

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3041 OF 2025

- | | | | |
|----|---|---|-----------------|
| 1. | Tushar Rajnikant Shah |] | |
| | Age :- 58 years, Occ:- Service |] | |
| | R/at. Flat No. 703, 7 th Floor, Jamuna Vihar |] | |
| | Co-op. Housing Society Ltd., Juhu Lane, |] | |
| | Andheri (West), Mumbai – 400 058 |] | |
| 2. | Amita Tushar Shah |] | |
| | Age :- 58 years, Occ:- Housewife |] | |
| | R/at. Flat No. 703, 7 th Floor, Jamuna Vihar |] | |
| | Co-op. Housing Society Ltd., Juhu Lane, |] | |
| | Andheri (West), Mumbai – 400 058 |] | ... Petitioners |
| | V/s. | | |
| 1. | The State of Maharashtra |] | |
| | (Vide Charkop Police Station, Mumbai) |] | |
| 2. | Vipul Dilip Shah |] | |
| | Age:- 54 years, Occ: Business, |] | |
| | R/at. Flat No.A/2001, Panchushil Heights |] | |
| | Mahavir Nagar, Dhanukarwadi, Charkop |] | |
| | Kandivali (West), Mumbai | | |
| 3. | Dhriti Clothing Co. |] | |
| | (Through its Prop. Chandrakala Kochar) |] | |
| | Having its registered address at |] | |
| | 3B/701, Shraddha Building, Asha Nagar, |] | |
| | Kandivali (East), Mumbai – 400101 |] | ... Respondents |

Mr. Saumitra Salunkhe a/w Ms. Swapnali Chavan i/b Mr. Pradeep Yadav for Petitioners.

Mr. Ashish I. Satpute, A.P.P. for Respondent No.1-State.

Mr. Dishang Shah for Respondent Nos. 2 and 3.

Mr. Kumbhar, API, Charkop Police Station, Mumbai.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.**

DATE : 7th July 2025.

P. C. :

1) By this Petition under Article 226 of the Constitution of India, Petitioners, accused in CC No. 3660/PW/2024, pending on the file of learned Additional Chief Judicial Magistrate, 24th Court, Borivali, Mumbai, arising out of C.R.No. 163 of 2023, dated 13th May 2023, registered with Charkop Police Station, Mumbai, punishable under Sections 406 and 420 read with 34 of the Indian Penal Code, for quashing of the said case with the consent of Respondent Nos. 2 and 3, the victims.

2) Learned Advocate Mr. Shah, waives notice on behalf of Respondent Nos. 2 and 3 and submitted that, he will file his Vakalatnama on or before tomorrow i.e. on 8th July 2025. The said statement is accepted.

3) Heard, Mr. Salunkhe, learned counsel for Petitioners, Mr. Satpute, learned APP for Respondent No.1-State and Mr. Shah, learned Advocate for Respondent Nos. 2 and 3. Perused entire record produced before us.

4) It be noted here that, Respondent No.2 has lodged the aforesated crime against the Petitioners stating therein that, Respondent No.3 also a

victim of it. It is the reason the Petitioners are seeking quashing of the said case with the consent of Respondent Nos. 2 and 3.

5) Mr. Shah, learned Advocate appearing for Respondent Nos. 2 and 3 tendered across the bar their respective Affidavits dated 6th July 2025, duly affirmed before a Notary Public. It is stated therein that, the parties herein have settled the matter amicably and the Petitioners have returned the agreed amount to Respondent Nos. 2 and 3, as per the Consent Terms executed in Anticipatory Bail Application No. 1559 of 2023. The said Affidavits are taken on record and marked 'X' and 'X-1' for identification.

5.1) Though, the Respondent Nos. 2 and 3 are not personally present in the Court, Mr. Shah, learned Advocate appearing for Respondent No.2 and 3 submitted that, said Respondents have signed Vakalatnama in his favour and have instructed him to admit the contents of their Affidavits dated 6th July 2025 and to give 'No Objection' on their behalf for quashing of the case in question.

6) In view of the above, we are inclined to quash CC No. 3660/PW/2024, pending on the file of learned Additional Chief Judicial Magistrate, 24th Court, Borivali, Mumbai, arising out of C.R.No. 163 of 2023, dated 13th May 2023, registered with Charkop Police Station, Mumbai, punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.

7) As we expressed our opinion for quashing of said criminal case, learned counsel for the Petitioners on instructions submitted that, the

Petitioners will pay a cost of Rs.1,00,000/- jointly or severally to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center, within a period of two weeks from the date of uploading of the present Order on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.1) We therefore direct the Petitioners to pay a cost of Rs.1,00,000/- jointly or severally to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center within a period of two weeks from the date of uploading of the present Order on the official website of the High Court of Bombay.

7.2) As the Respondent Nos. 2 and 3 are also successful in bringing the Petitioners for having amicable settlement by lodgment of present crime, learned Advocate for Respondent Nos. 2 and 3 on instructions submitted that, Respondent Nos. 2 and 3 will also pay a cost of Rs. 50,000/- jointly or severally to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center, within a period of two weeks from the date of uploading of the present Order on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.3) We therefore direct the Respondent Nos. 2 and 3 to pay a cost of Rs.50,000/- jointly or severally to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center within a period of two weeks from the date of uploading of the present Order on the official website of the High

Court of Bombay.

7.4) Details of the bank Account for payment of cost are as under:-

Account Name	:-	BCMG'S Advocate Academy & Research Center
Account Number	:-	000120110001327
Bank Name	:-	Bank of India
Branch Name	:-	Mumbai Main
IFSC Code	:-	BKID0000001
Type of Account	:-	Current A/c

7.5) Petitioners so also Respondent Nos. 2 and 3 to pay aforesaid cost within stipulated period as noted above and submit its receipt(s) in the Registry of this Court.

8) In view of the above and subject to payment of cost, Petition is allowed in terms of prayer clause 19 (ii).

9) It is made clear that, if the cost is not paid within stipulated period as mentioned above, Petition shall stand revived automatically and in that event, the learned Magistrate will proceed with the hearing of the case and conclude it expeditiously.

10) List the Petition on board on 4th August 2025, under the caption 'For Reporting Compliance' of present Order.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)