

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.6222 OF 2025
WITH
INTERIM APPLICATION (ST) NO.1293 OF 2026
IN
CRIMINAL WRIT PETITION NO.6222 OF 2025**

Nitish Bhukhanwala Petitioner.
V/s
M/s SBI Global Factors Ltd. & Ors. Respondents.

**WITH
CRIMINAL WRIT PETITION NO.6224 OF 2025
WITH
INTERIM APPLICATION (ST) NO.1299 OF 2026
IN
CRIMINAL WRIT PETITION NO.6224 OF 2025**

M/s. Bhukhanwala Tools Pvt. Ltd. And Anr. Petitioners.
V/s
M/s SBI Global Factors Ltd and Anr. Respondents.

**WITH
WRIT PETITION NO.6221 OF 2025
WITH
INTERIM APPLICATION (ST) NO.1298 OF 2026
IN
WRIT PETITION NO.6221 OF 2025**

Nitish Bhukhanwala Petitioner.
V/s
M/s SBI Global Factors Ltd and Ors. Respondents.

**WITH
WRIT PETITION NO.6223 OF 2025**

Nitish Bhukhanwala Petitioner.
V/s
M/s SBI Global Factors Ltd and Ors. Respondents.

**WITH
CRIMINAL WRIT PETITION NO.6226 OF 2025
WITH
INTERIM APPLICATION (ST) NO.1295 OF 2026**

**IN
CRIMINAL WRIT PETITION NO.6226 OF 2025**

(Not on Board. Upon mentioning by the parties, taken on Production Board)

M/s. Bhukhanwala Tools Pvt. Ltd. & Anr. Petitioners.

V/s

M/s SBI Global Factors Ltd and Anr. Respondents.

CRIMINAL WRIT PETITION NO.6227 OF 2025

WITH

INTERIM APPLICATION (ST) NO.1294 OF 2026

(Not on Board. Upon mentioning by the parties, taken on Production Board.)

IN

CRIMINAL WRIT PETITION NO.6227 OF 2025

(Not on Board. Upon mentioning by the parties, taken on Production Board.)

M/s. Bhukhanwala Tools Pvt. Ltd. & Anr. Petitioners.

V/s

M/s SBI Global Factors Ltd and Anr. Respondents.

Mr. Ram Upadhyay i/b Law Competere Consultus, Advocates for the Petitioners in all the above Writ Petitions.

Mr. Yashpal Thakur a/w Makrand Pandya for Respondent No.1 in all the above Writ Petitions.

None for Respondent No.2.

Ms. Poonam P. Bhosale, APP for Respondent-State in all the above Writ Petitions.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 23RD JANUARY 2026.

P.C. :

1. As the issue involved in all these writ petitions is common, the petitions were heard together and are disposed of by this common order. For the purpose of convenience facts in Writ Petition No. 6221 of 2025 will be referred to.

2. In Writ Petition No. 6221 of 2025, the Petitioner has sought the following reliefs:

“(a) This Hon’ble Court be pleased to quash and set aside the Judgment and Order dated 30.09.2025 passed by the Ld. Addl. Sessions Judge, Court No.87, Mazgaon, Mumbai in CRA No.582 of 2025;

(b) This Hon’ble court be pleased to quash and set aside the Order dated 28.03.2025 passed by the Ld. Addl. Metropolitan Magistrate, 58th Court, Bandra, Mumbai in C.C. No.SS/2652/2015;

(c) This Hon’ble Court be pleased to dismiss the complaint no. C.C. No.SS/2652/2015.”

3. The short issue urged by Mr. Upadhyay, the learned counsel appearing for the Petitioner in all the writ petitions is that the learned Magistrate has passed contradictory findings in his order and in the roznama dated 11th February 2025. The learned Magistrate directed the complainant/ Respondent no.1 to pay costs of Rs. 5000/- within 8 days, failing which the complaint would be dismissed deeming no evidence. He submits that the costs were not paid within 8 days and therefore the complaint stood automatically dismissed and all further proceedings in the matter stood abated. The matter was next listed on 23rd March 2023 and 28th March 2023 when the learned Magistrate accepted the deposit of the costs. This was challenged before the Sessions Court in Criminal Revision Application no. 582 of 2025, which has been dismissed by order dated 30th September 2025. Mr. Upadhyay assails both the above orders 28th March 2023 and 30th September 2025 and submits that the learned Magistrate has no jurisdiction to review his own order and extend time

to deposit the costs amount. He relies on the judgment of the Hon'ble Supreme Court in *Maj. Genl. A.S. Gauraya and another v. Shri S.N. Thakur*¹ to submit that the complaint ought to have been dismissed for default and thereafter the learned Magistrate is rendered *functus officio* and has no powers to proceed with the trial.

4. On the other hand Mr. Yashpal Thakur, learned counsel for Respondent no.1/complainant submits that the impugned orders are well reasoned and call for no interference whatsoever. He submits that there are concurrent orders and this Court in exercise of its writ jurisdiction ought not to entertain the writ petitions.

5. I have perused the record and heard the learned counsel for the parties. I find no merit whatsoever in these writ petitions. By an order dated 11th February 2025, the learned Magistrate granted time to the complainant to deposit costs of ₹ 5,000/- with the Legal Aid Fund and adjourned the matter to 23rd March 2023. The roznama of that date records that the matter was further adjourned to 28th March 2023 for filing the affidavit of evidence and for cross-examination of the complainant. On 28th March 2023, after hearing both sides, the learned Magistrate accepted the deposit of the costs that were paid and proceeded with the matter. In my view, there is nothing perverse or illegal in this order. The learned Magistrate exercised discretion in the interest of justice and rightly chose to proceed with the trial rather than dismiss the complaint on technical grounds. The learned Magistrate

1 1986 SCC (Cri) 249

did not become *functus officio* after passing the order dated 11th February 2023, as contended by Mr. Upadhyay. The Revisional Court has also considered the submissions in detail and passed a reasoned order, inter alia holding that the Petitioner's contention that the complaint ought to be rejected is not maintainable and that non-payment of costs cannot, by itself, be a ground for dismissal of the complaint. In the present case, the costs have already been paid and both the learned Magistrate and the Revisional Court have correctly held in favour of the complainant. The mere extension of time to deposit costs does not amount to a review of a judicial order. In my view, this litigation is an abuse of process and only an attempt to delay the trial.

6. Mr. Upadhyay's reliance on the judgment in *Maj. Genl. A.S. Gauraya* (supra) is misplaced since the said judgment was in the context of offence punishable under Sections 67 and 72C(1)(a) of the Mines Act, 1952 wherein the Magistrate had dismissed the complaint in default for want of prosecution and thereafter restored the same. That is not the case here. In view of the same, there is no merit in these Petitions. **Writ Petition Nos. 6222 of 2025, 6224 of 2025, 6221 of 2025, 6223 of 2025, 6226 of 2025 and 6227 of 2025 are dismissed.** Consequently Interim Applications taken out in these Writ Petitions do not survive and are accordingly dismissed.

BHARAT
DASHARATH
PANDIT

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Date: 2026.01.28
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[GAUTAM A. ANKHAD, J.]