



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 498 OF 2025

(Bapurao Ajabrao Okte Vs. State of Maharashtra & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Nazim Qureshi, Counsel for the applicant.
Mr. K.R. Lule, A.P.P. for non-applicant no.1/State.

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CORAM : ANIL L. PANSARE AND
M.M. NERLIKAR, JJ.
AUGUST 11, 2025

Heard Mr. Nazim Qureshi, learned Counsel for the applicant, and Mr. K.R. Lule, learned A.P.P. for non-applicant no.1/State. None appeared for non-applicant no.2 though served.

2] In response to order dated 24/7/2025, the Investigating Officer, namely, Sheshkumar Pandey, is present before the Court. Leave to add him as party non-applicant no.3, is granted. The reason why said leave is granted is what we have noticed from the contents of the chargesheet as also the CCTV footage of the incident.

3] We have, with the assistance of both sides, gone through the statements of the witnesses. We have also seen the CCTV footage provided by the applicant.

4] As such, the reference to the CCTV footage finds place in station diary entry dated 13/8/2024, the date on which the accident occurred. The non-applicant no.3 noted that he, along with his colleagues, has minutely scrutinized the CCTV cameras situated at

various places surrounding the spot. The footage, however, is not made part of the chargesheet. The reason appears to us to be to conceal vital/true facts. If one goes through the CCTV footage, it only discloses that if at all anyone is responsible for the accident, it is the motorcyclist, who unfortunately succumbed to the injuries. He appears to have driven the motorcycle in extreme high speed and hit the auto coming from the opposite direction. Behind the auto, was the trailer driven by the applicant, which was loaded with J.C.B. The motorcyclist, after hitting the auto, fell down, by which time, the trailer came by the side of the auto. The CCTV footage indicates that the motorcyclist fell down after hitting the auto. The impact was so severe that the motorcyclist might have hit the trailer as well. However, that part of the accident is not visible from the footage. What is clearly evident is that the trailer's driver, i.e., the applicant, stopped the trailer in seconds, i.e., in no time because of slow speed.

5] Thus, the overall picture that emerges is that neither the auto driver nor the trailer driver were responsible for the accident. This footage was concealed to justify filing chargesheet.

6] We have accordingly gone through the chargesheet. The statements recorded by non-applicant no.3 also indicate that the motorcyclist dashed against the auto and fell down. The statements further show that the deceased came beneath the trailer wheels and sustained injuries. The witnesses have, however, neither blamed the

auto driver nor the trailer driver of driving vehicle in rash or negligent manner.

7] Despite such status, and despite repeated demands by the applicant to collect the CCTV footage available at the surrounding places, including the CCTV footage at the office of Ezaz Ahmed, one of the witnesses, the Investigating Officer, i.e., non-applicant no.3, has not collected and placed the same before the jurisdictional Magistrate.

8] This Court, vide couple of orders, called upon the Investigating Officer to file affidavit on the point of CCTV footage. The Investigating Officer, i.e., non-applicant no.3 failed to give any satisfactory reason, and accordingly, vide order dated 24/7/2025, his physical presence was sought. That is how non-applicant no.3 is before the Court.

9] Having heard both sides and having gone through the evidence collected, and as noted above, we find that there are absolutely no allegations of rash and negligent driving at the hands of the applicant as also the auto driver. The applicant made efforts to invite attention of non-applicant no.3 to the CCTV footage, which, in fact, was well within the knowledge of non-applicant no.3, as could be seen from station diary entry dated 13/8/2024. Non-applicant no.3 has not placed on record any satisfactory answer/reason as to why the CCTV footage was either not collected or the CCTV footage furnished by the applicant was not verified and acted upon. The approach of non-applicant no.3 appears to be to file

chargesheet, come what may. Further, even if the statements of the witnesses are to be accepted, the ingredients of the offences punishable under Sections 106 and 281 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “B.N.S.S.”), and Sections 134, 177 and 184 of the Motor Vehicles Act, 1988 (for short “M.V. Act”), are not attracted.

