Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3742 OF 2026

Vicky Soni .. Petitioner (Accused No. 3)

Versus

The State of Maharashtra & Anr. .. Respondents

WITH

WRIT PETITION NO. 3743 OF 2026

1. Jiten Jayantilal Dhudhara
2. Kalpesh Jayantilal Dhudhara .. Petitioners (Accused Nos. 1 & 2)

Versus

The State of Maharashtra & Anr. .. Respondents

.....

- Mr. Arun Upadhyay a/w Mr. Dhruv Shukla, Advocates for Petitioners in
- Ms. Gauri S. Rao, APP for State
- Mr. Shivkumar Mishra, Advocate for Respondent No. 2

.....

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 8, 2026

P. C.:

1. Writ Petition No. 3743 of 2026 is not on board today. By consent of the parties, the same is taken on board.

2. Registry shall accept the vakalatnama of Mr. Mishra, learned Advocate appearing on behalf of Respondent No. 2 - Complainant in both the Petitions within a period of four weeks from today.

3. Present Petitions are filed seeking quashing and setting aside of the FIR and the consequential proceedings, if any, arising therefrom.

4. Heard Mr. Upadhyay, learned Advocate for Petitioners; Ms. Rao, learned APP for State and Mr. Mishra, learned Advocate for Respondent No. 2.

5. The dispute between the parties arose out of a commercial transaction, which stands reconciled on the basis of an Undertaking-cum-Debt Repayment & Settlement Agreement dated 31.08.2026, a copy of which is placed before the Court. Parties undertake to abide by the obligations as stated in the said agreement.

6. The consent affidavit of the Complainant, who is 72 years old, is dated 10.09.2026 and is filed in Writ Petition No. 3743 of 2026. The consent affidavit which is filed in Criminal Writ Petition 3743 of 2026 *prima facie* states that it applies to quashing of the FIR by consent, which is the subject matter of Criminal Writ Petition Nos. 3742 of 2026 and 3743 of 2026.

7. In Writ Petition No. 3742 of 2026, Petitioner who is arraigned as accused No. 3 is the manager in the medical store whereas in Writ Petition No. 3743 of 2026, Petitioners – accused Nos. 1 and 2 are the partners of the partnership firm. In that view of the matter, the consent affidavit of the Respondent No. 2 - Complainant is taken on record in both the Petitions.

8. Considering the settlement between the parties and the reconciliation between them, I am inclined to accept their request for consent quashing.

9. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CRPC, 1973 High Courts invoke this provision to step in where cases have been instituted with *malafide* motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CRPC and now Section 528 of BNSS remains discretionary and varies from case to case.

10. In ***State of Harayana vs Bhajan Lal***[1] the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has furthered asserted that power under Section 482 is an

1 1992 AIR 604

acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

11. In the above context, when parties settle their private dispute or the *lis* between them is purely civil and commercial or matrimonial and the offence is not heinous or does not impact the society at large, the Court can consider such request. In such a case awarding costs for putting the criminal law into motion on the act of the accused persons and thereafter both parties seeking quashing of proceedings by consent, in my opinion, can be considered by Court which can impose costs on the parties, especially so in matters coming before the Court by “consent quashing”.

12. For above levy of costs the legal principle rests on the logic that criminal law cannot be used as a bargaining chip or a tool for private settlements after draining the State and judicial resources. In simple words, Courts cannot be used as a recovery mechanism to settle scores and/or bring the parties into subjugation. I am of the firm opinion that imposition of costs in consent quashing matters is required to be levied

for three main reasons viz., wastage of public resources, consumption of valuable judicial time and for deterrence against vexatious litigation. This is because after criminal machinery is set into motion, the Police Department is forced to take cognizance, conduct investigations, attend courts, deploy personnel, collect evidence and draft chargesheets, all using public funds/ public exchequer. Equally substantial judicial time of the Trial Courts and Sessions Courts is wasted for handling a case, presentation of a case, issuance of summons, scheduling of trial dates, appointment of prosecutors and their fees, etc. and ultimately if consent quashing is allowed such judicial time stands completely wasted, which could have otherwise been used for genuine Trial Court matters/ litigation. in one way such matters result in clogging the legal system and lead to humongous pendency which becomes difficult to tackle.

13. Another aspect to consider for imposing costs is that it curbs the growing trend of filing strategically exaggerated criminal complaints (especially matrimonial or commercial disputes) simply to force financial and legal settlements. In a given case made out on merits of the matter, even the Complainant can be put to costs while considering a quashing Petition purely on merits depending upon the facts of each case before Court. In some strong circumstances, even the State machinery can be put to costs if a purely civil dispute between parties

strongly emanating from the facts on record is registered as criminal case and given the flavor of criminality. This Court is also equally conscious about not imposing costs blindly or mechanically if a particular party is not found to be remiss or at explicit fault for abusing the law, as also conscious about heinous offences impacting the society at large while considering consent quashing.

14. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Petitioners for his actions resulting in the complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Petitioners should pay costs. Hence, Petitioners are directed to pay costs of Rs. 30,000/- (Rs. 10000/- per Petitioner) towards the Corpus of **A.K. Munshi Yojana** a trust which runs medical centres, vocational training centres and which also runs a Special School called **J.T. Sheth Mandbuddhi Vikas Kendra**, imparting education and training to the needs of 150 special children in the field of Education (Classes for 6 to 18 years), early intervention (upto 6 years) and vocational training (18 years above) having its school address and building at A.K. Munshi Yojana Chowk, 3rd Panjarapole Lane, C.P. Tank, Mumbai – 400 004 [Contact Nos. 22425513 / 22423654] registered under the Society Registration Act, XXI of 1980 under No. : 387/81 GBBSD and the Public Trust Act, XXIX of 1950 under No. F-6809. RCI Reg. No. 0163.

15. Petitioners through their Advocate agree to pay the aforesaid costs amount to the charity within a period of two weeks from today..

16. In view of the above matter, the present Petitions deserve to be allowed subject to payment of costs as directed herein above. They are so allowed in terms of prayer clause (A) which read thus:-

> *"A) that This Hon'ble Court on satisfying itself as to the correctness and legality of the First Information Report hereto be quashed and set aside which is registered by Bandra Police Station in C. R. No. 1163/ 2026 registered on dated 15.06.2026 for offences punishable under Sections 3(5), 316(5) and 318(4) of the Bharatiya Nyaya Sanhita, 2023*

17. List the Writ Petitions for compliance of the order regarding payment of costs on **30th October, 2026**.

18. Advocate for the Petitioners shall remain present and show compliance on the returnable date for compliance. If he does not remain present and there is non-compliance of this order, Court will pass appropriate order for recall of this order, which shall be noted by the Petitioners.

19. Both the Writ Petitions are allowed and disposed.

[MILIND N. JADHAV, J.]

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RAVINDRA MOHAN AMBERKAR
Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2026.10.13 11:53:19 +0530