



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4178 OF 2025
WITH CRIMINAL APPLICATION NO. 4672 OF 2025
IN CRIMINAL APPLICATION NO. 4178 OF 2025

1. Uttam Punjaji Chaudhari
Age: Major, Occu.: Agri.,
2. Gokul Uttam Chaudhari
Age: Major, Occu.: Labour,
3. Alkabai Uttam Chaudhari
Age: Major, Occu.: Labour,
All R/o Shivashakti Nagar, Chalisgaon,
Tq. Chalisgaon, Dist. Jalgaon

..APPLICANTS

VERSUS

State of Maharashtra
Through the Chalisgaon Rural Police Station,
Tq. Dist. Jalgaon

..RESPONDENT

....
Mr. N.V. Dhake, Advocate for applicants
Mr. S.S. Dande, A.P.P. for the respondent – State
Mr. L.S. Mahajan, Advocate to assist A.P.P.

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CORAM : ABHAY J. MANTRI, J.
DATE : 17th DECEMBER, 2025

PER COURT :

CRIMINAL APPLICATION NO. 4672 OF 2025 :-

1. The applicant, who is the father of the victim, has moved this application to permit him to assist the learned A.P.P. to oppose the criminal application, for which learned counsel for the respondent has given no objection.

2. In view of the same and for the reasons disclosed in the application, the application is allowed in terms of prayer clause (B).

CRIMINAL APPLICATION NO. 4178 OF 2025 :-

1. Heard.

2. The applicants, being aggrieved by the order dated 18th July, 2025, passed by the learned Additional Sessions Judge, Jalgaon, below Exh. 100 in Sessions Case No. 1 of 2023, have preferred this application.

3. During the argument, learned A.P.P. fairly submitted that in view of the proviso to Section 193 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (for short, '***BNSS***'), an Investigating Officer has to seek permission from the Court for carrying out further investigation. In the present case, the Investigating Officer did not seek the said permission. As such, he is not objecting to setting aside the impugned order. However, he submits that liberty be granted to file an appropriate application before the Sessions Court.

4. I have gone through the impugned order. Having considered the material produced before the Court, prima facie, I found substance in the submissions of learned counsel for the applicant and the learned A.P.P. that, without seeking necessary permission from the Court, the Investigating Officer has carried out further investigation. The learned Sessions Judge has permitted the Investigating Officer to produce the documents/statement on record in view of the provisions of Section 173(8) of the Code of Criminal Procedure. However, the same appears to be contrary to the provisions of

Section 193(4) of the BNSS, as well as to the law laid down by the Apex Court in *K. Vadivel v. K. Shanthi & Ors. AIR 2024 SC 5064*, and therefore, the said order cannot be sustained in the eyes of the law, and the same is liable to be set aside.

5. Having considered the above, in my view, the impugned order is liable to be quashed and set aside. As a result, the application is allowed. Accordingly, the impugned order dated 18th July, 2025, passed by the learned Additional Sessions Judge, Jalgaon, below Exh. 100 in Sessions Case No. 1 of 2023 is quashed and set aside.

6. Needless to clarify that the prosecution is permitted to file an appropriate application in accordance with the law before the learned Additional Sessions Court.

(ABHAY J. MANTRI, J.)

SSD