



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 763 OF 2025

[Nitin Vinayak Ambadkar, Factory Manager and Head - HR & Administration,
Phoenix Structural and Engineering Pvt. Ltd. **vs.** State of Maharashtra,
through P.S.O., P.S., Umred, Nagpur Rural, Tq. Umred, Dist. Nagpur and anr.]

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for the applicant
Ms. S. N. Thakur, APP for the State/non-applicant no. 1
Mr. S. P. Deshpande, Advocate for non-applicant no. 2

CORAM: ANIL L. PANSARE AND
M. M. NERLIKAR, JJ.

DATED : 07-08-2025.

Heard.

2. The application is filed for quashing First Information Report (FIR) in Crime No. 261/2025 registered at Police Station, Umred, District Nagpur Rural for offence punishable under Section 106(1) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

3. Having heard both sides and having gone through the material placed before us, it appears that the applicant has on 25-2-2025 engaged services of a contractor, namely, Shiv Mahima Fabrication under proprietor Mr. Prashant Bawane (co-accused) for the work of repair and refurbishment of the factory shed located at Umred Road, Nagpur. The work order indicates that the amount of contract was Rs. 1,26,000/-. The allegation is that the father of non-applicant no. 2 was employed by the contractor i.e. co-accused for the work of refurbishment. He suffered accidental death while on work. Accordingly, both the applicant and contractor have been blamed of causing death by negligence.

4. We have gone through Section 106 of the BNS. Sub-section (1) thereof provides that whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be responsible for causing death by negligence. Thus, the essential ingredient is that there has to be some act/action/omission at the hands of the accused which should be such as could be said to be rash or negligent act.

5. In the present case, no act of rashness has been attributed to the applicant. So far as negligence is concerned, learned Additional Public Prosecutor submits that since the applicant is principal employer, he should have taken necessary care and provided required safety equipment to the workers at the site.

6. Learned counsel for the applicant has rightly countered the aforesaid contention by contending that he entered into separate contract with one Mr. Prashant Bawane and it is he who has deployed non-applicant no. 2's father for the work. Thus, according to him, the negligence, if any, is attributable to the co-accused.

7. We have gone through the case diary to find that in fact the safety belts were provided to the workers. In fact, the workers after completing the work were getting down and for that purpose, they removed the safety belts and deceased while getting down, met with an accident, in the sense, he fell down and sustained fatal injuries.

8. Thus, the applicant has played no role in the unfortunate incident. Learned counsel for the applicant submits that the applicant of his own paid Rs. 4,00,000/- to the legal representatives towards workman's compensation. The amount is paid through the Office of the Commissioner under the Workmen Compensation Act. The non-applicant no. 2 is

satisfied with the said amount and has, by filing reply submitted that he is not interested in prosecuting the case against the applicant.

9. In view of above, we are of the considered view that the offence punishable under Section 106(1) of the BNS is not made out against the applicant, even if, the contents of FIR are to be accepted on its face value. The continuation of proceedings, in such circumstances, will only amount to abuse of process of law. Accordingly, the application is allowed in terms of prayer clause (a) which reads as under :-

“a) Allow this application, quash and set aside First Information Report in Crime No. 261/2025 (Annexure-I) dated 10/04/2025, registered at Police Station, Umred, District-Nagpur Rural for offence punishable under Section 106(1) of BNS. “

10. The FIR is quashed qua applicant only.

11. The application is disposed of in above terms.

(M. M. NERLIKAR, J.)

(ANIL L. PANSARE, J.)

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