HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.5976 OF 2025

Nishit Hasmukhbhai Mehta And Anr. .. Petitioners

Versus

The State of Maharashtra and Anr. .. Respondents

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- Mr. Sachin Daga a/w. Ms. Shreyashi Panda, Advocates for Petitioners.
- Ms. Sangeeta E. Phad, APP for Respondent No.1 – State.
- Ms. Trushna Shah, Advocate for Respondent No.2.
- PSI – Sonali Ghadge, BKC Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 08, 2026

P.C.:

1. Heard Mr. Daga, learned Advocate for Petitioners; Ms. Phad learned APP for Respondent No.1 and Ms. Shah, learned Advocate for Respondent No.2.

2. The dispute between the Petitioners who are both businessmen and known to each other having a business relationship, stands duly resolved which had arisen on account of the unpaid invoices regarding to trading of diamonds.

3. The Petitioners have filed a their additional affidavit which is taken on record. The Complainant's Consent Affidavit dated 08.10.2026 is taken on record. The Complainant is not present since he is visiting a religious place.

4. The learned advocate for the Complainant has taken me through the affidavit of Consent wherein the entire settlement amount of Rs.1.52 Crores has stood received by the Complainant. As per the details stated therein, I have no reason to disbelieve the same.

5. 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.

6. 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 further 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.

7. 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”.

8. 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.

9. 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.

10. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Petitioners for their 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.25,000/- together 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 within a period of two weeks from the date of uploading of this order. All Petitioners are present in Court and through their learned Advocates agree to pay the aforesaid

costs amount to the charity.

11. In view of the above matter, the present Petition deserves to be allowed subject to payment of costs as directed herein above. It is so allowed in terms of prayer clauses 'a' which read thus:-

> "*a) To issue a writ in the nature of mandamus or any other appropriate writs or orders or directions in exercise of the extraordinary jurisdiction and inherent powers of this Hon'ble Court under Article 226 of the Constitution of India, 1950 read with Section 528 of B.N.S.S to call for records, quash and set aside the impugned FIR bearing C.R. No. 184 of 2025 dated 12.04.2025 registered by Bandra Kurla Complex Police Station, Mumbai against the Petitioners under B.N.S.S. for alleged offences under the sections 409, 420, and 34 of The Indian Penal Code, 1860 on the basis of a police complaint lodged by the Respondent No. 2 together with all investigations and other proceedings ensuing therefrom; and*"

12. List the Writ Petition for compliance of the order regarding payment of costs on **23rd October 2026**.

13. Advocates in Petitions for Petitioners shall remain present and show compliance on behalf of all Petitioners on the returnable date for compliance. If they do 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/parties to Petitions.

14. Writ Petition is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT
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