Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5266 OF 2026

Akhtar Hasan Rizvi .. Petitioner

Versus

State of Maharashtra and Anr. .. Respondents

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- Mr. Rajiv Chavan, Senior Advocate a/w. Ms. Rubina Akhtar Rizvi, Ms. Sonam Pandey, Ms. Asmi Desai and Ms. Anjali Khapre, Advocates for Petitioner.
- Mr. Yogesh M. Nakhwa, APP for Respondent No.1 – State.
- Mr. Aasim S. Gholap, Advocate for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 08, 2026.

P.C.:

1. Heard Mr. Chavan, learned Senior Advocate for Petitioner; Mr. Nakhwa, learned APP for Respondent No.1 – State and Mr. Gholap, learned Advocate for Respondent No.2.

2. This Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by parties on the ground of "consent quashing". With the able assistance of the learned Advocates for the respective parties and learned APP, I have perused the entire record of the case. I do not find it necessary to delineate the same in its entirety herein for the sake of brevity.

3. Petitioner is indicted in the present crime for committing mischief with regard to mutation entry of the year 1979 in respect of a

plot of land which was admittedly 300 square meters and adjacent to a larger piece of land which was developed by Petitioner. After the present complaint is filed and proceedings are invoked before the Statutory Revenue Officers under the provisions of the Maharashtra Land Revenue Code, both the parties have reconciled their dispute with regard to entitlement of the subject plot and have before the Statutory Officers filed Consent Terms with regard to deletion of the subject mutation entry whereby Complainant gets benefit of the subject plot and Petitioner has not received any benefits, neither taken any advantage out of the subject plot which is *prima facie* evident.

4. The Consent Terms which are filed before the Statutory Officers, copy of the Consent Terms are appended at page No.150 of the present Petition. I have perused the same with the able assistance of the learned Senior Advocate Mr. Chavan. After perusing the same, I have no reason or doubt to disbelieve the same. Complainant is equally present in the Court. The Affidavit-cum-No objection of Complainant is appended at page No.160 of the Petition. I have perused the same. In view of the request made and the reconciliation of the dispute and the dispute between the parties which was essentially civil in nature, I am inclined to accept the request made for consent quashing.

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 furthered 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

1 1992 AIR 604

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 Petitioner for his actions resulting in the complainant invoking criminal proceedings and now both the parties seeking quashing by consent, Petitioner should pay costs. Hence, Petitioner is directed to pay costs of Rs.25,000/- 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 two weeks from the date of uploading of this order. Petitioner is present in Court and through his learned Advocate 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 clause 'a' which reads thus:-

> *"a) issue a writ of certiorari or any other appropriate writ, order or direction, and in exercise of its powers under*

Article 226 of the Constitution of India r/w Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash and set aside Crime No. 1222 of 2026 registered at Bandra Police Station, Brihanmumbai (now C.R. No. 69 of 2026, DCB CID Unit-II, Mumbai) for offences punishable under Sections 419, 420, 465, 466, 467, 468 and 471 read with Section 34 of the Indian Penal Code, 1860, being EXHIBIT-B hereto, and all investigation, proceedings and steps consequent thereto."

12. List the Writ Petition for compliance of the order regarding payment of costs on **29th October 2026**.

13. Advocate for Petitioner shall remain present and show compliance on behalf of Petitioner 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 Petitioner.

14. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
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