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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.490 OF 2025

1. Sunil s/o Ramchandra Sapre,
Aged 60 Years,
Occupation : Service,
Resident of Flat No.201,
Neelkanth Apartments,
Pandey Layout, Khamla,
Nagpur.
2. Anuj s/o Kishoree Prasad,
Aged 60 Years,
Occupation : Service,
Resident of Quarter
No.C-II, Type VI,
Ordnance Factory Estate,
Jawahar Nagar, Bhandara.
3. Lalit s/o Chhittarmal Kumar,
Aged 50 Years,
Occupation : Service,
Resident of Post Quarter
No.VI/2, Type VI,
Jawahar Nagar, Bhandara.
4. Sanjay s/o Suresh Dhapade,
Aged 45 Years,
Occupation : Service, resident of
Quarter No.9/2, Type 4,
Ordnance Factory Estate,
Jawahar Nagar, Bhandara.
5. Devendra s/o Ramdas Meena,
Aged 50 Years,
Occupation : Service,
Resident of Flat No.203,
Lily Shiv Elite, Wardha road,
Shankarpur, Khapri, Nagpur.
6. Anandrao s/o Madhukarrao Faye,
Aged 51 Years,
Occupation : Service,
resident of Quarter No.10,
Type E, Street No.2

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Ordinance Factory Estate,
Jawahar Nagar, Bhandara.

7. Adil Rasheed Farooquee s/o Mohmmad
Israil Haque Farooquee,
Aged 47 Years,
Occupation : Service,
resident of Plot No.13, Flat No.401,
Rajat Arcade, Geeta Society,
Bhupesh Nagar, Katol Road,
Nagpur.
[Address of applicants are as per their
Aadhar Card]

..... APPLICANTS

// VERSUS //

1. State of Maharashtra, through
Police Station In-Charge, Jawahar Nagar,
Bhandara, Tahsil and District Bhandara.
2. Bhimaji s/o Hindurao Patil,
Aged about 42 Years, Police Inspector,
Police Station Jawahar Nagar,
Bhandara,
Tahsil and District Bhandara.

.... NON-APPLICANTS

Mr. C. S. Dharmadhikari, Advocate for applicants.
Mr. M. A. Barabde, APP for non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
RESERVED ON : 17.02.2026
PRONOUNCED ON : 12.03.2026

JUDGMENT :

1. Heard.
2. **Admit.**
3. Heard finally with the consent of the learned Counsel for
the applicants and learned APP for the State.

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4. Present application is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to quash the FIR in connection with Crime No.78/2025 registered with Police Station Jawahar Nagar, Bhandara, District Bhandara for the offense punishable under Section 125(b) and 106 (1) of the Bharatiya Nyaya Sanhita, 2023.

5. Brief facts which are necessary for the disposal of the application are as under:

On 08.03.2025 the FIR came to be lodged by the Police Officer alleging that on 24.01.2025 in the morning at 10.40 a.m. in Ordnance Factory, Jawahar Nagar, there is a separate Department of RX whereby LTPE Section is working and in building No.23 there was a blast and 13 employee working sustained injuries, out of which eight persons died and five persons are seriously injured, who were working in the said Ordnance Factory. The injured Jaydeep Ajit Banargee was admitted to the Care Hospital who died during the treatment. The investigating team was prepared in the matter as per the directions of the higher authorities, whereby the complainant is working as a Special Investigating Officer along with him.

6. During investigation, it was found that the statements of the relatives of the deceased persons and injured persons revealed that there was a constant difficulty in working of RX

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Department, LTPE section, Building No.23. There was a problem in smooth working of the machinery and there was a constant sparking. The information regarding the same was given to the office and the Management. But they ignored and not attended because of which this major incident took place wherein eight persons lost their lives and five persons are seriously injured. During investigation, it was found that some of the deceased persons were the trainees who were not allowed to go to the sensitive area still they were directed to work in the said section and the deaths of the said persons were caused. The Labour Commissioner, Nagpur also visited the spot and one Prashant Tirpude was deputed to investigate the matter technically and reason of blast was sought to be found out. The said report was submitted and it was found that the way in which the work was done was not proper and due to the same, the accident occurred. Accordingly, the responsibility was fixed upon applicant No.5 Devendra Meena, who is a Safety Section Department Head, applicant No.7 Adil Rasheed Farooquee Junior Work Manager Maintenance Department, applicant No.4 Sanjay Dhapade, applicant No.6 Anandrao Faye Section In-charge and therefore, the offence was registered against the present applicants. It is further alleged that the trained workers were not working in the site and work permit system was also not followed and therefore, that is also one of the reason for causing of the accident. On the

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basis of the said report, police have registered the crime against the present applicants.

