

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 86 OF 2026

Kamlesh Ratilal Ostwal & Ors. ... Applicants.

V/s.

The State of Maharashtra & Anr. ... Respondents.

Mr. Manoj Bagal (thr. V.C.), Advocate for Applicants.

Mr. Sukanta Karmakar, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 23rd JANUARY, 2026.

P.C. :

1. Proceeding were recorded in terms of the decision of this Court in Hema Suresh Ahuja & Ors. v. State of Maharashtra & Anr.,¹ as the subject matter pertains to offence under SC/ST Act.

2. Heard, Mr. Manoj Bagal learned Advocate for the Applicants and Mr. Sukanta Karmakar, APP

1. 2024 SCC OnLine Bom 784.

3. By this Application under Article 226 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023(for short “BNSS”), the Applicants have sought for the following relief :

“A) This Hon'ble Court may be pleased to quash the FIR/C.R. No. 561/2025 dated 17/07/2025 registered with Kondhwa Police Station, Pune City for the offences punishable u/ss. 329(3), 303 (2), 324(4), 189(1), 189(2), 190, 191(2), 352, 351(2) of BNS and subsequently added sections 3(1)(f), (g), 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.”

4. FIR No. 561/2025 dated 17/07/2025 was registered by the Kondhwa Police Station, Pune City on the complaint of Respondent No. 2 (Shubham Sunil Bansode). Allegations made in the complaint are in respect of offences of trespass, etc and offences under the provisions of the Schedule Castes and Schedule Tribe (Prevention of Atrocities) Act, 1989.

5. Mr. Manoj Bagal, learned Advocate for the Applicants submits that the allegations made in the complaint are false and there is a serious dispute with regard to the ownership and possession of the property. He submits that it is the Respondent

No. 2 who has committed act of trespass. He submits that the Applicants have instituted civil suit, subsequent to the registration of the FIR, which suit is pending adjudication. He fairly submits that though an application for interim releif is filed in the said suit, however till date, neither any interim order nor any injunction is granted. He submits that the offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 ("SC & ST Act") has been added subsequently pursuant to the supplementary statement of the Respondent No.2 recorded in the month of September, 2025. He submits that Respondent No. 2 has made allegations to falsely implicate the Applicants in offences under the provisions of SC & ST Act. He submits the provisions of SC & ST Act would not be applicable or attracted, as there is no adjudication of a suit which is the requirement for invoking the said provision.

6. Mr. Sukanta Karmakar, learned APP submits that complaint filed by the Respondent No.2 disclosed the ingredients of the offences of trespass as also other offences under the Bhaatiya Nyaya Sanhita 2023. He submits that the supplementary

statement of the Respondent No.2 discloses the offense under the SC & ST Act.

7. Perused the record with the assistance of learned Advocates.

8. In the instant case, Respondent No. 2 has alleged the Applicants to have entered in the in the property in possession of the Respondent No.1 with intent to commit an offence. Respondent No.2 alleges commission of offence under the SC & ST Act. The allegation made in the FIR dated 17/07/2025 taken at their face value and accepted in its entirety prima facie constitutes the offense charged against the Petitioner. Allegations made in the complaint discloses the ingredients of the offences punishable under Bharatiya Nyay Sanhita, 2023 and under the SC & ST Act.

9. Contentions of Mr. Manoj Bagal that the FIR is false, etc. are in the nature of a defence, involving disputed questions of facts. The Hon'ble Supreme Court in the case of *Muskan v. Ishaan*

*Khan (Sataniya)*², in paragraph- 22 observes thus :

22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a mini trial. Thus, the jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised.”

10. In view of the above, no case for interference made out. Criminal Application is dismissed. No order as to costs.

(ASHWIN D. BHOBE, J.)

2. 2025 SCC OnLine SC 2355