

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1241 OF 2025

Vandana Sanwal Shah @
Vandana Sunil Doshi

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Ninad Muzumdar a/w Ms. Radhika Mundada, Mr. Tej Kenia, Mr. Gopal Parab, Ms. Pallavi Biranje, Mr. Vinay Kumar Vaishya & Mr. Mannesh Gawali, learned Advocates for the Applicant.

Mrs. Poonam P. Bhosale, learned A.P.P. for the State/Respondent.
Mr. Aditya Mehta, learned Advocate for Respondent No. 2.

**CORAM : ASHWIN D. BHOBE, J.
DATE : 12th MARCH 2026.**

P.C. :

1. Heard Mr. Ninad Muzumdar, learned Advocate for the Applicant, Mrs. Poonam Bhosale, learned A.P.P. for Respondent No. 1-State and Mr. Aditya Mehta, learned Advocate for Respondent No. 2.

2. This Criminal Application is filed by the Applicant under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS 2023), seeking to quash the First Information Report No. 183 of 2020 dated 21.03.2020, registered with Khar Police Station, Mumbai (hereafter "Impugned FIR"), for offences punishable under Sections 324 and 504 of the Indian Penal Code, 1860 (hereafter "IPC"), the charge-sheet registered as Criminal Case No.

2241/PW/2021 pending before the Judicial Magistrate First Class, 9th Court at Bandra, Mumbai (hereafter “Magistrate”) arising from the impugned FIR, and the order taking cognizance dated 14.10.2021.

3. The material facts relevant to the adjudication of this Criminal Application are that Respondent No. 2 {Baljeetsingh Balwantsingh Oberoi (Complainant)} alleged that on 18.03.2020, during a dispute / altercation between Mr. Sanjeev Ramesh Doshi and the Applicant, Respondent No. 2 tried to intervene to stop the fight. At that moment, the Applicant is alleged to have bitten the Complainant on the hand, leading to the lodging of the impugned FIR based on a complaint dated 21.03.2020, filed by Respondent No. 2.

4. Upon investigation, Respondent No. 1 filed the charge-sheet before the Magistrate, which was registered as Criminal Case No. 2241/PW/2021. The Magistrate took cognizance through an order dated 14.10.2021.

5. The Respondent No. 2 (Baljeetsingh Balwantsingh Oberoi) has since passed away. By order dated 30.09.2025, Manmeet Baljeetsingh Oberoi (son of the deceased Baljeetsingh Balwantsingh Oberoi) was substituted as Respondent No. 2 in these proceedings.

6. Mr. Ninad Muzumdar, learned Advocate for the Applicant, submits that the injury alleged was caused by the Applicant through a bite (i.e. using her teeth as a weapon). He submits that human teeth cannot be considered a deadly weapon, and therefore,

the ingredients of Section 324 of the IPC are not met. He submits that the allegations in the impugned FIR do not establish a case under Section 504 of the IPC. He therefore requests that the impugned FIR, the charge-sheet arising from it and the order taking cognizance be quashed. He relies on the decision of the Hon'ble Supreme Court in the case of ***Shakeel Ahmed v/s. State of Delhi***¹.

7. Ms. Poonam Bhosale, learned A.P.P. submits that the Respondent No. 1, upon receipt of the complaint from Respondent No. 2, registered the impugned FIR, completed the investigation, and filed the charge-sheet.

8. Mr. Aditya Mehta, learned Advocate for Respondent No. 2, submits that the Applicant would be guilty under Section 324 of the IPC, as in his view the ingredients of Section 324 are satisfied if injury caused by a tooth bite is present. He submits that the word “instruments” in Section 324 includes “human teeth”. To support this, he refers to the dictionary definitions of “instrument” and “tooth”. He submits that although the Hon'ble Supreme Court in the case of ***Shakeel Ahmed*** (supra) has held that a “human teeth” is not a weapon, this ruling specifically pertains to Section 326 of the IPC. He contends that the term “instrument” was not the subject of consideration in that ruling and therefore in his view, a “human teeth” qualifies as an instrument under Section 324 of the IPC. He echoes the view of the High Court of Patna in the case of ***Chaurasi Manjhi and Others v/s. The State of Bihar***².

