

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

CRIMINAL APPLICATION NO.1580 OF 2025

Pooja Ajay Kapadia,]
R/o. Borivali (West), Mumbai]..Applicant

Versus

1. The State of Maharashtra,]
Through Kandivali West Police Station, Mumbai]
2. Susheel Mukesh Gaglani,]
Presently R/o. Kandivali (West), Mumbai]..Respondents

Mr. Kripashankar N. Pandey, Advocate for the Applicant.

Mr. T.G. Khan, Additional Public Prosecutor for Respondent No.1-
State of Maharashtra.

Mr. Chaitanya Malgaonkar with Mr. Dipen Furia and Mr. Shubham
Mishra, Advocates, i/by Shah and Furia Associates, for Respondent
No.2.

PSI Pagar, Kandivali Police Station, Mumbai is present in Court.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 11TH MARCH 2026.

P.C. :

1. The Applicant seeks quashing of First Information Report
No.847 of 2025 dated 5th November 2025 registered at Kandivali
(West) Police Station, Mumbai for offences punishable under Sections
281, 324(4) and 125 of the Bharatiya Nyaya Sanhita, 2023 (“BNS”).

2. The Applicant and Respondent No.2 are both Advocates and
reside in the same residential complex. As per the FIR, on
3rd November 2025, the Applicant was with her family and while
reversing her Honda BRV (Regn. No. MH-47-AG-0021) within the
society premises, dashed into the complainant’s Toyota Innova (Regn.

No.MH-02-BG-8474). This caused damage to the bumper, right headlight assembly, bonnet and the driver-side door of the complainant's vehicle. Mr. Pandey, the learned counsel for the Applicant submits that the incident was a minor vehicular accident within the society premises, with no injury to any person and no element of criminality. He submits that the Applicant had expressed willingness to pay Rs.15,000/- towards repairs as against the demand of Rs.25,000/-. Since there was no agreement between the parties, the criminal machinery has been set in motion.

3. Mr. Malgaonkar, the learned counsel for Respondent No.2 opposed the Application and contended that this was the third instance of damage allegedly caused by the Applicant to the complainant's vehicle, thereby indicating prior intention to cause damage and destruction of his property in order to diminish its value. The allegations disclose the offence of mischief under section 324(4) of the BNS. Secondly, he submits that even offence under section 125 of the BNS for endangering the life or personal safety of others; in this case, the others being the persons sitting inside the Applicant's own vehicle, is also made out. In view thereof, he submits that no interference is called for and this Criminal Application ought to be dismissed.

4. Mr. Khan, the learned Additional Public Prosecutor fairly submits that in the peculiar facts of the case, the registration of the FIR appears unwarranted.

5. I have considered the rival submissions and perused the material on record, including the screenshot of the CCTV footage annexed at page 32 of the Application. Even if the allegations in the FIR are taken at face value and accepted in their entirety, the essential ingredients of the offences invoked are not disclosed.

6. Section 125 of the BNS contemplates an act so rash or negligent as to endanger human life or the personal safety of others. The facts narrated in the FIR do not disclose in any manner how the actions of the Applicant endangered human life or safety of others. The FIR itself records that the complainant was not present in his Innova vehicle at the relevant time. In fact no one was inside the complainant's vehicle and the same was merely parked in the building compound. No injury is caused to any individual. The submission of Respondent No.2 that the provision is attracted because persons were seated in the Applicant's vehicle is wholly misconceived and absurd to say the least. The foundational ingredients of Section 125 are absent in this case.

7. As regards Section 281 of the BNS (rash driving), the provision

applies where a vehicle is driven on a “public way” in a manner so rash or negligent as to endanger human life or causes or is likely to cause injury. The incident in question admittedly occurred within the compound of a private residential society. There is no averment in the FIR that the vehicle was being driven on a public way. More importantly, there is no material to indicate that the manner of reversing the vehicle was so rash or negligent as to endanger human life. At the highest, it is a case of lack of skill while reversing/parking a vehicle or an inadvertent contact between two vehicles.

8. Insofar as Section 324(4) of the BNS (mischief) is concerned, the FIR does not contain any averment suggesting premeditation, prior threat, or deliberate targeting of the complainant’s vehicle with an intention to cause wrongful loss or damage to property. The allegation that this was the “third incident” is a bald assertion, unsupported by any particulars.

9. It appears that the parties, being residents of the same residential complex, may have certain personal differences inter se. Since both the Applicant and Respondent No.2 are members of the legal profession, I refrain from making any further observations in that regard. However, personal discord or strained relations cannot be permitted to assume the colour of criminality in the absence of the essential ingredients of a

penal offence. The material on record indicates that the FIR has been registered without due scrutiny as to whether the statutory requirements of the alleged offences are fulfilled. Even if the allegations are accepted in their entirety, they do not disclose the commission of any cognizable offence. Criminal law cannot be invoked as a pressure tactic to settle a monetary claim for repairing the vehicle. The case squarely falls within the parameters laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*¹, particularly the categories enumerated in paragraph 102, namely where the allegations are so absurd or inherently improbable that no prudent person could conclude that an offence is made out, and where the criminal proceeding appears to be manifestly attended with mala fides or instituted with an ulterior motive to exert pressure in a private dispute. In such circumstances, permitting the prosecution to continue would amount to an abuse of the process of law. The inherent jurisdiction of this Court needs to be invoked to quash the FIR to secure the ends of justice. Accordingly, Criminal Application No. 1580 of 2025 is allowed in terms of prayer clause (b), which reads as under:-

“(b) That this Hon’ble Court in exercise of its powers under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 be pleased to call for the records and proceedings pertaining to the First Information Report bearing no.847 of 2025 and after examining the same, be pleased to quash and set aside

¹ 1992 Supp (1) SCC 335

the First Information Report being no. 847 of 2025 registered by the Kandivali (West) Police Station, i.e., the Respondent no.1 herein, against the Applicant for offences punishable under Sections 281, 324(4) and 125 of the Bharatiya Nyaya Sanhita, 2023.”

[GAUTAM A. ANKHAD, J.]