

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5022 OF 2025**

Bipasha Deepak Kumar

... Petitioner

Versus

State Of Maharashtra And Anr.

... Respondents

Mr. Mohit Bhardwaj, a/w Vinod Prajapati, learned Advocates for the Petitioner.

Mr. Sanjog Parab, Senior Advocate a/w Mr. Mohan Rao, Ms. Sulabha Rane, Mr. Sangram Parab i/b Anmol Phoujdar, Advocates for the Respondent No. 2.

Ms. Poonam Bhosale, APP for the Respondent – State.

PI Vishal Khaire, Dadar Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATE : 23rd March, 2026.

P.C. :

1. Heard Mr. Mohit Bhardwaj, learned Advocate for the Petitioner, Ms. Poonam Bhosale, learned APP for the State and Mr. Sanjog Parab, learned Senior Advocate for Respondent No. 2.

2. This Petition filed under Article 226 of the Constitution of India and under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the Petitioner, takes exception to the

Order dated 30.08.2025 passed by the Additional Chief Judicial Magistrate, 5th Court, Dadar, (Sewri, Mumbai) [hereafter “the Magistrate”] on the Application filed by the Petitioner under Section 175(3) of BNSS registered as Criminal Case No. 1781/M/2025, which rejected the said Application [hereafter “impugned order”]. The reliefs sought by the Petitioner in this petition are as follows:-

- a. This Hon’ble Court be pleased to quash and set aside the impugned order dated 30.08.2025 passed by the learned Additional Chief Judicial Magistrate, 5th Court at Dadar JMFC in Miscellaneous case 1781 of 2025;*
- b. This Hon’ble court be pleased to allow the Miscellaneous case 1781 of 2025 on the files of learned Additional Chief Judicial Magistrate, 5th Court, at Dadar JMFC, and thereby pass the direction for registration of the FIR under section 64, 75(2), 78, 126, 217, 303(2), 308(6), 351(2), etc., of Bhartiya Nyaya Sanhita 2023 (BNS) 2023;*
- c. In the alternative, this Hon’ble court be pleased to remand the matter back to the learned Additional Chief Judicial Magistrate, 5th Court at Dadar JMFC to decide the Miscellaneous case 1781 of 2025 de novo in a time bound manner and within 30 days of the order.*
- d. For cost of this petition;*
- e. For such other and further reliefs as this Hon’ble Court may deem fit and proper in the facts, in the nature and circumstances of the present case.*

3. Mr. Sanjog Parab, learned Senior Advocate for Respondent No. 2, and Ms. Poonam Bhosale, learned APP for the Respondent –

State, at the outset have raised a preliminary objection to the maintainability of the present Petition. Their objection is that the Petitioner has an efficacious alternative statutory remedy under the BNSS to challenge the order passed under Section 175(3) of BNSS. To clarify, they argue that the order passed by the Magistrate rejecting the Application under Section 175(3) is a final order, thus a revisable order, and a Criminal Revision Application against the same would be maintainable in terms of Section 438 of BNSS. They submit that, at the first instance, such a Revision Application must be filed before the Sessions Court. They rely on the decisions in the case of *B.S. Khatri v. State of Maharashtra*¹, *Arun Gidh v. Chandraprakash Singh & Ors*² and *Ruchi Mittal v. State of UP*³,

4. In response to the objection regarding the maintainability of this petition, Mr. Mohit Bhardwaj, learned Advocate for the Petitioner, has, in addition to presenting oral arguments, also submitted the key points of his arguments dated 18.03.2026. He, in the key points of his arguments, addressing the preliminary

1 (2003) SCC OnLine Bom 717

2 (2024) SCC OnLine Bom 1028

3 (2023) SCC OnLine ALL 1922

objection to the maintainability of the petition, has urged as follows:-

- a. Orders under Section 156(3) are directions to the police issued in exercise of implied authority and do not constitute judicial adjudication of disputed rights. The allowing and rejection of an application under Section 156(3) are not binary outcomes or two sides of the same coin, as would be the case in a conventional adjudicatory dispute.
- b. Allowing registration of an FIR sets the criminal law in motion and may, for that limited purpose, be treated as final, since the accused is thereafter subjected to investigation and consequential proceedings.
- c. However, rejection of an application under Section 156(3) does not amount to any final adjudication. It merely reflects that the complaint, in the form presented, does not disclose a cognizable offence. The complainant is at liberty to file a fresh and better-drafted complaint before the police or to institute a private complaint. The

applicant's substantive rights are not extinguished, and no finality accrues in favor of the accused.

