



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

CRIMINAL APPLICATION ON. 1240 OF 2026

Nilesh Balasaheb Bhapkar
Age 35 years, Occ. Service/Agri,
R/o. Kada, A/p. Dhamangaon,
Tq. Ashti, Dist. Beed.

.. Applicant.

Versus

1. Tushar Diliprao Kale
Age 30 years, Occ. Job
R/o. Vinayaknagar, Murshadpur,
Ashti, Dist. Beed.
2. Dilip Yashwantrao Kale
Age Major, Occ. Business,
R/o. Vinayaknagar, Murshadpur,
Ashti, Dist. Beed.

.. Respondents.

Mr. Nisagraraj B. Garje, Advocate for the applicants

**CORAM : MEHROZ K. PATHAN, J.
DATE : 22nd April, 2026.**

P.C. :-

1. The present application is filed challenging the order passed by the learned Judicial Magistrate First Class, Ashti, dated 13.3.2026, whereby, the application under Section 319(1) filed by the applicant in Summary Case No. 426 of 2015 to add the accused persons and also include charge under Sections 465, 467, 471, 420 and 34 of IPC, came to be partly allowed by the learned trial court without even discussing the other prayers made in the application.

2. The limited prayer made by the applicant in the present application is that the order dated 13.3.2026 impugned in the present application, shall be modified to include the charges under Sections 420, 467, 468, 471 r/w. 34 of IPC against the respondent Nos., 1 and 2.

Though the trial court has allowed the applicant to add the respondent No.2 in the present complaint under Section 138 of the Negotiable Instruments Act, however, the learned trial court has failed to give any reason as to why the application for addition of sections under the IPC, as mentioned above, is not allowed.

3. I have gone through the application filed by the applicant in Summary Case No. 426 of 2015 vide Exh.81. Perusal of the prayer clauses of the said application would show that the applicant Nilesh Bhapkar has prayed for addition of the accused Dilip Yashwant Kale, in the said summary case, as one of the respondents, in addition to the original respondent Tushar Kale. The other prayer clause in the said application is to add Sections 420, 465, 467, 471 r/w. 34 of IPC. The said application dated 3.5.2024 below Exh.81 was taken up for consideration by the trial court i.e. JMFC, Ashti. The respondent Tushar Kale has also filed an application opposing the said request made by the applicant, thereby contesting the addition of respondent No.2 as accused and also contested the addition of the offences under the IPC as mentioned above, and prayed to reject the said application at Exh.81.

4. The trial court vide order dated 13.3.2026 has specifically made note of the two prayers by the applicant herein, (1) addition of respondent No.2 as accused in the summary case No. 426 of 2015 and (2) addition of Sections 420, 465, 467, 471 r/w. 34 of IPC in the aforesaid crime. However, the trial court has framed only one issue pertaining to addition of respondent No.2 as accused in the aforesaid summary case. The trial court has failed to frame the issue as regards addition of sections in the aforesaid crime. The order dated 13.3.2026 clearly shows non application of mind on the part of the trial court in not adjudicating the issue raised in the application. Though the impugned order takes note of the submissions made by the applicant, pertaining to

the addition of sections, the application is considered only to the extent of addition of respondent No.2 as an accused, however, there is no discussion as to the subsequent prayer made by the applicant, for addition of Sections 420, 465, 467, 471 r/w. 34 of IPC in the offence.

5. Taking into consideration the aforesaid submission made by the learned counsel for the applicant, as well as after going through the impugned order, I am inclined to exercise jurisdiction vested in me under Section 482 of the Cr.PC. for securing the ends of justice in the present case. Since the error is apparent on the face of the record committed by the trial court, I am inclined to remand the matter back to the trial court for passing appropriate orders afresh. Hence, the following order :-

ORDER

- [A] The Impugned order dated 13.3.2026 passed by the trial court in so far as it excludes consideration of prayer clause (II) made in the application Exh.81, is hereby set aside.
- [B] The matter is remanded back to the learned trial court i.e. 3rd JMFC, Ashti.
- [C] The trial court is directed to consider the application and submissions in so far as addition of Sections 420, 465, 467, 471 r/w. 34 of IPC, and pass appropriate orders afresh within a period of one month from the date of receipt of copy of this order.
- [D] The application stands allowed and disposed of in aforesaid terms.

[MEHROZ K. PATHAN]
JUDGE.

grt/-