Esha

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 273 OF 2026

CHANDAN S. PARSEKAR & 3 OTHERS … **PETITIONERS**

~ VERSUS ~

STATE OF GOA, THR. P.P. & 2 OTHERS … **RESPONDENTS**

APPEARANCES:

for the Petitioners	***Petitioner No. 1, Mr. Chandan Parsekar, in person***
for Respondent Nos. 1 & 2	***Ms. Swati Kamat Wagh, Additional Public Prosecutor***

CORAM : AMIT S. JAMSANDEKAR, J.

RESERVED ON : 16th OCTOBER 2026

PRONOUNCED ON : 4th NOVEMBER 2026

ORDER:

1. By the present Petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (**BNSS**), the Petitioners seek to quash FIR No.128/2022 registered at Mapusa Police Station, Chargesheet

No.186/2022 dated 30.09.2022, and Criminal Case No. IPC/480/S/22/B pending before the learned Judicial Magistrate First Class, Mapusa, Goa. The offences alleged are punishable under Sections 504, 332 and 506(ii) read with Section 34 of the Indian Penal Code, 1860 (**IPC**).

2. Heard Mr. Parsekar, and Ms. Swati Kamat Wagh, learned Additional Public Prosecutor for Respondent Nos.1 to 3, along with Ms. Shibani Singh.

3. On 29.05.2022, Respondent No.3 filed a complaint at Mapusa Police Station. He alleged that while he was on official duty, patrolling at Peddem, Mapusa, he was abused in filthy language and assaulted with a wooden danda by the Petitioners, causing him bodily injuries and obstructing him in the discharge of his lawful duty. According to the complaint, Respondent No.3 was watching the alleged illegal construction which was being carried out by the Parsekar family (Petitioner's family) when the incident occurred.

4. Pursuant to the complaint filed by Respondent No.3, FIR No.128/2022 came to be registered at Mapusa Police Station, for offences punishable under Sections 504, 332, 506(ii) read with Section 34 of the IPC. After investigation, the prosecution filed a Chargesheet No.186/2022 before the Judicial Magistrate First Class, Mapusa, on 30.09.2022.

5. Subsequently, Notices under Section 41A of the Code of Criminal Procedure, 1973 (**Cr.P.C**) were issued to the Petitioners on 30.05.2022 and 09.07.2022.

6. Mr. Parsekar, submitted that all the allegations in the FIR are false and that the FIR was lodged solely to harass the Petitioners. He submitted that the only medical evidence on record is the Hurt Certificate dated 29.05.2022, issued by Directorate of Health Services, Panaji, which records a simple injury on Respondent No.3. He further submitted that the alleged wooden danda, used in the alleged commission of the offence, is also not part of the record. Therefore, he submitted that the alleged assault with a wooden danda is not borne out by this certificate, and that the ingredients of

the offence under Section 332 IPC are therefore not made out. The Panchanama dated 30.05.2022 records nothing incriminating against the Petitioners; thus, no material on record establishes any involvement of the Petitioners in the alleged commission of the offence. He therefore submitted that continuing the prosecution would be an abuse of the process of the Court.

7. Ms. Kamat Wagh, learned Additional Public Prosecutor, opposed the Petition. She submitted that the FIR discloses a cognizable offence, the investigation is complete and the chargesheet has been filed, and that the accused should raise their defence at trial. She further submitted that the allegations that a public servant was abused and assaulted in performance of his duty are serious in nature and should be looked into with seriousness.

8. I have heard the Petitioners and the Respondents and perused the papers and proceedings.

9. In the present case, the primary offence alleged against the Petitioners is under Section 332 IPC, the same reads as follows:-

> *"332. Voluntarily causing hurt to deter public servant from his duty - Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."*

10. Hurt is defined in Section 319 IPC: 'whoever causes bodily pain, disease or infirmity to any person is said to cause hurt'. Under Section 321 IPC, whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said to "voluntarily cause hurt". Section 322 defines voluntarily causing grievous hurt, with the kinds of grievous hurt listed in Section 320. Section 323 prescribes the punishment for voluntarily causing hurt, and Section 324 deals with voluntarily causing hurt by dangerous weapons or means.

11. Thus, the ingredients which are essential for an offence under Section 332 of the IPC are:-

> (i) The victim is a public servant (ii) the victim was in the discharge of his duty as a public servant, or the act was done to deter him from, or in consequence of, discharging such duty (iii) the accused voluntarily caused hurt to the victim, that is, bodily pain, disease or infirmity was caused by an act done with the intention or knowledge of causing hurt; and (iv) the accused knew or had reason to know that the victim was a public servant discharging his duty.

12. Causing hurt is an essential ingredient. Without proof of voluntarily causing hurt, the aggravated offence under Section 332 cannot stand. In this case, admittedly, the wooden danda (wooden stick) used to allegedly commit the offence is not on record and was not recovered. The only medical evidence on record is the Hurt certificate dated 29.05.2022, issued by Directorate of Health Services, Panaji, which records a simple injury.

"HURT CERTIFICATE

Directorate of Health Services, Panaji-Goa

Sr.No.H/MUNO:4676 *Examined on: 29/05/2022 at 2:20 pm A.M. P.M.*

Name:	*S/W/D of*	*Age:27/ M*	*Religion:*	*Residence:*	*On request of PC No.*
Atmaram Aroskar	*Jaganath Aroskar*		*Hindu*	*Varkhand*	*8140 Mapusa PS*

Nature of hurt whether bruise, abrasion, burn or wound	*Size of each LxBxD*	*On what part of the body inflicted*	*By what weapon inflicted*	*Duration of each hurt*	*Simple, grievous, or dangerous*	*Marks of identification*	*Remarks*
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*
C/o assault of police constable working at Mapusa PS Patient was on duty at Peddem Mapusa assaulted by a group of women at 2:00 pm today. ***Patient was hit with a wooden stick on his back no other injuries noted.*** *o/o P=80mm BP=120/80 mg*	-	*Back*	*Blunt*	*42 hrs*	***Simple***	-	*Treatment received*
					Sd- *Medical Officer's Signature*		
				Name: Dr. Sneha Talawanekar			
				Designation: Medical Officer, NDH Mapusa"			

13. After perusing the papers and proceedings, it can be seen, *prima facie,* that nothing is on record to establish that the ingredients of voluntarily causing hurt under Section 321 of the IPC are met. Therefore, if wooden danda is not part of the record, any allegation against the Petitioners, *prima facie*, cannot sustain. Further Panchanama dated 30.05.2022 records that nothing incriminating was found against the Petitioners and no wooden danda or any other

incriminating article was recovered. The charges against the Petitioners are therefore uncorroborated by any independent material.

14. The offences under Section 504 IPC (intentional insult with intent to provoke breach of the peace) and Section 506(ii) IPC (criminal intimidation by threat of death or grievous hurt) and the rest only on the bare allegation of abuse. Admittedly, there are proceedings pending in respect of the alleged illegal construction in the Petitioners' premises. Nothing on record establishes that the 3rd Respondent had a duty to be at the alleged illegal construction and watch it. Furthermore, even a copy of the Station diary is not part of the record. On a reading of the FIR, chargesheet and evidence produced along with the chargesheet as a whole, no case under any of these Sections is made out. Section 34 IPC does not create a substantive offence and cannot stand when the principal offences are not made out.

15. *Prima facie*, I am satisfied that the evidence on record may not be sufficient to result in conviction. Allowing the matter to proceed to

trial on these allegations and materials would serve no purpose and would only subject the Petitioners to a prolonged and unwarranted prosecution. This is therefore a fit case to exercise the inherent powers under Section 528 of the BNSS.

16. Therefore, the **Petition is allowed** in terms of prayer clause (i), which reads as follows:-

> *"i) For a appropriate writ, order or direction thereby calling for the records of the Criminal Case No. IPC/480/S/2022/B proceeding in the Judicial Magistrate First Class at Mapusa Goa and upon perusing the legality and propriety of the Criminal proceeding filed before the Judicial Magistrate First Class at Mapusa Goa on the basis of Complaint dated: 29/05/2022, FIR No. 128/2022 dated: 29/05/2022, Chargesheet No. 186/22 dated: 30/09/2022, the Criminal Case No. IPC/480/S/2022/B may please be quashed and set aside."*

17. The **Petition is disposed of** in the above terms.

18. No order as to costs.

19. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]

Signed by: VAIGANKAR ESHA SAINATH
Designation: Personal Assistant
Date: 04/11/2026 16:23:00