- d. Thus, rejection of an application under Section 156(3) is not equivalent to an acquittal or discharge so as to attract finality.
- e. The binding judgment of the Hon'ble Supreme Court in *Madhu Limaye v. State of Maharashtra*⁴ classifies certain orders as intermediate orders (para 13). It is settled that an order must be examined on its own effect to determine whether it is interlocutory or otherwise; no permanent classification can be assigned solely based on the provision under which the order is passed. Consequently, reliance on the Full Bench judgment of this Hon'ble Court in *Arun P. Gidh v. Chandraprakash Singh & Ors*, may not fully apply to the present situation.
- f. The ratio of the Full Bench decision is confined to holding that once an FIR is registered, a revision is not always an efficacious remedy.
- g. That ratio does not extend to orders rejecting applications under Section 156(3). Any such extension

⁴ (1977) SCC OnLine SC 292,

would amount to judicial legislation rather than interpretation.

- h. Therefore, even if the observation that allowing a 156(3) application is final is accepted, the same would, at best, be obiter dicta. Reference may be made to paragraphs 16 and 123 of the Full Bench judgment dated 10.04.2024. In any event, the judgment is entirely silent on the issue of rejection of applications under Section 156(3).
- i. For an order to be considered "final," it must conclusively adjudicate rival contentions, or such that, if set aside in revision, the proceedings themselves would stand terminated.
- j. Under 156(3), the Magistrate only examines whether a cognizable offence is disclosed, not the merits of the allegations.
- k. Rejection of an application does not foreclose remedies. The complainant may re-approach the police with a fresh complaint which does not owe its existence to the Magistrate's power under Section 156(3). Further,

such rejection does not terminate any proceedings, as none were directed to commence. Hence, rejection is not final in nature.

5. In view of the preliminary objection raised by the Respondents and the insistence of Mr. Sanjog Parab, learned Senior Advocate for Respondent No. 2, and Mrs. Poonam Bhosale, learned APP, to rule on the same, this order is limited to considering that preliminary objection.

6. Heard arguments, perused records.

7. The Hon'ble Supreme Court in the case of Amar Nath v. State of Haryana⁵, in paragraphs 4 to 9, has explained the concept of "interlocutory orders," which read as follows:

4. So far as the second plank of the view of the learned Judge that the order of the Judicial Magistrate in the instant case was an interlocutory order is concerned, it is a matter which merits serious consideration. A history of the criminal legislation in India would manifestly reveal that so far the Code of Criminal Procedure is concerned both in the 1898 Code and 1955 Amendment the widest possible powers of revision had been given to the High Court under Sections 435 and 439 of those Codes. The High Court could examine the propriety of any order — whether final or interlocutory — passed by any Subordinate Court in a criminal matter. No limitation and restriction on the powers of the High Court were placed. But this Court as

⁵ (1977) 4 SCC 137

also the various High Courts in India, by a long course of decisions, confined the exercise of revisional powers only to cases where the impugned order suffered from any error of law or any legal infirmity causing injustice or prejudice to the accused or was manifestly foolish or perverse. These restrictions were placed by the case law, merely as a rule of prudence rather than a rule of law and in suitable cases the High Courts had the undoubted power to interfere with the impugned order even on facts. Sections 435 and 439 being identical in the 1898 Code and 1955 Amendment insofar as they are relevant run thus:

“435. (1) The High Court or any Sessions Judge or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceeding before any inferior criminal court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court .

439. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, the High Court may, in its discretion, exercise any of the powers conferred on a Court of appeal by Sections 423, 426, 427 and 428 or on a Court by Section 338, and may enhance the sentence ; and, when the Judges composing the Court of revision are equally divided in opinion, the case shall be disposed of in manner provided by Section 429.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.”

In fact the only rider that was put under Section 439 was that where the Court enhanced the sentence the accused had to be given an opportunity of being heard.

5. The concept of an interlocutory order qua the revisional jurisdiction of the High Court, therefore, was completely foreign to the earlier Code. Subsequently it appears that

there had been large number of arrears and the High Courts were flooded with revisions of all kinds against interim or interlocutory orders which led to enormous delay in the disposal of cases and exploitation of the poor accused by the affluent prosecutors. Sometimes interlocutory orders caused harassment to the accused by unnecessarily protracting the trials. It was in the background of these facts that the Law Commission dwelt on this aspect of the matter and in the 14th and 41st Reports submitted by the Commission which formed the basis of the 1973 Code the said Commission suggested revolutionary changes to be made in the powers of the High Courts. The recommendations of the Commission were examined carefully by the Government, keeping in view, the following basic considerations :

“(i) an accused person should get a fair trial in accordance with the accepted principles of natural justice ;

(ii) every effort should be made to avoid delay in investigation and trial which is harmful not only to the individuals involved but also to society ; and

(iii) the procedure should not be complicated and should, to the utmost extent possible, ensure fair deal to the poorer sections of the community.”

This is clearly mentioned in the Statement of Objects and Reasons accompanying the 1973 Code. Clause (d) of para 5 of the Statement of Objects and Reasons runs thus :

“the powers of revision against interlocutory orders are being taken away, as it has been found to be one of the main contributing factors in the delay or disposal of criminal cases ; ”

Similarly, replying to the debate in the Lok Sabha on sub-clause (2) of clause 397, Shri Ram Niwas Mirdha, the Minister concerned, observed as follows :

“It was stated before the Select Committee that a large number of appeals against interlocutory orders are filed with the result that the appeals got delayed considerably. Some of the more notorious cases concern big business persons. So, this new provision was also welcomed by most of the witnesses as well as the Select Committee. . . . This

was a well-thought out measure so we do not want to delete it.”

Thus it would appear that Section 397(2) was incorporated in the 1973 Code with the avowed purpose of cutting out delays and ensuring that the accused persons got a fair trial without much delay and the procedure was not made complicated. Thus the paramount object in inserting this new provision of sub-section (2) of Section 397 was to safeguard the interest of the accused.

6. Let us now proceed to interpret the provisions of Section 397 against the historical background of these facts. Sub-section (2) of Section 397 of the 1973 Code may be extracted thus :

“The powers of revision conferred by sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding.” The main question which falls for determination in this appeal is as to what is the connotation of the term “interlocutory order” as appearing in sub-section (2) of Section 397 which bars any revision of such an order by the High Court. The term “interlocutory order” is a term of well-known legal significance and does not present any serious difficulty. It has been used in various statutes including the Code of Civil Procedure, Letters Patent of the High Courts and other like statutes. In Webster's New World Dictionary “interlocutory” has been defined as an order other than final decision. Decided cases have laid down that interlocutory orders to be appealable must be those which decide the rights and liabilities of the parties concerning a particular aspect. It seems to us that the term “interlocutory order” in Section 397(2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights or the liabilities of the parties. Any order which substantially affects the right of the accused, or decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the 1973 Code. Thus, for instance, orders summoning witnesses, adjourning

cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397(2) of the 1973 Code. But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court.

7. In Central Bank of India v. Gokal Chand [AIR 1967 SC 799, 800 : (1967) 1 SCR 310 : (1967) 2 SCJ 828] , this Court while describing the incidents of an interlocutory order, observed as follows :

“In the context of Section 38(1), the words “every order of the Controller made under this Act”, though very wide, do, not include interlocutory orders, which are merely procedural and do not affect the rights or liabilities of the parties. In a pending proceeding, the Controller, may pass many interlocutory orders under Sections 36 and 37, such as orders regarding the summoning of witnesses, discovery, production and inspection of documents, issue of a commission for examination of witnesses, inspection of premises, fixing a date of hearing and the admissibility of a document or the relevancy of a question. All these interlocutory orders are steps taken towards the final adjudication and for assisting the parties in the prosecution of their case in the pending proceeding they regulate the procedure only and do not affect any right or liability of the parties.

