HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

(157) WRIT PETITION NO.545 OF 2026

Abhishek Dipak Indre .. Petitioner
Versus
The State of Maharashtra and Anr. .. Respondents

WITH
(181) WRIT PETITION NO.4335 OF 2026

Akshay Nandkumar Kawale And Ors. .. Petitioners
Versus
The State of Maharashtra and Anr. .. Respondents

.....

- Mr. Bharat Shinde, Advocate i/by Mr. Parthraj Ware for Petitioner.
- Ms. Sangeeta E. Phad, APP for Respondent No.1.
- Mr. Vinod Kendre, Advocate for Respondent No.2.
- GPSI – R. V. More, Alibaug Police Station.

.....

CORAM : MILIND N. JADHAV, J.
DATE : OCTOBER 08, 2026

P.C.:

1. Heard Mr. Shinde, learned Advocate for Petitioner; Ms. Phad, learned APP for Respondent No.1 and Mr. Kendre, learned Advocate for Respondent No.2.

2. There are four Accused persons in these two Writ Petitions. The Complaint was filed for theft of LED TVs and geyser from a resort run by the Complainant. The parties have reconciled their disputes and have persuaded the Court to quash the criminal proceedings so that the parties can lead their life in future peacefully without the hindrance of criminal proceedings.

3. Considering the request made by the parties, I am inclined to accept the same.

4. Consent Affidavit of the Complainant in Writ Petition No.545 of 2026 is dated 09.04.2026 and Consent Affidavit in Writ Petition No.4335 of 2026 is dated 09.09.2026. I have perused the Affidavits. They are taken on record.

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

1 1992 AIR 604

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 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 in both the Petitions for their actions resulting in the Complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Petitioners in both the Petitions, should pay costs. Hence, Petitioners in both the Petitions are directed to pay costs of Rs.10,000/- i.e. Rs.2,500/- each in both the Petitions 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. Petitioners in both the Petitions 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.

12. Writ Petition No.545 of 2025 is allowed in terms of prayer clauses 'a' which read thus:-

> "*a. That this Hon'ble Court be pleased to issue appropriate order, writ order in favour of the petitioner and may kindly quash the proceeding bearing RCC No. 93 of 2025 pending before Judicial Magistrate First Class Court Alibag pursuant to Bearing FIR No. I-53 of 2025 registered on Dated 19/03/2025 offence U/s 305, 331(3), 331(4), 317(2), 3(5) of BNS register with Alibag Police Station on such terms as this Hon'ble Court may deem fit and proper qua the petitioner.*"

13. Writ Petition No.4335 of 2026 is allowed in terms of prayer clauses 'a' which read thus:-

> "*a. That this Hon'ble Court be pleased to issue appropriate order, writ order in favour of the petitioners and may kindly quash the proceeding bearing RCC No. 93 of 2025 pending before Judicial Magistrate First Class Court Alibag pursuant to Bearing FIR No. I-53 of 2025 registered on Dated 19/03/2025 offence U/s 305, 331(3), 331(4), 317(2), 3(5) of BNS register with Alibag Police Station on such terms as this Hon'ble Court may deem fit and proper qua the petitioners.*"

14. In addition thereto Regular Civil Case No.93 of 2025

pending before Judicial Magistrate First Class, Alibaug also stands quashed and set aside.

15. List the Writ Petitions for compliance of the order regarding payment of costs on **23rd October, 2026**.

16. Advocates in both 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 both Petitions.

17. Writ Petition Nos.545 of 2026 and 4335 of 2026 are allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT

Digitally signed by HARSHADA HANUMANT SAWANT
Date: 2026.10.10 12:49:58 +0530