7. Heard learned counsel Mr. Chinmay Dharmadhikari for the applicant, who submitted that the present applicants are working in administration department. As far as they are concerned with the alleged incident, not responsible. He further invited my attention towards the report of the Board of Enquiry. As per the letter which clearly discloses that the cause of accident is due to the explosion which was occurred in the extrusion process only and that may be development of high pressure. Thus, he submitted that this aspect itself is sufficient to show that the present applicants are not responsible for the accident and they are not liable for the charge. He submitted that to attract the offence punishable under Section 304A of the Indian Penal Code, whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years. He submitted that to impose criminal liability under Section 304A of the Indian Penal Code, it is necessary that the death should have been the direct result of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the cause

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causans; it is not enough that it may have been the cause *sine qua non*. Thus, he submitted that the statements of the witnesses enquiring report discloses that it is merely an accident and the applicants are not responsible for causing of the incident.

8. Per contra, learned APP strongly opposed the said contention and submitted that even the report of mode of enquiry discloses that the maintaining and providing of the authorized equipment only the explosive buildings is the responsibility of the concerned JWM of the section. The responsibility to have authorized equipment was of Late Mr. C.W. Goswami. During the recording of the statements of the witnesses, it revealed from the statements of some of the witnesses that the safety measures were not provided to them and therefore, they have sustained the injuries. He further invited my attention towards the report of the Deputy Director Industrial Safety and Health, Bhandara which shows that the spaces (interstices) between RDX crystals and voids filled with air and initiating shock wave upon entering a voids creates adiabatic compression of the air thereby generating very high pressure and temperature. RDX undergoes a deflagration to detonation transition in confinement and certain circumstances. Thus, he submitted that the report of the Deputy Director, Industrial Safety and Health discloses the contravention of the

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provisions of 7A(2)(a) of the Factories Act, 1948. The investigation is still in progress and at this stage, it is not a fit case wherein the power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to be exercised.

9. On hearing both sides and on perusal of the record, it reveals that the crime is registered on the basis of a report lodged by the Police Officer. The investigation papers shows that on 24.01.2025 in the morning at 10.40 a.m. in Ordnance Factory, Jawaharlal Nagar, there is a separate Department of RX whereby LTPA Section was also there and in Building No.23, there was a blast and that point of time there were 13 employees working who sustained injuries, out of which 8 died and 5 persons are seriously injured. One injured died during the treatment. During investigation, the authorities found that the statements of the relatives of the deceased persons and injured persons and the statements of trainees were recorded. It was found that there was constant difficulty in working of RX Department LTPE section, Building No.23. The working of the machinery was not smooth and there was a constant sparking. The statements further reveals that, this fact was brought to the knowledge of the Management, but it was ignored and not attended and therefore, the incident took place. The Labour Commissioner, Nagpur and other officials visited the spot. The

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report of the said authorities shows that the manner in which work was done was not proper and process through which the work was to be done was also not followed. The report of the Deputy Director Industrial Safety and Health, Bhandara shows that on enquiry with the Trend Apprentices Mr. Sunil Kumar Yadav and Ankit Husan Barai, who were present at the time of the explosion in PE-23 building, both were working from last nine months in the factory. These Trade Apprentice workers are not trained and are not supposed to employ in the dangerous operation work who were employed there. It further reveals that building No. PE-23 was non-AC building. The temperature of the P.D. is to be maintained at 39 °C before the extrusion process. The Die Mouth portion is about 1 feet long where there is no provision of heating arrangement with hot water to loosen the solidified material. This accident happened in the morning hours of the winter season and the temperature of the P.D. might have come down below 39 °C and the P.D. might have solidified at the Dia Mouth portion. Low temperature plasticised explosives are sensitive to friction and heat generated during extrusion process, potentially leading to accidental ignition/detonation. Further, blockages in the extrusion equipment can cause pressure to build up, potentially leading to an explosion. So, it is concluded that initiation of the explosion has resulted only because of the generation of adiabatic compression further to

