

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

CRIMINAL APPLICATION NO. 571 OF 2025

Amarlal Ramrakhiani ...Applicant
Versus
Dnyaneshwar Sabale And Ors ...Respondents

Mr. Amarlal H. Ramrakhiani, Applicant-in-person, present.
Mr. A. R. Metkari, APP for the State/Respondent No.1.
Mr. Sanjeev Kadam, Senior Advocate, a/w Mr. Hemant Patil i/b
Mr. Varsha Thorat, for Respondent No.5.

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CORAM: N. J. JAMADAR, J.
DATED: 7th JANUARY, 2026

Oral Order:-

1. Heard the learned Counsel for the parties.
2. The challenge in this application is to an order dated 15th April, 2025, whereby the learned Magistrate has issued a notice to the applicant under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS").
3. When the application was first listed before this Court a submission was canvassed that, the learned Magistrate has adopted two different procedures in the matter of taking cognizance of the private complaints. In the instant case, without recording the verification statement of the complainant, the learned Magistrate straightaway proceeded to issue notice to

the accused under Section 223 of the BNSS. In contrast, in another complaint, a copy of which was annexed at page 362 of the application, before issuing notice, the learned Magistrate had recorded the verification statement of the complainant therein.

4. In the wake of the aforesaid submission, this Court had passed, *inter alia*, the following order:

“3. There is a challenge to the procedure followed by learned Judicial Magistrate First Class, 1st Court, Kalyan. Vide Order dated 15.04.2025. He has issued notice to the Accused. The submission is that he was required to record verification and then only notice can be issued under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”). He invited my attention to the Order passed by the same learned Magistrate on 02.01.2025 which is on page No. 362. In that case, he has recorded verification of the Complainant. Two different procedures seems to have been followed by learned Magistrate. He relies upon certain Judgments. The compilation is taken on record.

4. According to Mr. Kadam, learned Advocate for Respondent No. 5, two interpretations of Section 223 of the BNSS are prior to taking cognizance, notice is required to be issued to the proposed Accused. According to him, the Application has become infructuous because Applicant No. 1 has appeared before learned Magistrate and has also filed reply. Applicant No. 1 is having other submissions. He is at liberty to argue on the next date.”

5. On 4th September, 2025, when the matter again listed before the Court, a submission was made on behalf of the learned Counsel for the respondent – complainant that the respondent was ready to appear before the learned Magistrate

for recording the verification statement. Thereupon, this Court passed the following order:

“Mentioned out of turn.

2. One of the issue raised in this petition is about non-compliance of proviso to Section-223 of B.N.S.S. On this background, learned Advocate for Respondent No.5-Complainant made submission that they are ready to go before the learned Magistrate for recording the verification. Even the Petitioner is not happy with the said submission because he contends that the Magistrate is not having jurisdiction. He wants to rely upon some judgment.

3. Let copy of the compilation be given to learned Advocate for Respondent No.5.

4. Stand over to 10th October 2025.

5. Now the matter is fixed before the trial Court on 11th September 2025. Let the Complainant to take adjournment from the trial Court.”

6. Applicant No.1-in-person submits that apart from the procedural irregularity in the matter of proceeding on a private complaint, the learned Judicial Magistrate, 1st Court, Kalyan, lacks territorial jurisdiction to entertain, try and decide the complaint. Therefore, the learned Magistrate could not have proceeded to deal with the complaint at all.

7. In view of the decision of this Court in the case of *Sashidhar Jagdishan (Managing Director and Chief Executive Officer of HDFC Bank Ltd) vs. State of Maharashtra and ors.*¹ the recording of verification statement of the complainant before the learned Magistrate issues notice to the accused under

1 Criminal WP/4153/2025 dated 5/8/2025.

Section 223 of the BNSS is necessary. Resultantly, the impugned order dated 15th April, 2025 cannot be sustained.

8. The application, thus, stands allowed.

9. The impugned order dated 15th April, 2025 stands quashed and set aside.

10. Resultantly, the notice issued to the applicant accused also stands quashed and set aside.

11. The learned Magistrate is directed to deal with the complaint afresh in accordance with the provisions contained in BNSS.

12. In view of the submissions on behalf of the applicant, the learned Magistrate is also directed to delve into the aspect of the jurisdiction of the Court at Kalyan to entertain, try and decide the complaint and pass a reasoned order in accordance with the provisions contained in Chapter XVI of the BNSS, 2023.

13. The application stands disposed.

[N. J. JAMADAR, J.]