



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.859 OF 2025

Rushikesh S/o Shivaji Gavhankar,
Age 32 Years, Occu. Service,
R/o. At Post: Gavhan-Mannatpur,
Post: Dhanora, Tq. Nilanga,
Dist. Latur.

..Applicant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Raver Police Station, Dist. Jalgaon.

2. Mayur Gautam Bhamre,
Age; 25 Yeas, Occu: Service,
as Taluka Agricultural Officer,
R/o. Ramchandra nagar, Station Road,
Raver, Tq. Raver, Dist. Jalgaon.

..Respondents

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Mr. M. D. Narwadkar, Advocate for Applicant.
Mr. S. D. Ghayal, APP for Respondent-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 29th JANUARY, 2026.**

FINAL ORDER:-

1. The applicant seeks quashment of FIR in Crime No.300/2021 registered with Raver Police Station, Dist. Jalgaon as well as proceeding in Summary Criminal Case No.705/2021 pending before Judicial Magistrate First Class at Raver for offence punishable under Section 188 of Indian Penal Code.

2. The investigation was set in motion on the basis of information given by Mr. Mayur Gautam Bhamre, Taluka Agriculture Officer and Member Secretary of Taluka Grievance

Redressal Committee alleging that crop insurance scheme was implemented by State Government in Taluka Raver through Agriculture Insurance Company during period from 2019 to 2020. The facility of depositing insurance premium was made available for participating farmers through CSC Centers and Banks. The Agriculture Insurance Company returned insurance premium deposited by participating farmers giving reasons like Aadhar Card mismatch, Survey Number mismatch etc.. Eventually, several complaints from participating farmers were received. Therefore, meeting was called in office of District Collector. In that meeting, District Collector had issued instructions to insurance company to release insurance claims of all farmers, who had deposited insurance premium. It was informed to concerned officers that if they failed to take corrective steps till 08.12.2020, District Administration would take steps for registration of offences. In spite of aforesaid directions, Insurance Company did not take steps to release benefit in favour of farmers. Ultimately, District Level Grievance Redressal Committee issued communication dated 11.08.2021 fixing liability upon Bank Officers and filed complaints for breach of directives given by District Collector.

Pursuance to aforesaid report, investigation progressed and charge-sheet No.94/2021 came to be filed against accused persons. Eventually, Summary Criminal Case No.705/2021 has been

registered and pending for trial before Judicial Magistrate First Class at Raver. The applicant is shown as accused no.1 in charge-sheet.

3. Mr. Narwadkar, learned Advocate appearing for applicant would submit that allegations in FIR is about disobedience of order duly promulgated by public servant i.e. District Collector, constituting offence under Section 188 of Indian Penal Code. In such case, cognizance can be taken on complaint in writing of public servant concerned or some other public servant to whom he is administratively subordinate. In present case, although there is allegation of disobedience of order promulgated by District Collector, complaint is lodged by Taluka Agriculture Officer. Further there is nothing on record to show that District Collector himself was lawfully empowered to promulgate such order or person giving complaint was authorized by District Collector. In support of his contentions he relies upon observation of Supreme Court in case of ***Daulat Ram Vs. State of Punjab***¹ to contend that when charge-sheet is filed under Section 173 of Code of Criminal Procedure, Magistrate cannot take cognizance under Section 195 of Code of Criminal Procedure in respect of offence punishable under Section 188 of Indian Penal Code. Mr. Narwadkar would further rely upon judgment of this Court in case

¹ AIR 1962 SC 1206.

of Vijay Vasant Harankar Vs. The State of Maharashtra and Anr. (Criminal Application No.2723/2024 dated 08.04.2025).

4. Mr. Ghayal, learned APP appearing for respondent-State opposes application contending that issues sought to be raised in this application does not constitute sufficient ground for exercising inherent powers under Section 482 of Code of Criminal Procedure or Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

5. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of contents of FIR and charge-sheet this Court finds that investigation in respect of offence punishable under Section 188 of Indian Penal Code was set in motion on complaint given by Taluka Agriculture Officer, who alleges that accused are guilty of disobedience of order promulgated by District Collector. Pertinently, so called order of District Collector or its promulgation is not made part of charge-sheet. There is nothing on record to show that District Collector was empowered under law to promulgate order directing Banks or Insurance Company to release benefits in favour of farmers. The charge-sheet contains “minutes of meeting” or administrative instructions issued by District Collector to Insurance Company or Bank Officers to clear insurance claims of farmers. Nothing is placed on record to show

that District Collector was empowered under law to promulgate order.

6. Admittedly, complaint is not lodged by District Collector to Magistrate regarding breach of order lawfully promulgated by him. The FIR is lodged by Taluka Agriculture Officer alleging disobedience of order alleged to have promulgated by District Collector. There is no stipulation in FIR that Taluka Agriculture Officer was authorized by District Collector to lodge complaint or report regarding such disobedience.

7. In case of ***Daulat Ram*** (supra) Supreme Court observed that Magistrate cannot take cognizance of offence punishable under Section 188 of Indian Penal Code on police report filed under Section 173 of Code of Criminal Procedure. Pertinently, Section 195 of Code of Criminal Procedure prescribes that no Court shall take cognizance, if offence punishable under Sections 172 to 188 of Indian Penal Code, except on complaint in writing of public servant concerned, or of some other public servant to whom he is subordinate. The words “complaint in writing by public servant concerned” denotes that Magistrate can take cognizance only on written complaint at the instance of public servant. In present case, FIR was lodged to police under Section 154 of Code of Criminal Procedure. Therefore, Magistrate is not empowered to take cognizance of such charge-sheet/police report.

8. In aforesaid backdrop, in case of ***Vijay Vasant Harankar*** (supra) this Court has already quashed and set aside criminal proceeding. For aforesaid reasons, this Court finds that in absence of basic ingredients of commission of offence and having regard to provisions contained under Section 195 of Code of Criminal Procedure, case is made out to exercise inherent powers under Section 482 of Code of Criminal Procedure.

9. In result, Criminal Application is allowed in terms of prayer Clauses (B) and (B-1).

(S. G. CHAPALGAONKAR)
JUDGE