



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3326 OF 2023

Ronak s/o Santosh Bothara ... **APPLICANT**

VERSUS

Jitendra s/o Kumar Singh & ors. ... **RESPONDENTS**

.....
Mr. Abhaukumar D. Ostwal, Advocate for applicant
Mr. V.P. Bakal, Advocate for R.No.1 & 2 (appointed)
Mrs. Chaitali Chaudhari Kutti, A.P.P. for R. no.3 – State
.....

WITH

CRIMINAL WRIT PETITION NO. 1057 OF 2025

Santosh s/o Manakchand Bothara ... **PETITIONER**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. Abhaukumar D. Ostwal, Advocate for petitioner
Mrs. Chaitali Chaudhari Kutti, A.P.P. for R. no.3 – State
.....

**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 24th NOVEMBER, 2025

ORDER :

Both these proceedings, namely Application,
(No.3326/2023) under Section 482 of the Code of Criminal

Procedure, and Writ Petition, (No.1057/2025) under Article 227 of the Constitution of India are taken up together as they are interconnected. The main prayers in both, the Application and Writ Petition read thus :

In Criminal Application No.3326/2023

- (b) That this Hon'ble Court may kindly be pleased to quash and set aside the F.I.R. registered vide C.R. No./ F.I.R. No.0436/2021 dated 03/07/2021 with MIDC Police Station, Ahmednagar for offence punishable under Section 304/304-A of the IPC and Chargesheet/ Final Report No.203/2021 filed by MIDC Police Station, Ahmednagar, District Ahmednagar for offence punishable under Section 304-A of the IPC, now culminated into S.C.C. No.4445/2021, (CNR No.: MHAH030067882021) pending on the file of the learned Judicial Magistrate, First Class, Ahmednagar, Dist. Ahmednagar and further proceedings arising thereof, against the present applicant (Exhibit 'A' & 'B').
- (c) That the proceedings arising out of S.C.C. No.4445/2021, (CNR No.MHAH030067882021)

arising out of C.R. No./F.I.R. No.0436/2021 dated 03/07/2021 registered with MIDC Police Station, Ahmednagar for the offence punishable under section 304/304A of the IPC & Chargesheet/ Final Report No.203/2021 pending on the file of the learned Judicial Magistrate, First Class, Ahmednagar may kindly be quashed and set aside (Exhibit 'A' & 'B').

In Criminal Writ Petition No.1057/2025

- (b) this Hon'ble Court be pleased to call for the records and proceedings in S.C.C. No.4432 of 2021 pending before the learned Judicial Magistrate, First Class, Ahmednagar at Ahmednagar, and after examining the legality, propriety and validity of the impugned order of issuance of process dated 30/10/2021 passed by the learned Additional Chief Judicial Magistrate, Court No.6, Ahmednagar, this Hon'ble Court may kindly be pleased to quash and set aside the impugned order dated 30/10/2021 issuing process against the petitioner and S.C.C. No.4432/2021 and further proceedings arising

thereof in S.C.C. No.4432/2021.

- (c) That, this Hon'ble Court be pleased to quash and set aside the impugned complaint and order dated 30/10/2021, thereby, taking cognizance and issuing process/ summons against the petitioner, passed by the learned Additional Chief Judicial Magistrate, Court No.6, Ahmednagar in S.C.C. No.4432 of 2021.

FACTS :-

2. The applicant Santosh runs a company engaged in manufacturing of plastic pipes. It has its manufacturing unit at MIDC, Ahmednagar. The case of the prosecution, in short is that, one Uday Shankar Vidyarthi (deceased) had been serving for over 15 years with the applicant/ petitioner's Company. One Ramdin Thakur and Bilendrasing were also serving with the very Company. It is further the case of the prosecution that, Uday Vidyarthi was serving as a Supervisor. The others two, namely Virendra Singh and Ramddhin were Machine Operators. Uday Vidyarthi (deceased) had asked these two, Virendra Singh and Ramddhin to sweep and clean the roof-top of the manufacturing unit. Both of them, therefore, climbed the roof and swept it. Dry leaves of the trees gathered on the roof

were collected at one place. The deceased Uday had asked them to do the said work since the applicant/ petitioner had asked him to clean the roof. After both, Virendra Singh and Ramddhin got down from the roof, Uday climbed the roof to confirm/ verify the roof to have been cleaned.

