisionist would take this court through the papers, more particularly, the complaint and would submit that the same is false, frivolous and fabricated one. That, apart from inordinate delay in reporting, baseless allegations are levelled against as many as 39 accused. It is pointed out that, initially learned trial court passed order of "Put up for hearing Exh.1" and thereby directly passed the impugned order. Learned counsel pointed out that, statement of respondent no.2 is conversely opposite and not in consonance with averments raised in the Criminal Miscellaneous Application.

4. According to them, in view of provisions laid down under section 175(3) of the BNSS (Old Section 156(3) of Cr.P.C.), it was incumbent upon court to call say of Investigating Officer and that said exercise was mandatory. Learned counsel to buttress the above submissions took this court through the judgment of the Hon'ble Apex Court in the case of ***Om Prakash Ambadkar v. State of Maharashtra*** [AIROnline 2025 SC 63] and took this court through paragraph nos.29, 30, 31, 34 and 35, and reiterated that it was mandatory on the part of Magistrate to hear the Investigating Officer and then apply his mind to the veracity and credibility of the averments. However, according to him, learned trial court failed to do so. That, no preliminary inquiry was

conducted for satisfaction and even say of Investigating Officer was not called and so according to them, there are procedural lapses and circumventing of procedure by learned Magistrate and hence he urges to allow the revision by setting aside the impugned order.

5. Above submissions are countered by learned counsel Shri Sandanshiv representing the complainant and according to him, there was sufficient prima facie material regarding complainant and her daughter being attacked, they being manhandled and their modesty being outraged. Therefore, promptly police authorities were approached, but neither concerned police station nor Superintendent of Police paid heed to her complaint, and as such, she was constrained to knock the doors of the court by invoking section 175(3) of the BNSS. He pointed out that, accused persons are specifically named and their roles are crystallized. In response to submissions of no preliminary inquiry and no say of Investigating Officer being called, he would submit that, it is not mandatory, more particularly in the backdrop of nature of accusation regarding commission of offence under the SC & ST Act. He took this court through the amended section 18A of the SC & ST Act, judgment of the Hon'ble Madras High Court as well as Standard Operating Procedure (SOP) and would point out that, aforesaid provision does not contemplate conducting any preliminary inquiry. Ultimately, he urges to dismiss the revision for want of merits.

6. This court is called upon to see whether the impugned order dated 16.06.2025 is erroneous, illegal or unreasonable and thus required to be set aside by allowing the revision.

7. Perused the papers. Thrust of the learned counsel for revisionist is that there is false implication and that statement of respondent no.2 does not corroborate with averments raised in the Criminal Miscellaneous Application filed before learned trial court. Second limb of his argument is that section 175(3) of the BNSS contemplates preliminary inquiry and hearing Investigating Officer. This procedure has been given a go by. Reliance is also placed on aforesaid rulings of the Hon'ble Apex Court.

8. On going through the averments in the complaint in Criminal Miscellaneous Application No.20 of 2025, it seems that, it is averred therein that complainant resides with her husband and children. She has averred that, she belongs to 'Bhil' community. Substance of her complaint is that, nephew of her husband namely Rajveer had love relations with daughter of one Ravindra Patil and as such Ravindra Patil and entire community to which he belonged got enraged, upset and annoyed and they had conspired to charge upon the house of complainant. Accordingly she alleges that, on 16.03.2025 at around 7:30 p.m., persons named in the complaint formed unlawful assembly,

disconnected electricity supply as well as blindfolded CCTV cameras and giving slogans and charged over her house. She has alleged that, previous to coming to her house said persons had beaten and outraged modesty of another lady, who too belongs to scheduled caste community, and thereafter, they charged over her house and she claims that while she was standing in front of the house, caste abuses were hurled, and thereafter, she was manhandled. She claims that, all accused persons were armed with lathi - kathi, allegations of outraging modesty are directed against one Bala Pawar, whereas one Bapu instigated others, upon which modesty of her daughter was also outraged. She has also named Manisha Kailash Patil, Vaju Ravindra Patil, Sagar Wagh, Sham Patil, Vikrant Patil and Kailas Patil for assaulting her husband. She has alleged forceful entry in her house and damaging and ransacking their belongings. She further averred that, when she approached police, her report was not lodged by either police or police officers.

