



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CRIMINAL APPLICATION NO.3702 OF 2025

Rafeeqe Shaikh Asadullah Shaikh,
Age 40 yrs., Occ. Service,
R/o Plot No.137, Al-Hilal Colony,
Chhatrapati Sambhajnagar,
Tq. & Dist. Chhatrapati Sambhajnagar.

... Applicant

... Versus ...

- 1 The State of Maharashtra
Through Police Station In-charge,
Police Station, Wadwani,
Tq. Wadwani, Dist. Beed.
- 2 Vishwajit Vinayak Chandel,
Age 19 yrs., Occ. Education,
R/o Indewadi, Tq. & Dist. Parbhani.

... Respondents

...

Mr. R.N. Dhorde, Senior Counsel i/b Mr. Shaikh Tarek Mobin H., Advocate for
applicant

Mr. A.B. Girase, PP for respondent No.1

Mr. H.V. Patil, Advocate for respondent No.2

...

WITH

CRIMINAL APPLICATION NO.4170 OF 2025

Annasaheb Sandipan Tarade,
Age 33 yrs., Occ. Service (Junior Clerk),

R/o Postman Colony, Shahu Nagar,
Pangari Road, Beed, Tq. & Dist. Beed.

... **Applicant**

... **Versus** ...

- 1 The State of Maharashtra
Through Police Station In-charge,
Police Station, Wadwani,
Tq. Wadwani, Dist. Beed.
- 2 Vishwajit Vinayak Chandel,
Age 19 yrs., Occ. Education,
R/o Indewadi, Tq. & Dist. Parbhani.

... **Respondents**

...

Mr. Krushna Salunke, Advocate h/f Mr. S.J. Naik, Advocate for applicant
Mr. A.B. Girase, PP for respondent No.1
Mr. H.V. Patil, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 18th NOVEMBER, 2025

ORDER :

. In both the applications the registration of First Information Report vide Crime No.205/2025 dated 22.08.2025 for the offence punishable under Section 108 read with Section 3(5) of the Bharatiya Nyaya Sanhita,

2023 registered with Police Station, Wadwani, Tq. Wadwani, Dist. Beed has been questioned. Petitioner Rafeeqe Shaikh is the Civil Judge Junior Division and Judicial Magistrate First Class, presently posted at Wadwani. He submits that after he joined the service on 11.06.2018 and undergoing training, he has started his judicial career. He had served at three places earlier and in the Annual General Transfers of 2025 he assumed the charge of his office on 09.06.2025 at Wadwani. Deceased Mr. V.L. Chandel was serving as Assistant Public Prosecutor at Wadwani Court, even before the applicant had assumed the charge as Presiding Officer of the said Court. Deceased Mr. V.L. Chandel was recruited on 03.01.2025. In the morning of 20.08.2025 deceased V.L. Chandel was found hanging by a noose in his office located within Wadwani Court building and as per the police story, it is suicide. It is alleged that a suicide note has been left by deceased. Respondent No.2 – informant is the son of deceased, who lodged First Information Report vide Crime No.205/2025. Another applicant Annasaheb Tarade is serving as Clerk in the Court.

2 It is contended that First Information Report is mainly based on the alleged suicide note left by deceased, wherein some allegations have been made against both the applicants. Thereupon, after the registration of First Information Report the investigation has been undertaken. It appears that

both the applicants have taken recourse of protecting them by applying for the anticipatory bail.

3 Heard learned Senior Counsel Mr. R.N. Dhorde instructed by learned Advocate Mr. Shaikh Tarek Mobin H. for applicant in Criminal Application No.3702 of 2025, learned Advocate Mr. Krushna Salunke holding for learned Advocate Mr. S.J. Naik for applicant in Criminal Application No.4170 of 2025 and learned PP Mr. A.B. Girase for respondent No.1 as well as learned Advocate Mr. H.V. Patil for respondent No.2 in both applications.

4 Learned Senior Counsel vehemently submitted that before registration of the offence it appears that directions given by Constitution Bench of the Hon'ble Supreme Court in **U.P. Judicial Officers Association vs. Union of India** [AIR OnLine 2002 SC 39] have not been followed. In fact, it was the case where there were allegations that the Chief Judicial Magistrate had demanded bribe. After taking note of the earlier decision of Hon'ble Supreme Court in **Delhi Judicial Service Association vs. State of Gujarat** [(1991) 4 SCC 406] it was observed that no crime for investigation against the Judicial Officer should be registered pursuant to any FIR without the permission of the Chief Justice of the concerned High Court. After taking us through First Information Report, he also submits that even if we take First

Information Report as it is, it will not attract the ingredients of Section 108 of the Bharatiya Nyaya Sanhita, 2023, much less there cannot be said to be a common intention on the part of the Judge and the Clerk in committing such offence so as to attract Section 3(5) of the Bharatiya Nyaya Sanhita, 2023. The Judge had taken charge in June, 2025 and the incident is stated to have taken place on 20.08.2025. How there could have been a mental harassment as alleged to the extent that deceased would have been left with no alternative but to commit suicide. Further, the informant has relied only on the suicide note. It appears that informant and other family members were residing at a different place and deceased was residing in Wadwani. He used to visit occasionally. It is stated in First Information Report that deceased used to feel insulted by both the applicants, but those incidences have not been quoted, even in the suicide note. When ingredients of the offence are not getting attracted *prima facie* also, this would be the fit case where First Information Report should be quashed and basically when permission was not obtained, First Information Report ought not to have been registered at all. Learned Senior Counsel then relies on the decision in **Dilip and other vs. The State of Maharashtra through Police Station Officer, Chandur Railway Police Station and another** [2016 SCC OnLine Bom 5240], wherein note of all the decisions of the Hon'ble Supreme Court i.e. **Madan Mohan Singh vs. State of Gujarat** [(2010) 8 SCC 628], **S.S. Chheena vs. Vijay Kumar Mahajan**