3. Statements of both, Virendra Singh and Ramddhin recorded under Section 161 of the Code of Criminal Procedure indicate that, while walking on the roof, Uday stepped on Polycarbonate (fibre) sheets. The moment he stepped on, the said sheet gave in. Uday fell from the roof-top. He fell on a Grinder, suffered multiple injuries. He was rushed to a nearby hospital. Unfortunately, on the next day, Uday breathed his last. Jitendrakumar, brother of Uday (deceased) rushed to the factory. He was resident of State of Bihar. He enquired with both Virendra Singh and Ramddhin to learn about the incident. He then lodged the F.I.R. on 31/7/2021, alleging the incident to have occurred due to culpable negligence on the part of the applicant/ petitioner.

4. A Crime vide C.R. No.0436/2021 was thus registered pursuant to the F.I.R. lodged by Jitendrakumar. On

investigation, a charge sheet has been filed. It's proceeding bearing S.C.C. No.4445/2021. Learned Magistrate took cognizance of the offence.

5. Simultaneously, Deputy Director of Industrial Safety and Health paid visit to the factory premises to find that no safety instruments were provided to the employees including the deceased. Polycarbonate sheets were not duly maintained. Those were in fragile state. A complaint was, therefore, filed, alleging contravention of Rule 73-F(a) and 73-F(b) of the Maharashtra Factory Rules, 1963. Pursuant thereto, and S.C.C. No.4432/2021 came to be registered. Learned Magistrate took cognizance of the offence.

6. Close reading of the police papers would indicate that, both Bilendrasing and Ramdin were serving as Machine Operators. They were not the labourers engaged for cleaning or maintaining cleanliness at the factory premises. Deceased Uday was a Supervisor on the machine work. Even we take the case of the prosecution as it is, that the applicant – petitioner had asked the deceased to ensure the roof of the factory premises is kept clean, and the deceased therefore

asked those two to do the needful, the fact remains, while both of them climbed the roof and cleaned the same, everything was alright. The same suggests that, galvanized sheet of the roof-top was in order and not in fragile state. Deceased Uday then climbed the roof-top to verify the work done by those two. The statements of both of them indicate that, the deceased inadvertently stepped on Polycarbonate sheet, it was in fragile state. The moment he stepped on, the sheet gave way. The deceased fell from 18 ft. height and suffered multiple injuries.

7. For invoking culpable negligence for invoking Section 304-A of the Indian Penal Code, there has to be a case of causa causance i.e. the negligence should be a direct cause of a casualty. We should not be taken to have decided these proceedings exclusively on merits since the widow of the deceased Uday filed affidavit to give consent to grant relief in both the proceedings.

8. The applicant/ petitioner has deposited with this Court a sum of Rs.15 Lakhs for being paid to the widow of the deceased.

9. The learned A.G.P. although supports the case of

the prosecution, ultimately left it to the Court to pass the appropriate orders.

10. In the peculiar facts and circumstances of the case (material on record) coupled with the fact that the widow of the deceased and the informant (brother) to have given express consent to allow the Application No.3326/2023, we allow the same for the ends of justice as well. Hence, the Criminal Application No.3326/2023 is allowed in terms of prayer clauses (b) and (c).

11. Consequently Criminal Writ Petition No.1057/2025 is allowed in terms of prayer clauses (b) and (c).

12. The amount of Rs.15 Lakhs along with interest accrued thereon be paid to the widow of the deceased Uday (by depositing the amount in her Bank Account on due verification).

13. The applicant and petitioner shall further deposit a sum of Rs.2 Lakhs with this Court within a week from today. Once the amount of Rs.2 Lakhs is deposited, the same be paid to the widow of the deceased as stated above.

14. The payment of amount shall be in addition to the amount recoverable in civil proceedings, if any.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

fmp/-