IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3265 OF 2025

1. Balaji Madhavrao Pushpalwar

2. Gajanan Mahadeo Padole …APPLICANTS

VERSUS

1. The State of Maharashtra
(Through Police Station Officer,
Degloor Police Station, Dist. Nanded)

2. Saraswati Hanmant Patne …RESPONDENTS

Mrs.Rani Bharuka-Bora h/f Mr. Satyajit S. Bora, Advocate for the applicants.
Mr. B.B. Gunjal, APP for respondent No.1/State.
Advocate for Respondent No.2 absent

(CORAM : SUSHIL M. GHODESWAR, J.)

DATE : 28th OCTOBER, 2026

PER COURT :

1. By this Criminal Application filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the applicants seek quashing of the First Information Report bearing Crime No.294 of 2025 dated 10.06.2025 registered with Degloor Police Station, District

Nanded, for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Sections 34 and 120-B of the Indian Penal Code, 1860 (“IPC”). By way of amendment, the applicants have also challenged the charge-sheet dated 22.07.2026, the order dated 27.07.2026 issuing process, and the proceedings in Regular Criminal Case No.189 of 2026 pending before the learned Judicial Magistrate First Class, Degloor.

2. At the relevant time, applicant No.1 was the Circle Officer, Shahapur and applicant No.2 was the Talathi of Saja Aalur, Taluka Degloor. Respondent No.2 is the real sister of accused No.1 Chandrakant Laxman Padge. Land Gut No.20 at village Aalur stood in the name of their mother, and the names of respondent No.2 and her three sisters were recorded in the ‘other rights’ column of the 7/12 extract.

3. On 01.01.2024, accused No.1 applied under Section 149 of the Maharashtra Land Revenue Code, 1966 (“MLRC”) for mutation of his name in respect of Gut Nos.20 and 537, on the basis of a notarized consent deed and partition deed dated 22.12.2023 executed on a stamp paper of Rs.100/-. Notices in Form 9 under Section 150(2) of the MLRC were issued on 03.01.2024 and a proclamation was published on

04.01.2024. As no objection was received, Mutation Entry No.6905 was certified by applicant No.1 on 25.01.2024.

4. According to respondent No.2, on 18.03.2024 she learnt that the names of herself and her sisters had been deleted on the basis of a fabricated Aadhaar card, a false thumb impression and a forged signature. She filed OMCA No.77 of 2024, in which the learned Magistrate, by order dated 03.06.2025 passed below Exh.01, directed registration of an FIR under Section 156(3) of the Code of Criminal Procedure, 1973 ("Cr.P.C."). The FIR was registered accordingly. After investigation, the charge-sheet was filed on 22.07.2026 and process was issued on 27.07.2026.

5. Mr. Bora, learned Advocate for the applicants, submits that the applicants processed and certified the mutation entry in the discharge of their official duties under the MLRC; that investigation was directed against them without previous sanction; and that, although the District Collector, Nanded refused sanction on 07.01.2026, the charge-sheet was filed against them and process was issued on a printed form without considering the refusal.

6. Per contra,the learned APP for respondent No.1 and learned Advocate for respondent No.2 strongly oppose the application,

submitting that the investigation is complete and the charge sheet has been filed along with necessary documents, including the Fingerprint Expert's report. Hence, they submit that the role of the applicants is a matter for trial.

7. I have heard the learned counsel for the parties and perused the record, including the charge-sheet.

8. By the Code of Criminal Procedure (Maharashtra Amendment) Act, 2015 (Maharashtra Act No.XXXIII of 2016), which came into force on 01.11.2016, the following provisos were added to Section 156(3) of the Cr.P.C. in its application to the State of Maharashtra :-

> *"Provided that, no Magistrate shall order an investigation under this section against a person who is or was a public servant as defined under any other law for the time being in force, in respect of the act done by such public servant while acting or purporting to act in the discharge of his official duties, except with the previous sanction under section 197 of the Code of Criminal Procedure, 1973 (2 of 1974) or under any law for the time being in force:*
>
> *Provided further that, the sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the sanctioning authority fails to take the decision within the said stipulated period of ninety days, the sanction shall be deemed to have been accorded by the sanctioning authority."*

9. The complaint was filed on 18.06.2024, before the BNSS came into force, and the learned Magistrate dealt with it under Section 156(3) of the Cr.P.C. Paragraph No.2 of the order dated 03.06.2025 records that proposed accused Nos.2 and 3, i.e. the present applicants, are Government officials, and the complaint describes them as the Circle Officer and the Talathi. The only material on record regarding sanction is that respondent No.2 approached the Deputy Collector, Degloor on 27.03.2024 seeking permission to prosecute. No proposal was placed before the District Collector, Nanded, who is shown in the charge-sheet itself as the appointing authority, and so the deemed-sanction provision in the second proviso could not come into operation. The order does not consider the question of sanction at all. The direction to investigate against the applicants was, therefore, issued contrary to the first proviso.