The aforesaid decision clearly illustrates the nature and incidents of an interlocutory order and the incidents given by this Court constitute sufficient guidelines to interpret the connotation of the words “interlocutory order” as appearing in sub-section (2) of Section 397 of the 1973 Code.

8. Similarly in a later case in Mohan Lal Magan Lal Thacker v. State of Gujarat [AIR 1968 SC 733 : (1968) 2 SCR 685 : 1968 Cri LJ 876] , this Court pointed out that the finality of an order could not be judged by co-relating that order with the controversy in the complaint. The fact that the controversy still remained alive was irrelevant. In that case this Court held that even though it was an

interlocutory order, the order was a final order.

9. Similarly in Baldevdas v. Filmistan Distributors (India) (P) Ltd. [(1969) 2 SCC 201 : AIR 1970 SC 406] while interpreting the import of the words “case decided” appearing in Section 115 of the Code of Civil Procedure, this Court observed as follows :

“A case may be said to be decided, if the Court adjudicates for the purposes of the suit some right or obligation of the parties in controversy ; Apart from this it would appear that under the various provisions of the Letters Patent of the High Courts in India, an appeal lies to a Division Bench from an order passed by a Single Judge and some High Courts have held that even though the order may appear to be an interlocutory one where it does decide one of the aspects of the rights of the parties it is appealable. For instance, an order of a Single Judge granting a temporary injunction was held by a Full Bench of Allahabad High Court in Standard Glass Beads Factory v. Shri Dhar [AIR 1960 All 692 : 1960 All LJ 387] as not being an interlocutory order having decided some rights of the parties and was, therefore, appealable. To the same effect are the decisions of the Calcutta High Court in Union of India v. Khetra Mohan Banerjee [AIR 1960 Cal 190] , of the Lahore High Court in Gokal Chand v. Sanwal Das [AIR 1920 Lah 326 : 55 IC 933 : 2 LLJ 32] , of the Delhi High Court in Begum Aftab Zamani v. Shri Lal Chand Khanna [AIR 1969 Delhi 85 : 71 Pun LR (D) 75] and of the Jammu and Kashmir High Court in Har Parshad Wall v. Naranjan Nath Matoo [AIR 1959 J & K 139] .”

8. The impugned order dismisses the Application filed by the Petitioner under section 175(3) of BNSS, registered as Criminal Case No. 1781/M/2025, marking the conclusion of the proceedings before the Magistrate. This order is a final decision on

the issue raised in Criminal Case No. 1781/M/2025 and falls within the scope of “case decided.”

9. The question of whether a Criminal Revision Application under Section 397 of Cr.P.C. against an order under Section 156(3) of Cr.P.C. was considered by the Hon’ble Division Benches of this Court, in the cases cited below:-

a. In the case of B.S. Khatri (supra), in paragraph No. 31, this Court observed as follows:

31. We have also noted above that several efficacious alternate statutory remedies under the Criminal Procedure Code are available to the petitioners to challenge the order under section 156(3). Without availing them the petitioners have rushed before this Court, claiming exercise of its extraordinary jurisdiction under Article 226. In our opinion, therefore, there is no need to exercise this jurisdiction to quash merely the complaint and order under section 156, Criminal Procedure Code requiring investigation into complaint by the police. The petitions are therefore liable to be dismissed.

b. In the case of *Narayandas s/o Hiralalji Sarda & Ors vs. State of Maharashtra & Anr⁶*, in paragraph No. 15, this Court has observed as follows:-

