

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.701 OF 2026

Nilesh Amritlal Jain

... Applicant

Versus.

The State of Maharashtra and Anr.

... Respondents

Ms. Pooja Jhaveri a/w Mr. Lalit Katariya, Ms. Monali Solanki, i/b
Katariya & Associates, Advocate for the Applicant.

Mr. Mahendra Sandhyashiv, Advocate for Respondent No.2.

Mrs. Rajeshree Newton, APP for Respondent No.1-State.

Mr. Sachin Shelke, L.T. Marg, Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATE : 23rd APRIL 2026.

P.C.:

1. Heard Ms. Pooja Jhaveri learned Advocate for the Applicant
Mrs. Rajeshree Newton learned APP for the Respondent No.1-State
and Mr. Mahendra Sandhyashiv learned Advocate for Respondent
No.2.

2. This Criminal Application under Section 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023, is filed by the Applicant seeking
to quash the FIR bearing CR No. 29/2024, dated 29.01.2024,

registered at L. T. Marg Police Station, Mumbai (hereafter “impugned FIR”), for offences punishable under Sections 409, 420 read with 34 of the Indian Penal Code, 1860.

3. Ms. Pooja Jhaveri learned Advocate for the Applicant and Mr. Mahendra Sandhyashiv learned Advocate for Respondent No.2, submit that the subject matter of the impugned FIR is a commercial dispute between the Applicant and Respondent No.2. They submit that Respondent No. 2 is the owner of a gold shop and is in the business of making gold ornaments and selling the same. They submit that towards consideration for the sale of gold ornaments by the Respondent No. 2, the Applicant was to pay in kind by returning gold in pure form. They submit that the transaction, which is the subject matter of the impugned FIR, is a legal and authorised transaction. They submit that the delay by the Applicant in paying the consideration towards the purchase of gold ornaments from the Respondent No. 2 gave rise to a dispute between them. They submit that this dispute led Respondent No.2 to lodge a complaint, ultimately resulting in the registration of the impugned FIR. They submit that the Applicant and Respondent No.2, who are known to each other and have been engaged in the

said business for several years, have, amicably settled the said commercial dispute.

4. Ms Pooja Jhaveri, learned Advocate for the Applicant, states that the Applicant has handed over the gold to Respondent No. 2 as consideration for the purchase of gold ornaments and that the said commercial transaction between the Applicant and Respondent No. 2 stands closed. Mr. Mahendra Sandhyashiv learned Advocate for Respondent No.2, states that Respondent No. 2 has received the gold and in view of the return of the gold, the dues payable by the Applicant stand settled. Accordingly, Respondent No. 2 has no grievance against the Applicant. Mr. Mahendra Sandhyashiv, learned Advocate for Respondent No.2, further states that after the settlement, Respondent No.2 and the Applicant are transacting in the said business and no issues have arisen thereafter. In view of the aforesaid settlement, Respondent No.2 has affirmed an Affidavit dated 23rd April, 2026, recording the manner of settlement and his no objection to the quashing of the impugned FIR. They therefore request the quashing of the impugned FIR.

5. Applicant is present in the Court and is identified by his Advocate Ms. Pooja Jhaveri. She tenders the photostat copies of the Identity Card of Applicant, which is taken on record and marked as “X” for identification.

6. Respondent No.2 is present in the Court and is identified by his Advocate Mr. Mahendra Sandhyashiv. He tenders the photostat copy of Identity Card of Respondent No.2, which is taken on record and marked as “X-1” for identification.

7. Mr. Mahendra Sandhyashiv states that the Affidavit dated 23rd April, 2026 affirmed by Respondent No.2 before the Notary Shane Cardoz is placed on record, same is marked as “X-2” for identification.

8. Respondent No. 2 states that he has filed the Affidavit (X-2) of his own free will, without any force or coercion from anyone. He states that the contents of the Affidavit (X-2) are true and as per his say. He states that he had supplied gold ornaments to the Applicant, in turn, the Applicant was required to pay by way of pure gold. He states that the dispute between him and the Applicant arose on account of the failure of the Applicant to make

timely payment for the gold ornaments purchased by the Applicant. He states he and the Applicant are doing business for several years and the subject matter of the impugned FIR is a solitary instance when the Applicant delayed in making the payment of the consideration. He states that the said commercial transaction is amicably resolved and the Applicant has returned the gold as the consideration for the purchase of gold ornaments. He states that the commercial transactions involving the supply of gold ornaments and the return of gold continue between him and the Applicant even as of this date. He states that the continuation of the impugned FIR would disturb the commercial relationship between the Applicant and Respondent No.2, as such, he does not want to continue with the criminal proceedings and wants to end them. He reiterates his no objection in Affidavit (X-2).

9. Mrs Rajeshree Newton, learned APP for the State, on instructions from the Investigation Officer who is present in Court, states that the transaction which is referred to in the impugned FIR and as stated by Ms Pooja Javeri and Mr Mahendra Sandhyashiv, learned Advocate for Respondent No.2, is a legal and permissible transaction. She, on specific instructions from the Investigation

Officer, states that the said transaction is neither prohibited by law nor illegal. She states that in view of the settlement of the commercial transaction between the Applicant and Respondent No.2 and the statements made by the Respondent No.2 before this Court, as also in his Affidavit (X-2), the Respondent No.1-State does not have any objection to the quashing of the impugned FIR. She, however submits that a commercial transaction being taken to the Police Station and the police having to devote time to investigate such a commercial transaction, deserves imposition of exemplary costs on the Applicant and Respondent No.2. She proposes the imposition of costs of Rs. 2,50,000/- (Rupees Two Lakhs fifty thousand only) each on the Applicant and the Respondent No.2.

10. Considering the facts mentioned above, the submission of the learned Advocate for the parties, the nature of the dispute as a pure commercial transaction between two traders, the no objection given by Respondent No. 2 for quashing the impugned FIR, the statements made by Respondent No. 2 before this Court, particularly that the commercial transactions between Respondent No. 2 and the Applicant still continue and the intention of

Respondent No. 2 not to continue with the criminal case, no useful purpose would be served by continuing the criminal proceedings.

11. The Investigation Officer investigating the impugned FIR has stated that the commercial transaction referred to by the Applicant and Respondent No. 2 is not prohibited by law. Having regard to the pronouncements of the Hon'ble Supreme Court in the case of *Gian Singh vs State of Punjab*¹, *Narinder Singh and Ors vs State of Punjab and Anr*² and *Parbatbhai Aahir @ Parbatbhai vs The State of Gujarat*³, there is no impediment in allowing this Application.

12. In view of the above, this Application is allowed in terms of prayer clause (a), subject to payment of costs of Rs. 2,50,000/- by the Applicant and Rs. 2,50,000/- by the Respondent No. 2. Payment of costs is a condition precedent. Consequently, the impugned FIR is quashed.

13. The Applicant and Respondent No. 2 shall deposit the cost of Rs. 2,50,000/- each (Total amount of Rs. 5,00,000/-) in the below-mentioned Account within a period of four weeks from today:-

1 2012 10 SCC 303

2 2014 6 SCC 466

3 2017 9 SCC 641

The High Court Employees Medical Welfare Fund at Mumbai	
Account No. :	000120110001337
Bank:	Bank of India
Branch:	Mumbai Main
IFSC Code:	BKID0000001

14. The compliance affidavit, along with the proof of deposit, shall be filed by the Applicant and Respondent No. 2 in the Registry of this Court on or before 10th June, 2026.

15. The Criminal Application No.701 of 2026 is disposed of.

(ASHWIN D. BHOBE, J.)