1. (2004)10 SCC 103.

2. AIR 1970 Patna 322.

9. Perused records with the assistance of the learned Advocates appearing for the parties.

10. The allegations in the impugned FIR and the material collected during the investigation against the Applicant are contained in the statement of (Baljeetsingh Balwantsingh Oberoi), which is excerpted as follows :-

“त्यावेळी वंदना ही संजीव याचे गॅरेजचे काम थांबविण्यासाठी जात असताना संजीव व कृष्णा तिला थांबवित होते. त्यावेळी मी त्यांचे भांडण सोडविण्यासाठी गेले असता वंदनाने माझे उजव्या हाताला चावला.”

11. The Hon’ble Supreme Court in the case of ***Shakeel Ahmed*** (*supra*) has observed as follows :-

“Teeth of human being cannot be considered as deadly weapon as per the description of deadly weapon enumerated under section 326 of the IPC. Hence the offence cannot escalate to Section 326. It can best remain only at Section 325 of the IPC.”

12. The Delhi High Court in the case of ***Neetu Bhandari & Ors. v/s. Deputy Commissioner of Police & Ors.***³, relying on the decision of ***Shakeel Ahmed*** (*supra*) has observed in Paragraph Nos. 13 to 16 as under :-

*“13. This Court is of the view that the question whether human teeth falls within the scope of an instrument for cutting as mentioned under Section 324 of the IPC, is no longer res integra. The Supreme Court in the case of ***Shakeel Ahmed v. State (Delhi): (2004)10 SCC 103*** has authoritatively held that “teeth of a human being cannot be considered as deadly weapon as per the description of deadly weapon enumerated under Section 326 IPC.*

3. W.P. (CRL) 3582/2018 and CRL. M.A. 47963/2018 decided on 26.11.2019.

14. Section 326 of the IPC set out below :-

"326. Voluntarily causing grievous hurt by dangerous weapons or means-

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

15. It is at once clear that the language of Section 326 of the IPC is almost identical to the language of Section 324 of the IPC. While Section 326 of the IPC relates to an offence of causing a grievous hurt by means of instruments as specified therein, Section 324 of the IPC is attracted if the hurt caused by those instruments is not grievous. The essential ingredients of both the Section, apart from the nature of hurt, remain the same.

16. In ***Shakeel Ahmed*** (supra), the Supreme Court had considered a case where the assailant had bitten off the phalanx of the index finger of the injured. The injury caused fell within the description of grievous hurt and therefore, the appellant was convicted of an offence under Section 326 of the IPC. The Supreme Court held that the offence could not be considered as an offence under Section 326 of the IPC and at best had remained an offence punishable under Section 325 of the IPC. The Court reasoned that the teeth of a human being could not be considered as a deadly weapon as enumerated under Section 326 of the IPC."

13. The Hon'ble Supreme Court in the case of **Anwarul Haq v/s. The State of U.P.**⁴, in Paragraph No. 12, after referring to Section 324 of the IPC has observed as follows :-

“12. Section 324 provides that

“[w]hoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal”

can be convicted in terms of Section 324. The expression “any instrument, which is used as a weapon of offence, is likely to cause death” should be construed with reference to the nature of the instrument and not the manner of its use. What has to be established by the prosecution is that the accused voluntarily caused hurt and that such hurt was caused by means of an instrument referred to in this section.”

14. This Court in the case of **Tanaji Shivaji Solankar and Others v/s. The State of Maharashtra and Another**⁵, has made the following observations :-

*“.....If we consider Section 326 of the Indian Penal Code, then as compared to Section 324 of the Indian Penal Code, there is only the difference of word ‘hurt’ and ‘grievous hurt’ in the respective sections and then the change in the sentence. Therefore, the observations in **Shakeel Ahmed** (supra) are applicable to the case under Section 324 of the Indian Penal Code also.”*

4. (2005)10 SCC 581.

