IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 6346 OF 2025

Badal Bhupatrai Shah & anr. .Petitioners

Vs.

The State of Maharashtra & anr. .Respondents

ANAND SUDHAKAR SUDAME
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Date: 2026.10.09 16:27:13 +0530

Mr. Vinay Bhanushali a/w. Mr. Sanmit Vaze, Advocates, for the Petitioners
Ms. R. V. Newton, APP, for Respondent No. 1 – State
Ms. Neha Rukhana i/b. Indus Law, Advocate, for Respondent No. 2
Ms. Nisha Biju, Authorized representative of the Complainant through VC
Ms. Anita Varade, P. I., EOW, Mumbai present

CORAM : MILIND N. JADHAV, J.

DATE : 08.10.2026

P. C.

1. Heard Mr. Bhanushali, learned Counsel for the Petitioners and Ms. Newton, learned APP for Respondent No. 1 – State.

2. The parties before the Court have reconciled their dispute with regard to the offence of cheating and breach of trust. One of the parties is a Company. The Board Resolution of the Company is appended at page No. 606. The Consent Affidavit of the Complainant dated 22.07.2025 is appended at page No. 604. The signatory of the Affidavit is on VC. I have interacted with her. The Petitioners are also on VC. They have been identified by their respective Advocates. The request

made by the parties for consent quashing stands accepted.

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

[1] 1992 AIR 604

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.

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 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 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. The Petitioners are present through VC and through their learned Advocate agree to pay the aforesaid costs amount to the charity.

9. 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' and 'b' which read thus:-

> *"a) That the Petition be admitted and allowed;*
>
> *b) That this Hon'ble Court be pleased to quash chargesheet and FIR No. 69/2013 registered by EOW (Erstwhile FIR No. 117/2013 registered with Tardeo Police Station) lodged against the present petitioners for alleged offences u/s 406, 420 r/w. 34 of IPC and proceeding arising out of it in lieu of the Consent Terms and Settlement Deed."*

10. In addition thereto, Case No. 847/PW/2014 pending before the 19th Esplanade Court, Mumbai stands quashed and set aside. All consequential proceedings are also quashed and set aside.

11. List the Writ Petition for compliance of the order regarding payment of costs on 22.10.2026.

12. Advocate for the Petitioners shall remain present and show compliance on behalf of the Petitioners 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.

13. Writ Petition is allowed and disposed.

(MILIND N. JADHAV, J.)