9. As argued forcefully it is to be seen whether there is circumventing of procedure by learned trial court by not conducting any preliminary inquiry or summoning Investigating Officer.

Chapter XII of Cr.P.C. provides for powers of Magistrate to direct investigation by invoking section 156(3) of Cr.P.C., now section 175(3) of BNSS. By catena of the judgments, principles are culled out

that on finding material regarding commission of cognizable offence, investigation has to be directed at the hands of police. Magistrate is expected to apply his mind and has to be conscious of the consequences that would follow upon issuing such directions to investigate. Whether offence is disclosed or not necessarily depends on facts and circumstances of each case. The Magistrate is expected to get itself satisfied that police station and higher police officers was approached and regarding that affidavit is placed on record and then Magistrate is expected to ascertain whether material exist suggesting commission of cognizable offence and thereupon to issue direction for investigating of which registration of FIR is the consequences. Application of mind coupled with reasons for satisfaction of the court are also expected to be reflected in the order while allowing or refusing the prayers.

10. As regards to argument that no preliminary inquiry is conducted nor say of Investigating Officer was called is concerned, in the considered opinion of this court, when it is a specific case of respondent no.2 that in spite of she approaching police, her report was not entertained, there is no question of any inquiry being conducted by police. Learned counsel for respondent no.2 has specifically pointed to amendment of section 18(A)(1)(a) of SC & ST Act and the said amended part introduced by way of Amendment Act 27 of 2018, reads as under :-

“18A. (1) for the purpose of this Act, -
(a) No preliminary inquiry shall be required for registration of a FIR against any person.”

Thus, the above amended portion unequivocally precludes any form of preliminary inquiry before registration of FIR, more particularly when the complaint discloses the cognizable offence.

Here, as pointed out by learned counsel for respondent no.2, in the case of ***Union of India v. State of Maharashtra*** [(2020) 4 SCC 761], the Hon’ble Apex Court after discussing various judicial precedents, has held that, “the direction of conducting preliminary inquiry is in direct contravention of section 18(A)(1)(a). Therefore, in the light of above settled legal position, it cannot be said that failure on the part of learned trial court to conduct preliminary inquiry is fatal.

Again, very recently the Hon’ble Apex Court in the case of ***Kiran Vs. Rajkumar Jivraj Jain and Ors.*** [MANU/SC/1222/2025], though while dealing with bar as provided under section 18 of SC & ST Act for grant of anticipatory bail, in paragraph no.6.2, observed as under :-

“6.2. Non-making of prima facie case about the commission of offence is perceived to be such a situation where the Court can arrive at such a conclusion in the first blush itself or by way of the first impression upon very reading of the averments in the

FIR. The contents and the allegations in the FIR would be decisive in this regard. Furthermore, in reaching a conclusion as to whether a prima facie offence is made out or not, it would not be permissible for the Court to travel into the evidentiary realm or to consider other materials, nor the Court could advert to conduct a mini trial.”

In the light of above discussion, arguments advanced before this court that learned trial court erred in not conducting preliminary inquiry and failed to call report of Investigating Officer to be fatal, has no substance.

11. For above reasons, when complaint carries material about respondent no.2 to be belonging to scheduled caste category and after hurling castes remarks or abuses against her, she and her daughter both being physically manhandled and indulging in act amounting to outraging of modesty, definitely cognizable offence is alleged and therefore no fault can be found in the impugned order. Hence, the following order is passed :

ORDER

Both Revision Applications are dismissed.

(ABHAY S. WAGHWASE, J.)

12. After pronouncement of judgment, the learned counsel for the applicants prays six weeks time for continuation of interim relief granted by order dated 25.06.2025 and 07.07.2025, which has been in operation till date, to enable the applicants to approach the Hon'ble Supreme Court.

13. Other side has objection.

14. Considering the nature of the dispute and fact that the interim relief was in operation till today, the said interim relief to continue for a period of four (4) weeks from today.

(ABHAY S. WAGHWASE, J.)