5. Criminal Application No. 5049 of 2024 decided on 04.04.2025.

15. The High Court of Patna in the case of ***Chaurasi Manjhi*** (*supra*) in Paragraph No. 3 has observed as follows :-

“3. Considering the question, however, myself with reference to the meaning of the words "instrument" and "tooth" in Webster's Third New International Dictionary, I have come to the conclusion that tooth will be an instrument for cutting. According to the said dictionary, "instrument" means "a means whereby something is achieved, performed, or furthered". Although tooth is a part of the body, but there is no difficulty in taking the view that it is a means whereby something is achieved, performed or furthered, and, therefore, it can be characterised as an instrument within the meaning of Section 324 of the Penal Code as also under Section 326, if grievous injury is caused by tooth. According to the same dictionary "tooth" means "one of the hard bony appendages that are borne on the jaws or in many of the lower vertebrates on other bones in the walls of the mouth or pharynx and serve esp. for the prehension and mastication of food and as 'weapons of offence and defence" (the underlining (here in ‘ ’) is mine). Reading the dictionary meaning of the words "instrument" and "tooth" therefore, I have unhesitatingly come to the conclusion that for simple injury caused by tooth bite, the offender will be guilty under Section 324 of the Penal Code. If grievous injury is caused by such bite, he will be guilty under Section 326 of the Penal Code. In my opinion, therefore, petitioner Jagdish Manjhi has rightly been convicted under Section 324 of the Penal Code. It may also be added that according to the finding, he has caused simple injury by lathi blow to Dasrath Manjhi. There would have been no difficulty, therefore, in convicting him under Section 323 of the Penal Code.”

16. I do not find the reasoning in the case of ***Chaurasi Manjhi*** (*supra*) relied by Mr. Aditya Mehta, learned Advocate for Respondent No. 2, to be persuasive.

17. Mr Aditya Mehta learned Advocate for Respondent No. 2,

was unable to identify any other material to satisfy the ingredients of Section 504 of the IPC in relation to the Applicant.

18. Considering the aforesaid pronouncements of the Hon'ble Supreme Court in the case of ***Shakeel Ahmed*** (*supra*), this Court in the case of ***Tanaji Shivaji Solankar*** (*supra*), and the Delhi High Court in the case of ***Neetu Bhandari*** (*supra*), the contention of the Applicant that the complaint of Respondent No. 2 did not warrant registration of the impugned FIR is justified.

19. In the facts of the case at hand, it would be an abuse of the process of law to subject the Applicant to trial. Relying on the principles laid down by the Hon'ble Supreme Court in the case of ***State of Haryana and Others v/s. Bhajan Lal and Others***⁶, this would be a fit case to exercise powers under Section 528 of the BNSS to prevent abuse of justice.

20. In view of the above, this Criminal Application is allowed in terms of prayer clauses (a)(1) & (b). Consequently, the impugned FIR bearing No. 183 of 2020 dated 21.03.2020 registered with Khar Police Station, Mumbai, the charge-sheet bearing Criminal Case No. 2241/PW/2021 pending on the file of learned Judicial Magistrate First Class, 9th Court at Bandra, Mumbai and the impugned order taking cognizance dated 14.10.2021 are quashed. Criminal proceedings against the Applicant arising out of the impugned FIR are closed.

21. Mr. Aditya Mehta, learned Advocate for Respondent No. 2, states that even after the quashing of the impugned FIR,

6. 1992 Supp (1) Supreme Court Cases 335.

Respondent No. 2 still retains the right to contest his claim regarding an offence under Section 323 of the IPC before the appropriate forum. If Respondent No. 2 has any remedy available under the law, as submitted by Mr. Aditya Mehta, learned Advocate for Respondent No. 2, the said issue is left open for consideration in accordance with the law.

22. Criminal Application No. 1241 of 2025 is disposed of. No order as to costs.

[ASHWIN D. BHOBE, J.]

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