IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 CRIMINAL APPLICATION NO. 1924 OF 2020

Bhivaji Bapurao Jayabhye
VERSUS
The State Of Maharashtra

Mr. S. S. Shaikh h/f Mr. N. S. Ghanekar, Advocate for Applicant
Mr. N. R. Dayama, APP for Respondents

WITH CRIMINAL APPLICATION NO. 1058 OF 2025

1. Sarfaraz Khan Lalkhan Pathan
2. Mr. Nirutti S/o Bhagwan Choure
3. Mr. Sajid Khan Bashratkhan Pathan (withdrawn by order dated 02.04.2025)
4.Mr. Sudhakar S/o Gangaram Boinwad (withdrawn by order dated 02.04.2025)
5. Mr. Nandlal S/o Gulabdas Vaishnav
VERSUS
The State Of Maharashtra And Another

Mr. P. M. Nagargoje, Advocate for Applicants
Mr. N. R. Dayama, APP for Respondents

WITH CRIMINAL APPLICATION NO. 2568 OF 2025

M/s Charniya Constructions (a Partnership Firm) And Others
VERSUS
The State Of Maharashtra And Another

WITH CRIMINAL APPLICATION NO. 2664 OF 2025

M/s Chandram Ashanna Through Its Proprietor Mr. Chandram N. Ashanna
VERSUS
The State Othe State Of Maharashtra And Another

Mr. A. A. Yadkikar, Advocate for Applicants
Mr. N. R. Dayama, APP for Respondents

WITH CRIMINAL APPLICATION NO. 2640 OF 2025

1. Gni Infrastructure Ltd Formerly Known As

Gni Infrastructure Pvt Ltd
2. Mr. Ravindrasingh Khushbirsingh Bindra
3. Mr. Harvindarsingh Basantsingh Bindra
VERSUS
The State Of Maharashtra And Another
Mr. A. A. Yadkikar h/f Mr. A. D. Kulkarni, Advocate for Applicant
Mr. N. R. Dayama, APP for Respondents

WITH CRIMINAL APPLICATION NO. 2712 OF 2025

1. M/s A. S. Constructions
2. Mr. Mohammad Abdul Mukkaram Siddiqui
3. Mrs. Farhana Siddiqui W/o Mohammad Razaq Siddiqui
VERSUS
The State Of Maharashtra And Another

Mr. A. A. Yadkikar, Advocate for Applicants
Mr. N. R. Dayama, APP for Respondents

WITH CRIMINAL APPLICATION NO. 1059 OF 2025

Madhukar Bhaskar More
VERSUS
The State Of Maharashtra And Another

Mr. P. M. Nagargoje, Advocate for Applicant
Mr. N. R. Dayama, APP for Respondents

CORAM : R.M. JOSHI, J
DATE : OCTOBER 15, 2026

P. C. :

1. At the outset, it needs to be recorded that by order dated 02.04.2025 Application to the extent of Applicant Nos. 3 and 4 in Criminal Application No. 1058/2025 is dismissed as withdrawn.

2. By consent of both sides, heard finally.

3. These applications filed under Section 482 of the Code of Criminal Procedure seeks quashment of the FIR No. 399/2019 registered with Paithan Police Station, Paithan, for the offences punishable under Sections 12, 13(1) and 13(2) of the Prevention of Corruption Act and Section 120-B of the Indian Penal Code.

4. First information report indicates that on the basis of the complaint made in respect of quality of road constructed in the year 2013-2014, allegations were made against the government employees and the contractors for indulging into corrupt practice. There is allegation of huge corruption being involved in this project. On the basis of these allegations, first information report came to be lodged.

5. Learned Counsels for the Applicants submit that the Division Bench of this Court by order dated 06.03.2025 passed in Criminal Application No. 239/2020 has quashed the proceedings/first information report against accused no. 13. To support their submissions, he drew attention of the Court to the observations made by the Court in paragraph no. 5 of the said order. They, therefore, contend that in view of these observations and also in the view of the fact that this order has not been challenged before the Hon'ble Supreme Court, there remains no reason or justification not to quash the proceedings against other accused persons.

6. Learned APP opposed applications by contending that there are specific allegations in the first information report against the accused persons and the inquiry committee report indicates that the construction of road was done by using substandard material. It is his submission that this evidence is sufficient to invoke the provisions of Prevention of Corruption Act. He however, on instructions from the Prashant Pawar, Deputy Superintendent of Police, ACB, Chhatrapati Sambhajinagar, makes statement that the order passed by the Division Bench of this Court dated 06.03.2025 is not challenged before the Supreme Court.

7. There is no dispute about the fact that the allegations against all accused persons including contractors is that corrupt practices were adopted in the project of constructions of roads in the year 2013-2014. There are no specific allegations against any individual person. In the light of these facts, it would be relevant to take note of observations made by Division Bench of this Court in paragraph 5 of order dated 06.03.2025, which reads thus:

> *5. Here, it is to be noted that accused Nos.1 to 8 are Government servants from Public Works Department. Tender was floated in 2013 regarding construction of work, which was then divided in five portions. It was found, after the work was done that the road has developed cracks, then a complaint was received at the Anti Corruption Bureau*

and, therefore, an open inquiry was held in 2015. District Collector had also appointed a committee and quality of road was got assessed through various institutions. Those companies/institutions have given their reports stating that cracks have been developed due to use of sub-standard material. Now, even if we take reports submitted by those institutions as it is, it can be considered that construction has been made with sub-standard material. That cannot be per se corruption. The report submitted by Investigating Officer is totally silent that even after the period of almost six plus years, he could not reveal as to how any amount has been paid as bribe by any of the institutions, who had taken the contract. Out of that how much was paid to accused Nos.1 to 8. There was no answer from State side, as to why the State has not provided for the civil remedy if the Government is of the opinion that there is breach of terms of contract and instead of giving quality road, a road that has been given having sub-standard material. Construction of road in sub-standard material will not amount to corruption. The corruption can be either in cash or kind. Here, there is absolutely no such evidence. Further, from the report it can be seen that out of those 08 accused persons, accused Nos.1 to 3 stood retired from their post. The fact is not given, as to whether any Departmental Enquiry was initiated against them and what was its result. Therefore, the facts of case basically show at the most the relief under the Civil Law would have been maintainable. There is no substance and support to allegations of using non corrupt practice amounting to an offence under the

Prevention of Corruption Act as against applicants.

8. Needless to say that these observations would apply to all accused persons irrespective of their alleged role in the crime. Since this order has not been taken exception to by the prosecution till date, this Court finds no justification to take any different view.

9. Having regard to the said facts, this is a fit case to allow applications on parity. Hence, these Applications are allowed in terms of prayer clause 'b' and 'B' respectively.

(R. M. JOSHI, J.)

Malani