

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3324 OF 2025
IN
SUO MOTU WRIT PETITION NO.1 OF 2022**

State of Maharashtra ... Applicant
versus
High Court on its Own Motion ... Respondent

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**WITH
INTERIM APPLICATION NO.3328 OF 2025
IN
SUO MOTU WRIT PETITION NO.1 OF 2022**

State of Maharashtra ... Applicant
versus
High Court on its Own Motion ... Respondent

Mrs. M.M.Deshmukh, Public Prosecutor with Mr. A.R.Patil, Addl. Public Prosecutor, for State.

**CORAM: SHREE CHANDRASHEKHAR, CJ &
N.J.JAMADAR, J.**

DATE : 29 SEPTEMBER 2025

Per, N.J.Jamadar, J. :

1. Heard the learned Counsel for the parties.
2. This Special Bench has been constituted pursuant to the directions of the Supreme Court in Writ Petition (Civil) No.699 of 2016 in an order dated 10 August 2021, dealing with the issue of withdrawal of criminal cases pending against the legislators by the State for extraneous and political considerations, by utilizing the power under Section 321 of the Code of Criminal Procedure, 1973. The Supreme Court emphasised that the said power under Section 321

was required to be exercised with utmost good faith to serve the larger public interest. The Supreme Court directed, inter alia, that no prosecution against the sitting or former MP/MLA shall be withdrawn without the leave of the High Court.

3. These Interim Applications are preferred by the State seeking leave to withdraw the prosecution **(i)** CC No.19644 of 2021 arising out of C.R.No.535 of 2020 registered with Sadar Police Station, Nagpur City, for the offences punishable under Sections 188 and 269 of Indian Penal Code, 1860 and Section 51 of the Disaster Management Act, 2005; (IA No.3324 of 2025) **(ii)** CC No.3540 of 2020 arising out of C.R.No.42 of 2017 registered with Sadar Police Station, Nagpur City, for the offences punishable under Sections 143, 147, 149, 341, 353, 332 of Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951 (IA No.3328 of 2025).

In IA No.3324 of 2025

4. The indictment against the accused, including accused No.1, who was then a Member of the Maharashtra Legislative Assembly, is that, on 22 December 2020 between 1.00 to 1.15 p.m., at the office of the Zilla Parishad, Nagpur, in connection with the demand to restart the construction of the Public Health Sub-Centre at Mauje Borkhedi, Nagpur, which was stalled, the accused in disobedience of the orders issued by the public servant, staged an agitation and raised slogans. Though Covid-19 restrictions were in force,

the accused assembled at the public place unlawfully and held the agitation which they knew or had reason to believe to be likely to spread the infectious disease, and thereby committed the offences punishable under Sections 188 and 269 of the Indian Penal Code and Section 51 of the Disaster Management Act, 2005.

5. In this Application, it is averred that the proposal to withdraw the prosecution was placed before the Committee constituted by the State Government. The Committee, in its meeting held on 18 February 2023, has recommended the withdrawal of the prosecution. The Public Prosecutor who is entrusted with Criminal Case No.19644 of 2021 has submitted a report that the incident in question took place in course of the social agitation and there was neither any loss of life or damage to public property.

6. We have perused the documents annexed with the Application. We have considered the nature of the allegations as well as the gravity of the offences. Prima facie, it appears that the alleged offences have their genesis in the agitation for a public cause of construction of a Public Health Sub-Centre. We find that the Committee constituted by the State Government has examined the case in the light of the parameters framed under the Government Resolution. The Committee has noted that there was no loss of life or damage to the public property. The decision of the Committee to withdraw the prosecution appears to be guided by considerations which are in

tune with the statutory provisions for withdrawal of the prosecutions arising out of the social and political agitations. It does not appear that the prosecution is being withdrawn for any extraneous consideration. An independent application of mind by the concerned Public Prosecutor is also evincible from the report submitted by the Prosecutor.

7. For the foregoing reasons, we are inclined to allow the Interim Application to the extent of granting leave to the State Government to withdraw the prosecution.

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8. On 18 January 2017, between 1.30 to 15.00 p.m., a protest was organized in front of the main gate of RBI, Saividhan Chowk, Nagpur, by a political party, to which the accused, including accused Nos.1 to 3 who were then the Members of the Maharashtra Legislative Assembly, were affiliated, to oppose the policy of de-monetization. In disobedience to the directions of the police, accused tried to enter into RBI premises by climbing over the main gate. The accused also disrupted the vehicular traffic by blocking the road. Hence, alleging that the accused formed an unlawful assembly and committed rioting in prosecution of the common object of the unlawful assembly and caused hurt to deter the public servants from discharging their duties, a crime was registered at Sadar Police Station, Nagpur City, for the offences punishable under Sections 143, 147, 149, 341, 353 and 332 of the

Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951.

9. In this Application, it is averred that, in pursuance of the decision taken by the State Government to withdraw the prosecutions arising out of the social and political agitations, the proposal to withdraw the prosecution was placed before the Committee constituted by the State Government vide G.R.No.20 September 2022. The said Committee in its meeting held on 18 February 2023, has recommended the withdrawal of the prosecution. The Public Prosecutor who is entrusted with the prosecution in C.C.No.3540 of 2020 has submitted a report that, in the incident in question there was no loss of life and no damage to the public property has been caused.

10. We have perused the material on record. We have carefully examined the nature of the accusation and the gravity of the alleged offences. Prima facie, it appears that the offences were allegedly committed during the course of a political agitation over the implementation of the de-monetization scheme. The agitation was held in front of the office of the RBI.

11. The Committee has noted that there was no loss of life or damage to the public property. The Committee constituted by the State Government seems to have examined the proposal for withdrawal of the prosecution in conformity with the parameters prescribed in the GR. We find that the decision of the Committee to withdraw the prosecution appears to be guided by considerations which advance the object of withdrawal of the prosecutions

arising out of the social and political agitations. It does not appear that the prosecution is being withdrawn for any extraneous consideration. Learned Public Prosecutor also seems to have independently assessed the situation and submitted a report.

12. We are, thus, inclined to allow the Application to the extent of granting leave to the State Government to seek withdrawal of the prosecution.

13. In the event, the concerned Public Prosecutor files application for withdrawal of the prosecution, in each of the above cases, the jurisdictional Courts shall pass appropriate orders in accordance with law.

14. Interim Application Nos.3324 of 2025 and 3328 of 2025 stand disposed.

15. Post Suo Motu Writ Petition on 13 October 2025 at 4.30 p.m.

(N.J.JAMADAR, J.)

(CHIEF JUSTICE)