10. The charge-sheet shows that the Investigating Officer, by letter dated 13.12.2025, forwarded the investigation papers through the Superintendent of Police, Nanded to the District Collector, Nanded seeking sanction under Section 218(1)(b) of the BNSS to prosecute the applicants. By order dated 07.01.2026, the District Collector refused

sanction. The order records that there is no evidence that the applicants prepared any forged document, obtained a false signature or thumb impression, or conspired with accused No.1; that the allegations against them are, at best, procedural lapses; and that the remedy against the mutation lies in appeal under the MLRC. The order refusing sanction forms part of the charge-sheet. Even so, the charge-sheet was filed against the applicants, and process was issued on a printed form without any reference to the refusal.

11. The test for whether sanction is required was laid down by the Hon'ble Supreme Court in ***B. Saha and Others Vs. M.S. Kochar***, (**1979) 4 SCC 177,** as follows:

> *"… While on the one hand, it is not every offence committed by a public servant while engaged in the performance of his official duty, which is entitled to the protection of Section 197(1), an act constituting an offence, directly and reasonably connected with his official duty will require sanction for prosecution under the said provision."*

12. In ***G.C. Manjunath and Others Vs. Seetaram***, 2025 INSC 439, the Hon'ble Supreme Court, after referring to ***B. Saha*** (supra) and ***Gurmeet Kaur Vs. Devender Gupta***, 2024 SCC OnLine SC 3761, held in paragraph Nos.30 and 36 respectively:

> *"A careful reading of Section 197 of the Cr.P.C. unequivocally delineates a statutory bar on the Court's jurisdiction to take cognizance of offences alleged against public servants, save without the prior sanction of the appropriate Government. …"*
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> *"… Conversely, where there exists even a reasonable link between the act complained of and the official duties of the public servant, the protective umbrella of Section 197 of the Cr.P.C. and Section 170 of the [Karnataka] Police Act is attracted. In such cases, prior sanction assumes the character of a sine qua non, regardless of whether the public servant exceeded scope of authority or acted improperly while discharging his duty."*

13. The charge-sheet attributes the preparation of the fabricated Aadhaar card, the false thumb impression and the forged signature on the consent deed to accused No.1 alone. The allegation against applicant No.2 is that he did not serve the Form 9 notice on respondent No.2 and did not obtain the signature of her sister, Shobhabai, in his presence. The allegation against applicant No.1 is that he certified the mutation entry without verifying the documents. Receiving an application under Section 149 of the MLRC, issuing notices under Section 150(2), and certifying a mutation entry are acts done in the discharge of official duty. Any lapse in doing them is directly and reasonably connected with that duty. Sanction was therefore necessary. Once the competent authority had refused it, the

learned Magistrate could not take cognizance against the applicants.

14. Even apart from the question of sanction, the material collected does not disclose the ingredients of the offences alleged against the applicants. There is nothing to show that the applicants made any false document, or that they dishonestly induced respondent No.2 to part with any property, or that they entered into any agreement with accused No.1. The omissions attributed to them may, at most, be irregularities in the mutation proceedings, for which the MLRC provides a remedy. The case thus falls within the categories laid down in ***State of Haryana Vs. Bhajan Lal***, 1992 Supp (1) SCC 335, where the allegations and the evidence collected, even if accepted as they stand, do not disclose the commission of any offence, and where there is a legal bar to the institution and continuance of the proceedings. Continuing the prosecution against the applicants would be an abuse of the process of the Court.

15. It is made clear that the observations in this order are confined to the applicants. The proceedings against accused No.1 shall be decided on their own merits, uninfluenced by anything stated in this order.

16. Hence, the following order:

ORDER

I. The Criminal Application is allowed.

II. The First Information Report bearing Crime No.294 of 2025 dated 10.06.2025 registered with Degloor Police Station, District Nanded, the charge-sheet dated 22.07.2026 and the proceedings in Regular Criminal Case No.189 of 2026 pending before the learned Judicial Magistrate First Class, Degloor, for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Sections 34 and 120-B of the IPC, are quashed and set aside *qua* applicant No.1 Balaji Madhavrao Pushpalwar and applicant No.2 Gajanan Mahadeo Padole. The order dated 27.07.2026 issuing process is also quashed and set aside *qua* the applicants.

(SUSHIL M. GHODESWAR, J.)