



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

**CRIMINAL APPLICATION NO.1341 OF 2025
IN
CRIMINAL APPLICATION NO.3518 OF 2022**

1. Smt. Faizana Mukhtar Ahmad Shaikh
2. Iqbal Ahmad Mohmmad Shaban ..Applicants

Vs.

1. The State of Maharashtra
2. Ashfaq Ahmad Raes Ahmad ..Respondents

Mr.Mohit S. Shah, Advocate for applicants

Mr.P..J.Patil, APP for respondent no.1

Mr.S.D.Nagode, Advocate h/f. Mr.Satej S. Jadhav, Advocate for
respondent no.2

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : MAY 07, 2025**

ORDER :-

This is an application ostensibly for correction of a typographical mistake in the description of witness - Jitendra Kashinath Borse in the order dated 28.08.2023, passed in Criminal Application No.3518 of 2022.

2. The applicants had preferred an application (3518 of 2022) under Section 482 of the Code of Criminal Procedure. It was the application for quashing of the FIR being Crime No.266 of 2022,

registered with Chalisgaon Police Station, Dhule, for the offences punishable under Sections 406, 420, 201, 120-B read with Section 34 of Indian Penal Code and the consequential charge-sheet filed for the offence punishable under Section 385 of Indian Penal Code in R.C.C. No.151 of 2022, pending before learned Judicial Magistrate, First Class, Dhule.

3. In response to the notice, the respondent, who lodged the FIR, caused appearance. He was represented by learned Advocate, who does not dispute the prayers made in the application.

4. It is true that Section 362 of Cr.P.C. mandates the Court not to alter the judgment. It reads thus:-

362. Court not to alter judgment.- Save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order disposing of a case, shall alter or review the same except to correct a clerical or arithmetical error.

5. In the case of ***Municipal Corporation of Greater Mumbai (MCGM) and Anr. Vs. Pratibha Industries Ltd. And Ors., AIR 2019 SC 650*** and in case of ***M.M. Thomas Vs. State of Kerala and Anr., (2000) 1 SCC 666***, it has been observed that the

High Courts' jurisdiction to recall their orders is inherent by virtue of the fact that they are superior Courts of records. In paragraph no.11 of the judgment in case of **MCGM** (supra) it has been observed thus :-

“11. Insofar as the High Courts' jurisdiction to recall its own order is concerned, High Courts are courts of record, set up under Article 215 of the Constitution of India. Article 215 of the Constitution of India reads as under :-

“Article 215. High Courts to be courts of record. - Every High Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself.”

It is clear that these constitutional courts, being courts of record, the jurisdiction to recall their own orders is inherent by virtue of the fact that they are superior courts of record. This has been recognized in several of our judgments.”

6. While in case of **M.M. Thomas** (supra) it has been observed in paragraph nos. 16 and 17 as follows :-

“16. Referring to the said passage and relying on the decision of this Court in Naresh Shridhar Mirajkar, AIR 1967 SC 1 a two-Judge Bench of this Court in M.V. Elisabeth v. Harwan Investment & Trading (P) Ltd., AIR 1993 SC 1014 has observed thus :

“The High Courts in India are superior courts of record. They have original and appellate jurisdiction. They have inherent and plenary powers. Unless expressly or impliedly barred, and subject to the appellate or discretionary jurisdiction of the Supreme Court, the High Courts have unlimited jurisdiction....”

17. If such power of correcting its own record is denied to the High Court, when it notices the apparent errors its

consequence is that the superior status of the High Court will dwindle down. Therefore, it is only proper to think that the plenary powers of the High Court would include the power of review relating to errors apparent on the face of the record.”

7. In view of the aforesaid judgments and since the informant/respondent concedes to correct the errors crept in the order, the application is allowed.

8. This Court, inadvertently, observed that one Jitendra Kashinath Borse (witness) was representative of Yashwantrao Open University and in such capacity, he was present. He was, admittedly, not a representative of Yashwantrao Open University and had been there to enquire about taking admission to a course. Hence, the observation in the order dated 28.08.2023 in paragraph - **“One Jitendra Kashinath Borse (witness), a representative of Yashwantrao Open University was also present in the said chamber of the applicant no.1”**, stands modified as under:-

“ One Jitendra Kashinath Borse (witness) was present in the chamber of applicant no.1 and was making inquiry about taking admission to a course”.

Further, in paragraph 5, the observation -
“Moreover, in the statement of the representative of Yashwantrao Open University, which has been recorded under Section 164 of Cr.P.C., he states that no such meeting as has been alleged in the FIR did take place in the chamber of applicant no.1”, stands modified as under :-

“ Moreover, in the statement of the witness, which has been recorded under Section 164 of Cr.P.C., he did not state about presence of applicant no.2 in the meeting, as alleged in the FIR.”

9. The application stands disposed of accordingly.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP