IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 233 OF 2026

RAGHAV SURESH DWIVEDI … **APPLICANT**

~ VERSUS ~

STATE OF GOA, THR. TRAFFIC INSPECTOR … **RESPONDENT**

APPEARANCES:

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for the Applicant	***Mr. Subodh S. Kantak, Senior Advocate with Mr. H.D. Naik, Ms. Neha Kholkar, Ms. Saicha Desai and Ms. Deepti Kambli***
for the Respondent	***Mr. Pravin Faldessai, Additional Public Prosecutor***

CORAM : AMIT S. JAMSANDEKAR, J.

RESERVED ON : 4th NOVEMBER 2026

PRONOUNCED ON : 5th NOVEMBER 2026

ORDER:

1. Heard the learned Senior Counsel, Mr. Kantak for the Applicant and the learned Additional Public Prosecutor, Mr. Faldessai for the Respondent. With the consent of the learned Counsel for the parties, the matter is taken up for hearing and disposed of finally.

2. By the present Revision Application, the Applicant has impugned the judgment and order dated 29.06.2026 passed by the learned Additional Sessions Judge-I at Merces, Tiswadi, Goa (***learned Judge***) in Criminal Appeal No. 300/2025, by which, the learned Judge was pleased to dismiss the Appeal filed by the Applicant challenging the judgment and order dated 18.08.2025 passed by the learned Judicial Magistrate First Class at Pernem (***learned JMFC***) in Motor Vehicle Act (MVA) Case No. 522/2025.

3. The facts which are necessary for deciding the present Revision Application are briefly as follows:-

(A) It is the case of the Prosecution that on 16.08.2025 at 18:59 hours at Chopdem, Pernem, Goa, the Applicant was found driving his vehicle bearing No.

GA-03-R-7581. According to the Prosecution, the Applicant was under the influence of alcohol and was found to have 292.2 mg/100 ml of blood alcohol, which is far in excess of the prescribed limit. Therefore, the prosecution invoked Section 185 of the Motor Vehicles Act, 1988 (***M.V. Act***).

(B) In the Revision Application as well as in the Appeal Memo, which was filed before the learned Judge, the Applicant has disputed the fact that the Applicant was under the influence of alcohol.

(C) It is the case of the Applicant that the Applicant disputed the results of the breath analyser test was sought to be conducted. However, the Applicant was directed by the Traffic Inspector to appear before the Traffic Cell at Pernem on 18.08.2025 at 9:00 a.m. On the same day, he was informed that he was required to appear before the learned JMFC and pay a fine of Rs.10,000/-.

(D) Subsequently, the Applicant appeared before the learned JMFC and raised an objection that he did not consume alcohol and disputed the result of the breath analyser test. However, according to the Applicant, the learned Magistrate furnished a

cyclostyled form of substance of accusation under Section 274 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (***BNSS***). The substance of accusation recorded that the Applicant pleaded guilty and therefore, on the same day, the learned Magistrate was pleased to sentence the Applicant under Section 185 of the M.V. Act and to pay a fine of Rs.10,000/- and in default to undergo two days simple imprisonment.

(E) The Applicant challenged this order before the learned Judge, *inter alia,* on the ground that the learned Magistrate recorded the plea of guilty in violation of Sections 274 and 275 of the BNSS and without following the mandate of law. Therefore, the Applicant raised all these grounds before the learned Judge. However, the learned Judge rejected all the Applicant's submissions and dismissed the Appeal.

4. Mr. Kantak on behalf of the Applicant, submitted that the substance of accusation recorded by the learned JMFC is in gross violation of the mandate of Sections 274 and 275 of the BNSS and its interpretation provided by the Hon'ble Supreme Court. He submitted that the

substance of the accusation and recording of the plea of guilty is cyclostyled and therefore, illegal *per se*.

5. Mr. Kantak relied upon the judgment of the Hon'ble Supreme Court in the case of (i) ***Mahant Kaushalya Das Vs. State of Madras***, 1965 SCC OnLine SC 3; (ii) ***Jupudi Anand Gupta Vs. State of Andhra Pradesh***, (2019) 14 SCC 723 and that of the Kerala High Court in the case of ***Raseen Babu K.M. Vs. State of Kerala***, 2021 SCC OnLine Ker 2526.

6. Mr. Faldessai, on behalf of the Prosecution, submitted that the required mandate of law was followed and there is no error or perversity committed by the learned JMFC. He submitted that by virtue of Section 416 of the BNSS, the Appeal is not maintainable and therefore, the Revision also ought not to be heard. It is submitted that, under Section 185 of the M.V. Act, the Accused cannot challenge the extent and legality of the sentence, particularly when the Appeal is barred under Section 416 of the BNSS. He further submitted that the allegations made by the Applicant against the learned JMFC are uncalled for and are of very serious nature.

7. I have heard the learned Counsel for the parties and perused the record. The substance of accusation recorded by the learned Magistrate under Section 274 of the BNSS reads as follows:

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS AT PERNEM, NORTH GOA.

Motor Vehicle Case No. 522/2025

State (TC Pernem) ..... Complainant
V/S.
Raghav Suresh Dwivedi ..... Accused/ Defaulter

SUBSTANCE OF ACCUSATION

The substance of accusation against you is that on 16.08.2025 at 18.59 hrs at Chopdem, Pernem you were found Driving vehicle bearing registration No. GA-03-R-7581 under the influence of alcohol and was found having 292.2 mg/100 ml of your blood, thereby you committed an offense u/s 185 of M.V. Act 1988 within the jurisdiction of this Court.

The substance of accusation explained to you in the language known to you, which appears to be understood to the Defaulter/accused and after understanding the contents of S.A. The Defaulter/accused hereby pleaded as under:-

Question: Do you plead guilty ?
Ans: Yes / No

(Defaulter/accused)

(Shabnam P. Nagvekar)
J.M.F.C., Pernem

8. Undoubtedly, the substance of the accusation clearly reveals that the plea of guilty is recorded only in 'Yes' or 'No' format without any further elaboration. The mandate of Section 275 of the BNSS provides that if the Accused pleads guilty, the Magistrate is required to record the plea as nearly as possible in the words used by the Accused and may convict the Accused. The law mandates that this particular step in the criminal justice system is required to be done in a particular manner. It is a settled principle of law that when a statute provides a particular thing to be done in a particular manner, then it ought to be done in the same manner and in no other manner. The learned JMFC chose to evolve her own system. A system which is contrary to the settled principles of law.

9. Section 275 has been interpreted by the Hon'ble Supreme Court in ***Mahant Kaushalya Das*** (supra) It is held that;

> *"In our opinion, the requirements of Section 243 of the Criminal Procedure Code are mandatory in character and a violation of these provisions vitiates the trial and renders the conviction legally invalid. The requirement of the section is not a mere empty formality but is a matter of substance intended to secure proper administration of justice.* ***It is important that the terms of the section are strictly***

> ***complied with because the right of appeal of the accused depends upon the circumstance whether he pleaded guilty or not and it is for this reason that the legislature requires that the exact words used by the accused in his plea of guilty should, as nearly as possible, be recorded in his own language in order to prevent any mistake or misapprehension.*** *It has been held by the Madras High Court in Queen Empress v. Erugadu, ILR 15 Mad 83 that the violation of the procedure in Section 243 of the Criminal Procedure Code was sufficiently serious to invalidate the conviction of the accused. The same view has been taken by the Calcutta High Court in Shailabala Dasee v. Emperor, ILR 62 Cal II 27 and by the Allahabad High Court in Mukandi Lal v. State, AIR 1952 All 212. In our opinion, these cases correctly lay down the law on the point."*
>
> (emphasis supplied)

10. This judgment in ***Mahant Kaushalya Das*** (supra) of the Hon'ble Supreme Court further came to be considered in ***Jupudi Anand Gupta*** (supra) and the statement of law is reiterated by the Hon'ble Supreme Court. The Kerala High Court has taken the same view and has held that the plea cannot be recorded in a very casual manner. Relevant paragraphs 9 and 12 read as follows:

"9. Yet another mandatory requirement *is of the Magistrate recording the plea of guilty, which is a matter of substance intended to aid the administration of justice. In Surath Chandra v. State (AIR 1961 Gau 19), the High Court of Assam reminded the Magistrates that an order convicting an accused on his own admission is not a final order as it is open to revision and the superior Court should be satisfied that what the Magistrate thought to be the admission of an offence by the accused was really such an admission. No doubt, when the admission of the accused is not recorded, the superior Court is deprived of the opportunity of forming its own independent conclusion. This may often result in serious miscarriage of justice.*

12. The relevant provisions and the precedents discussed above mandate compliance of the following requirements before acting upon the pleading of guilt by an accused;

(i) The Magistrate should frame the charge, specifying the offences alleged against the accused;

(ii) The charge should be read over and explained to the accused;

(iii) The accused should be asked whether he pleads guilty of the offence/s with which he is charged;

(iv) The accused should plead guilty after understanding the seriousness of the allegations and the implications of pleading guilty. The plea should be voluntary and expressed in clear and unambiguous terms.

> *(v) The Magistrate should record the accused's plea of guilty in the words of the accused, to the extent possible.*
>
> *(vi) The Magistrate, after considering all relevant factors should exercise his discretion and decide whether to accept the plea of guilty or not*
>
> *(vii) If the plea is accepted, the accused can be convicted and suitable punishment imposed."*

11. On the aforesaid consideration, I am satisfied that the plea recorded by the learned JMFC on 18.08.2025 is not in accordance with Sections 274 and 275 of the BNSS and it has violated the rights of the Applicant.

12. In view thereof, the order passed by the learned JMFC on 18.05.2025 in Motor Vehicle Act (MVA) Case No. 522/2025 and the judgment and order of the learned Judge on 29.06.2026 in Criminal Appeal No. 300/2025 are quashed and set aside. The matter is remanded back to the Court of the learned JMFC. Motor Vehicle Act (MVA) Case No. 522/2025 is restored to the file, and the learned JMFC shall decide it afresh.

13. The **Revision Application is disposed of** in the above terms.

14. No order as to costs.

15. 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: 05/11/2026 18:01:33