15. As regards tenability of the writ petition challenging

⁶ (2008) SCC OnLine Bom 780

the direction of the learned Magistrate to investigate under section 156(3) of the Code of Criminal Procedure, it was submitted by Mr. Dewani that such a writ petition cannot be entertained in exercise of the extraordinary jurisdiction of the High Court under Articles 226 and 227 of the Constitution of India. Mr. Dewani pointed out that the said order is revisable and thus effective alternate remedy is available. As such filing of writ petition is not appropriate remedy. In support of this submission, Mr. Dewani relied on R.S. Khatri v. State of Maharashtra, 2004(1) Mh.L.J. 141 (Bombay), wherein the Court dealt with the writ petition challenging the order passed by the learned Magistrate directing the investigation under section 156(3) of the Code of Criminal Procedure. In the said case, it was held by the Division Bench as under:

“We have also noted above that several efficacious alternate statutory remedies under the Criminal Procedure Code are available to the petitioners to challenge the order under section 156(3). Without availing them the petitioners have rushed before this Court, claiming exercise of its extraordinary jurisdiction under Article 226. In our opinion, therefore, there is no need to exercise this jurisdiction to quash merely the complaint and order under section 156, Criminal Procedure Code requiring investigation into complaint by the police. The petitions are therefore liable to be dismissed”.

c. In the case of Avinash v. State of Maharashtra.⁷ paragraph No. 15, this Court observed as follows:-

15. Insofar as the question framed by us is concerned, we find that there is a passing reference in paragraph no. 31 made by the Division Bench about availability of several efficacious alternative statutory remedies under the Criminal Procedure Code to challenge the order u/s 156(3). We think though it is obiter dicta, nevertheless the same is binding on us as we respectively agree with the said view, for the above reasons that the order u/s 156(3) of the Code not being an interlocutory order, but being a final order in a proceeding u/s 156(3) of the Code would certainly be revisable under the revisional powers of the Sessions Court or the High Court. The Division Bench in the case of B.S. Khatri v. State of Maharashtra (supra), however, clearly

⁷ (2015) SCC OnLine Bom 5197

held that the exercise of extraordinary jurisdiction under Article 226 of the Constitution should not be made for considering the challenge to order u/s 156(3) of the Code with which again we respectfully agree. We, however, state that the bar to exercise extraordinary jurisdiction under Article 226 of the Constitution is the one of self-imposed rule. We, however, hold that the order u/s 156(3) of the Code not being an interlocutory order, would obviously be revisable. We thus hold that the order u/s 156(3) of the Code of Criminal Procedure, 1973, is not an interlocutory order, but is a final order terminating the proceeding u/s 156(3) of the Code and that the revision u/s 397 or Section 401 of the Code would lie.

10. The above dicta conclude that an order passed under section 156(3) of the Code of Criminal Procedure, 1973, is not an interlocutory order but a final order that terminates the proceeding under section 156(3) of the Code, and that a Criminal Revision Application u/s 397 or Section 401 of the Code of Criminal Procedure, 1973, would lie.

11. It is trite that there is an essential distinction between “maintainability” and “entertainability” of the petition. Although there is no restriction on exercising inherent powers in cases of abuse of court procedures or other extraordinary circumstances, the limitation is simply self-restraint.

12. The Hon’ble Supreme Court in the case of Radha Krishan

Industries v/s State of H.P.⁸ dwelling on the issue of rule of alternate remedy and the discretion to entertain or not to entertain a writ, in paragraph nos. 27 to 28, has laid the following principles:-

27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

8 (2021) 6 SCC 771

28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad [Chand Ratan v. Durga Prasad, (2003) 5 SCC 399] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [Babubhai Muljibhai Patel v. Nandlal Khodidas Barot, (1974) 2 SCC 706] and Rajasthan SEB v. Union of India [Rajasthan SEB v. Union of India, (2008) 5 SCC 632] among other decisions.

13. In the present case, upon perusal of the record, I do not find any circumstances that would impel this Court to entertain the petition, as the Petitioner has the availability of an effective remedy by way of a Criminal Revision Application under Section 438 of BNSS. Having held so, the next issue would be the forum for availing the said Revisional remedy. The scheme of Section 438 of the BNSS provides for concurrent jurisdiction between the High Court and the Sessions Court to entertain a Criminal Revision Application.

