HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1814 OF 2026

Ninad Anil Kadam And Anr. .. Applicants

Versus

The State of Maharashtra and Anr. .. Respondents

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- Mr. Parth Sanjay Govilkar a/w. Mr. Pratham R. Jain, Advocates for Applicants.
- Ms. Shilpa G. Talhar, APP for Respondent – State.
- Mr. Shrijeet Raorane, Advocate for Respondent No.2.
- PSI - Ms. Rupali Sanap, Chembur Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 08, 2026

P.C.:

1. Heard Mr. Govilkar, learned Advocate for Applicants; Ms. Talhar, learned APP for Respondent – State and Mr. Raorane, learned Advocate for Respondent No.2.

2. The complaint came to be filed in view of an offense of cheating pertaining to certain amounts deposited by the Complainant with the Applicants for higher returns, for higher returns. Part of the amount was already returned back to to the Complainant. The remaining amount has also been returned as informed by the parties. The Consent Affidavit of the Complainant is at page No.21 wherein the Complainant confirms that payments have been fructified and received. All parties are present before the Court, I have interacted with them in the able assistance of the learned Advocates.

3. 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.

4. 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 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

1 1992 AIR 604

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.

5. 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".

6. 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.

7. 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.

8. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Applicant for his actions resulting in the complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Applicants should pay costs. Hence, Applicants are directed to pay costs of Rs.15,000/- 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 2 weeks from the date of uploading of this order. Applicants through his learned Advocates agree to pay the aforesaid costs amount to the charity.

9. In view of the above matter, the present Application deserves to be allowed subject to payment of costs as directed herein above. At the request of parties, it is so allowed in terms of prayer clauses 'b'

which read thus:-

> *"b. This Hon'ble Court may be pleased to quash FIR No. 851 of 2026 registered with Chembur Police Station Mumbai, insofar as the present Applicants are concerned."*

10. List the Application for compliance of the order regarding payment of costs on **22nd October 2026**.

11. Advocate in Application for Applicants shall remain present and show compliance on behalf of Applicants on the returnable date for compliance. If learned Advocate for Applicants 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 Applicants/parties to Application.

12. Criminal Application is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT
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Date: 2026.10.10 12:59:13 +0530