10] Section 106 of the B.N.S.S. refers to causing death by negligence and provides that whosoever causes death of any person by doing any rash or negligent act, not amounting to culpable homicide, shall be responsible for causing such death. In the present case, the statements of the witnesses nowhere reveals that the applicant was driving the trailer in rash and negligent manner.

11] Section 281 of the B.N.S.S. provides for punishment for rash driving on a public way. Such is not the case through any witness.

12] Section 134 of the M.V. Act provides for duty of a driver, in case of an accident against an injured person. The duty is to remove the injured to the hospital. In the present case, firstly, the person, who suffered injury, died on the spot, and secondly, the applicant was arrested from the spot itself. It is nobody's case that the applicant made an attempt to run away.

13] Section 177 of the M.V. Act provides that whosoever contravenes the provisions of the Act shall be punishable for the first offence with a fine, which may extend to Rs.500/-. In the present case, once it is said that

the offence punishable under Section 134 of the M.V. Act is not made out, there would arise no question of imposing penalty in terms of Section 177 of the M.V. Act.

14] So far as Section 184 of the M.V. Act is concerned, it refers to dangerous driving. Again, and as discussed earlier, there is no case made out through any witness or otherwise of dangerous driving at the hands of the applicant.

15] That being so, apparently, none of the offences could have been invoked against the applicant. The evidences collected by non-applicant no.3 itself were sufficient to exonerate the applicant. Despite such status, and despite repeated requests made by the applicant to take on record the CCTV footage and investigate the crime, non-applicant no.3 failed to take cognizance of the CCTV footage, which even otherwise was available with him right at the inception.

16] Such a failure has resulted into unsolicited suffering to the applicant. The applicant is a resident of District – Chhindwara (Madhya Pradesh), and must have been required to attend Police Station on number of occasions. According to the applicant's Counsel, the applicant had suffered monetary losses for such attendance because he remained absent from his duty. That apart, the mental pain and agony that he suffered for all these days is something that would imbibe permanent psychological dent.

17] Accordingly, non-applicant no.3 was called upon to show cause as to why should he be not directed

to pay compensation to the applicant. The learned A.P.P. submits that no such prayer is made. He further submits that non-applicant no.3 is on the verge of retirement and had an unblemished record.

18] We are not convinced. The manner in which he has roped in the applicant, the possibility of similar such lapses in earlier investigation cannot be ruled out. It's a different matter that nobody made a grievance against him. The citizens are usually scared of making grievance against police personnel. The applicant has dared to do so.

19] In any case, for the lapses committed by non-applicant no.3, where one can say that he was fully aware that the applicant is not responsible for the accident and/or for rash and negligent driving, and further for his stubborn approach, to not pay heed to the request made by the applicant, we are of the considered view that non-applicant no.3 should pay to the applicant an amount of Rs.50,000/- towards compensation, which will act as some solace to the applicant.

20] Resultantly, we quash and set aside, against the applicant, the chargesheet bearing no. 1/2025 arising out of Crime No. 311/2024 registered at Police Station – Juni Kamptee, District – Nagpur, for the offences punishable under Sections 106 and 281 of the B.N.S.S. and Sections 134, 177 and 184 of the M.V. Act.

21] The non-applicant no.3 shall pay to the applicant Rs.50,000/- towards compensation, which amount shall be deducted from his salary, and shall be

deposited with the Registry of this Court within two months from today. Upon depositing the amount, the Registry shall remit the same to the applicant on his providing necessary account details with the Registry.

22] Copy of order shall be served upon the appointing authority of non-applicant no.3 for information and necessary action. Copy of order shall be served upon the Commissioner of Police, Nagpur, as well for compliance of deduction of salary.

23] The applicant shall furnish to the Investigating Officer pendrive containing CCTV footage within one week from today, and the Investigating Officer shall preserve the same for further action.

24] The application is disposed of in above terms.

(JUDGE)

(JUDGE)

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