

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1737 OF 2025

1. Vikram Raghubir Das
2. Akshay N. Maniar
3. Ashwin S. Shetty
4. Diven S. Batra

.....Petitioners

Versus

The State of Maharashtra

.....Respondent

Adv. Kedar J. Patil a/w Adv. Sakshi S. Kadam, Adv. Jitesh Mundwa,
Adv. Ankit Bagoria, Adv. Pratik G. Tare - Advocate for the
Petitioners.

Mr. Y. M. Nakhwa - APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 09th APRIL 2025

P.C. :

1. Heard. As mentioned earlier, vide the earlier order dated
08.04.2025, the petition is decided at this stage with the consent of
the Parties. Hence, Rule. Rule is made returnable forthwith.

2. The Petition is filed for challenging the Charge-sheet arising
out of C.R. No. 390 of 2025 registered with Bandra Police Station
under Sections 281 and 125 of the Bharatiya Nyaya Sanhita, 2023

("BNS"). The F.I.R. is lodged on 09.03.2025. The Charge-sheet in this case is already filed. The prayer is for quashing of the F.I.R. and the charge-sheet.

3. Heard learned Counsel Shri Patil for the Petitioners and learned APP Shri Nakhwa for the Respondent-State.

4. The F.I.R. is lodged by the Police Constable Parshuram Raut attached to the Bandra Police Station. He has stated in the F.I.R. that on 09.03.2025, he attended his duty in the morning. His superiors directed him to take action against the car drivers who were driving on Coastal Road at Bandra Worli Sea Link. He alongwith Police Constable Patil went to the Sea Link Toll Plaza Bandra West to take action against the vehicles which endangered the life of the drivers themselves and others and of the vehicles coming from the opposite lane. Between 06.00 a.m. to 10.00 a.m., the first informant stopped eight persons who are named in the F.I.R.. The present Petitioners are four of them. It is further mentioned that all of them had violated the traffic rules and driven their cars negligently and in speed. On these allegations, the F.I.R. is lodged.

5. Learned Counsel for the Petitioners submitted that the action on the part of the Police Officers is absolutely high-handed. Some of the accused were driving with their families. There is nothing in the entire investigation to show that they were driving at a speed which was above the speed limit. There is absolutely no mention how their driving was rash and negligent and how it was endangering life of others.

6. Learned Counsel relied on the judgment of a Division bench of this Court in the case of *Khizzer Akhtar Shah Vs. State of Maharashtra*¹ in support of his contention.

7. Learned APP tried to justify the action of the Police by relying on statement of one Police Constable Sandesh Bhogale, who was keeping watch on CCTV in that area. Beyond this, he could not point out any material from the charge-sheet to show in what manner the accused including the Petitioners had committed any offence alleged against them.

8. We have considered these submissions and we have perused the entire charge-sheet. Apart from the First informant, there are statements of other Police Constables. Police Constable Kishor Patil has given a statement which was exact replica of the F.I.R..

1 2016 SCC Online Bom 8159

9. The Police Inspector Sudarshan Gaikwad has stated that his superiors had ordered to take action against the car drivers who were driving rashly and negligently in the morning time. He went to Sea Link Toll plaza Bandra. He has further stated that Police Constable Bhogale was watching the C.C.T.V. and was informing the other Police Officers on mobile phone. Accordingly, they had stopped the eight accused mentioned in the F.I.R..

10. There is statement of Police Constable Sandesh Bhogale, he has stated that he was giving information after looking at C.C.T.V. camera to other officers namely, Police Inspector Gaikwad and others. Thus, it can be seen that neither the first informant nor any other Police officer had actually seen, how the cars were driven on the Sea link except Police Constable Sandesh Bhogale, who was looking at the traffic through C.C.T.V.. Therefore, his statement is important. In his statement, there is absolutely no mention as to how the accused who were apprehended were driving in rash or negligent manner. He has not even mentioned that they were driving their vehicles crossing the speed limits. A general statement is made that because of their driving they had endangered their own life, life of others and were dangerous to the vehicles coming from the opposite side. Absolutely,

no basic minimum details are mentioned in any of these Police Statements. Sections 125 and 281 of the Bharatiya Nyaya Sanhita, 2023 read thus:-

“Section 125 - Act endangering life or personal safety of others

Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two thousand five hundred rupees, or with both, but --

- (a) where hurt is caused, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;
- (b) where grievous hurt is caused, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.”

“Section 281 – Rash driving or riding on a public way

Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to

any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.”

11. They correspond to Section 279 and 336 of the Indian Penal Code. The Division bench of this Court in case of **Khizzer Akhtar Shah (supra)** has already dealt with this issue. After reproducing Section 279 of the Indian Penal Code, the Division bench held in paragraph no. 8 as follows:-

“8. On going through the aforesaid penal provision, it is implicit that the requisite ingredients to constitute the said offence are rash or negligent driving or riding a vehicle, on any public way, in a manner so rash or negligent which may cause danger to human life or likely to cause hurt or injury to any other person. In the charge sheet which has been filed, there is no material whatsoever to show existence of ingredients which constitute the alleged offence under [Section 279](#) of IPC. It is pertinent to note that the alleged incident had occurred while the Police were conducting Nakabandi. It is not the case of the Police that the Applicant did not stop the vehicle at the scene of alleged offence. It is also necessary to note that the incident had allegedly occurred at about 0030 hours

in the night and the charge sheet does not disclose anything to indicate that due to the alleged rash driving by the Applicant, either the life of anybody was endangered or was likely to cause hurt or injury to any other person. It is also necessary to consider that during Nakabandi, it would not be possible for a person to drive a vehicle so recklessly or negligently. Hence, there was no evidence to substantiate charge under [Section 279](#) of IPC. Statements of none of the witnesses disclose that anyone had actually seen the Applicant driving rashly and negligently.”

12. The observations are applicable to the present facts before us. None of the ingredients of both these Sections applied by the investigating officer is made out in the entire charge-sheet. It is not even mentioned as to what was the speed of those vehicles and as to how they endangered anybody's life. The basic minimum information is missing from the entire charge-sheet. The action of the Police Officers in this case is totally unjustified. It amounts to abuse of process of law. Making somebody face the allegations of the cognizable offence and then making him face the entire trial is quite onerous and oppressive. In the present case, it is not justified at all. It is an abuse of process of law. Unless it is absolutely necessary,

lodging of F.I.R. in such cases can be avoided. Therefore, we are inclined to allow this petition and quash the proceedings qua the Petitioners. Hence the following order:-

ORDER

- (i) The Rule is made absolute in terms of prayer clause 'A' which reads thus :-

“A-That this Hon’ble Court may in its writ jurisdiction under Article 226 of the Constitution of India and under Section 528 of BNSS Act be pleased to quash and set aside C.R. No. 390 of 2025 registered with Bandra Police Station, Mumbai and further be pleased to quash and set aside Police Case – PS/1639/2025 before 12th Court, JMFC, Bandra alongwith Charge-sheet”.

- (ii) This order is passed qua the Petitioners only.

13. The Petition is disposed of on the aforesaid terms.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)