14. This Court in the case of Tejram Gaikwad vs Sunanda Gaikwad⁹ in para 4 has observed as under :

4. First of all the application deserves to be dismissed on the ground that the applicant has not filed the criminal revision before the Sessions Judge, having jurisdiction over the matter. It is undoubtedly true that S. 397 of the Code of Criminal Procedure confers jurisdiction of revision concurrently on the Court of Sessions as well as the High Court, but it is equally true that where the jurisdiction is conferred on two courts, the aggrieved party should ordinarily first approach the inferior of the two Courts unless exceptional grounds for taking the

9 1995 SCC OnLine Bom 489

*matter directly before the superior Court is made out. Since the applicant has come directly to the High Court, though he could have filed the revision before the Sessions Judge and there *are no exceptional reasons, the revision application deserves to be dismissed on this count alone. This Court does not encourage filing of revision application under S. 397 of the Code of Criminal Procedure directly before this Court if it could be challenged in revision before the Sessions Court having jurisdiction of revision over the matter.*

15. The decision of Tejram Gaiwad (supra) was followed by this Court in the case of Shri Padmanabh Keshav Kamat vs Shri Anup R. Kantak¹⁰, observed as follows:

"When the proceeding is maintainable by two different courts, one being inferior or subordinate to the other, then it is certainly a question of propriety, particularly for the superior Court, as to whether it should entertain such a proceeding which could have been filed in the lower Court. It is material to note that revision is not a statutory right of a litigant but it is a matter of discretion of the Court having revisional jurisdiction."

16. Decisions in the case of Tejram Gaikwad (Supra) and Shri Padmanabh Keshav Kamat (Supra) were followed by this Court in the case of Cerena Dsouza vs State of Maharashtra & anr¹¹

17. The Hon'ble Supreme Court in the case of Jagdeo Prasad v/s The State of Bihar¹², while considering the issue of concurrent

10 (1998) SCC OnLine Bom 229

11 (2002) SCC OnLine Bom 155

12 (2025) SCC OnLine SC 2108

jurisdiction under section 438 of Cr.P.C. observed that the High Court should always encourage exhausting an alternate/concurrent remedy before directly interfering itself, as this approach balances the interests of all stakeholders, first by giving the aggrieved party a round to challenge before the High Court. Second, this approach provides the High Court an opportunity to assess the judicial perspective so applied by the Session Court in the concurrent jurisdiction.

18. I find it appropriate to adhere to the principle concerning concurrent jurisdiction as propounded in the above said pronouncements.

19. The preliminary objection raised by Mr Sanjog Parab, learned Senior Advocate and Mrs Poonam Bhosale, learned APP for the Respondent – State, is therefore sustained. The Petitioner would be at liberty to avail of the remedy of filing a Criminal Revision Application under Section 438 of BNSS, before the Sessions Court having jurisdiction.

20. The impugned Order is dated 30.08.2025. The limitation period under Article 131 of the Limitation Act, 1963, for filing a

Criminal Revision Application is 90 days. This petition was filed on 15.09.2025, within the prescribed limitation for Criminal Revision Application. Therefore, in the peculiar facts of this case, if the Petitioner decides to file a Criminal Revision Application against the impugned order before the Sessions Court having jurisdiction within four weeks from today, the Petitioner would be entitled to exclusion of the time spent in this petition, and the Criminal Revision Application will be considered on merits without requiring an Application for condonation of delay.

21. Mr. Sanjog Parab, the learned Senior Advocate appearing for Respondent No. 2, and Mrs. Poonam Bhosale, the learned APP on behalf of the Respondent-State, fairly state that if a Criminal Revision Application is filed by the Petitioner before the Sessions Court having jurisdiction within four weeks from today, then Respondent No. 2 and Respondent No. 1- State, shall not object or raise any ground that the application is filed beyond the period of limitation. The statement is accepted.

22. All contentions raised on merits remain open to be contested in the Criminal Revision Application.

23. In view of the above, this petition is disposed of.

(ASHWIN D. BHOBE, J.)

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