[(2010) 12 SCC 190], **Chitresh Kumar Chopra vs. State (NCT Of Delhi)** [(2009) 16 SCC 605] has been taken. In **Chitresh Kumar** (supra) it was observed that abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained and in **Dilip Shirasao** (supra) it was observed that the suicide note does not reveal all those facts and, therefore, ingredients are not made out. Reliance has also been placed on **Prabhat Kumar Mishra alias Prabat Mishra vs. State of Uttar Pradesh and another** [(2024) 3 SCC 665], wherein same observations have been made and after taking all those cases it has been reiterated that when *prima facie* ingredients are not getting attracted, then it would be a fit case for quashment of First Information Report.

5 We had called the police papers and accordingly those have been submitted. Police papers do not show any such document which can be said to be as per the directions issued in **U.P. Judicial Officers Association** (supra). When the matter was on board on 06.11.2025, learned PP made submissions in view of our earlier order dated 17.10.2025 that in view of the said decision the permission of Hon'ble the Chief Justice of this Court was not sought prior to the registration of First Information Report.

6 Here, the question is, as to whether First Information Report itself ought to have been registered or not, when there were specific directions way back in the year 1991 by Hon'ble Supreme Court in **Delhi Judicial Service Association** (supra) which then came to be reiterated in **U.P. Judicial Officers Association** (supra). We would like to reproduce the observations made in **U.P. Judicial Officers Association** (supra) -

“This Writ Petition had been filed by the U.P. Judicial Officers Association as a serious incident occurred, which tantamounts to interference with the judicial independence. This Court being cognizant of the seriousness of the matter, had issued notice to the State and also by an interim direction issued certain guidelines following the earlier decision of this Court in the case of Delhi Judicial Service Association (1991) 4 SCC 406. By order dated 7th of March 1994, this Court had further added that when any criminal conduct is attributed to a Judicial Officer in discharge of his duties or in purported exercise or discharge of his duties, we direct that, in addition, no crime for investigation should be registered pursuant to any FIR without the permission of the Chief Justice of the concerned High Court. We reaffirm the aforesaid interim direction of the Court as a part of the final order.”

Thus, when directions were clearly given in 2002 by the Constitution Bench that no crime for investigation should be registered pursuant to any FIR without the permission of the Chief Justice of the concerned High Court and in this case no such permission was obtained from

the Hon'ble the Chief Justice of this Court, the registration of First Information Report and investigation undertaken thereunder would be illegal. These directions in respect of seeking permission would then be applicable to the applicant Rafeeqe Shaikh, who is a Judicial Officer, however, it is to be noted that as against applicant Annasaheb Sandipan Tarade together with applicant Rafeeqe Shaikh the police want to invoke Sections 3(5) of the Bharatiya Nyaya Sanhita i.e. the common intention and, therefore, when First Information Report could not have registered against the Judicial Officer, it could not have been then registered by taking aid of Section 3(5) of the Bharatiya Nyaya Sanhita even against the Clerk. Therefore, on this ground alone both the applications deserve to be allowed.

7 In addition that if the application of Clerk Annasaheb Tarade is required to be considered independently, then it can be seen from the papers of investigation that specific act attributing to applicant Annasaheb Tarade have not been stated by anybody, much less in the suicide note. Unfortunately, the APP attached to Wadwani Court appears to have committed suicide, but from the investigation papers it can be seen that *prima facie* ingredients are not at all attracted and, therefore, the decisions in **Madan Mohan Singh** (supra), **Chitresh Kumar** (supra), **S.S. Chheena** (supra) and **Dilip Shirasao** (supra) would come to the aid of applicant Annasaheb

Tarade.

8 The entire incident quoted in the alleged suicide note taken as it is and the police papers would show that there was no proximity. In fact, as aforesaid, no specific instance has been quoted, which would attract the alleged harassment, that too, of such a degree that the deceased was left with no alternative but to commit suicide. In respect of this we would like to rely on the decision in **R. Shashirekha vs. State of Karnataka and others** [2025 INSC 402].

9 It was tried to be submitted on behalf of respondent No.2 that unfortunately the informant lost his father and he had left the suicide note blaming two persons and only because of the mistake committed by police authorities, the advantage cannot be given. Further, it was also tried to be submitted that even now the police authorities can seek permission from the Hon'ble the Chief Justice of this Court.

10 As regards these contentions are concerned, we are not in agreement with him. At this stage we are supposed to see, as to whether law laid down or directions issued by the Constitutional Bench of the Hon'ble Supreme Court have been adhered to or not, was the main question and as aforesaid, we have concluded that without the permission the registration of

First Information Report itself ought not to have been undertaken. Because of the said illegal act on the part of police the applicants cannot be allowed to suffer and face the investigation. Hence, following order.

ORDER

- i) Both Criminal Applications stand allowed.
- ii) The First Information Report vide Crime No.205/2025 dated 22.08.2025 registered with Police Station, Wadwani, Tq. Wadwani, Dist. Beed, for the offence punishable under Section 108 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, stands quashed and set aside as against applicant **Rafeeqe Shaikh Asadullah Shaikh** in Criminal Application No.3702 of 2025 and applicant **Annasaheb Sandipan Tarade** in Criminal application No.4170 of 2025.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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