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source of ignition and shock wave formation resulted into the detonation initiated and the Dia Mouth portion in the Extrumix. The report further shows the cause of accident as a) Adiabatic compression: a(i) The spaces (interstices) between RDX crystals and voids filled with air and initiating shock wave upon entering a voids creates adiabatic compression of the air thereby generating very high pressure and temperature (hot spots). RDX undergoes a deflagration to detonation transition (DDT) in confinement and certain circumstances. The velocity of detonation of RDX at a density of 1.80 g/cm^3 is 8750 m/s with detonation pressure of 33 GPa approx.

a(ii) However, this plasticized explosives when subjected to rapid compression (for example from a detonator or mechanical impact), the pressure and temperature of the material can increase significantly. Since the compression occurs so quickly, there is no time for heat transfer and the process is effectively adiabatic.

10. Thus, the report of the Deputy Director Industrial Safety and Health, Bhandara shows that as per the provisions of Section 7A(2)(a) of the Factories Act, 1948, the occupier shall ensure the provisions and maintenance of plant and system of work in the factory that are safe and without risks to health of the workers working there. In this operation LTPE manufacturing in PE-23

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section, SOPs was not followed completely and also provisions were not made to prevent the solidification of P.D. materials as to prevent the explosion due to adiabatic compression as mentioned in point No.11(C)(a). The report further shows that Work Permit system was not used when chargeman of LTPE section and maintenance team faced a difficulty of die mouth blockage. At the time of visit log sheets and log book record was not produced before him for enquiry. The report further reveals that at the time of enquiry it is observed that two Trade Apprentice workers were present at the time of explosion in PE-23 building. These trade apprentice workers were not trained and are not supposed to employ in this dangerous operation work. Thus, on the day of explosion on 24.01.2025 the system of work adopted was not safe and was with risk to safety of the workers working in this area. Hence, the occupier has contravened the provisions of Section 7A(2)(a) of the Factories Act. The report of the Board of enquiry, as per the letter also shows that they have recorded the statements of the various witnesses that after recording the statements of the injured persons it is once again ascertain logically and technically that the above four lapses were not the cause of the accident. The cause of the accident has already been pinpointed in Para No.(C) to determine the cause of the accident and it is observed that at that particular time and date Mr. Narendra Wanjari, Fitter

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General/HS-1 DBP maintenance also confirmed that the explosion had occurred in extrusion process only and that may be due to development of high pressure.

11. The statements of the witnesses are also recorded during the investigation. The statement of SunilkKumar Vijaykumar Yadav, who was the trainee also discloses that the accident took place due to the negligence of the present applicants. It further shows that for the additional production they are forced to work continuously. Thus, the statement of the various witnesses discloses that for cleaning of the machinery and maintenance of the machinery was ignored. The trainees were sent in the said section for work and the present applicant i.e. applicant No.5 Devendra Ramdas was in-charge of safety section, applicant No.7 Adil Rasheed Farooquee was Junior work Manager, maintenance department, applicant No.4 Sanjay Suresh Dhapade was working in the administration department and applicant No.6 Anandrao Madhukarrao Faye was the Section Officer. They have ignored that the machine i.e. the extrumix machine was not working properly and this was brought to their notice, but they have completely ignored the maintenance of the said machine. The report of Ordnance Factory addressed to the Sub-Divisional Police Officer also shows that as per the Board of Enquiry Report the cause of accident is detonation and explosion by adiabatic

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compression. The only live witness of maintenance section Mr. Narendra Kumar Wanjari, Fitter, has confirmed the accident may be occurred due to the high pressure during extrusion work. He also intimated that building chargeman Mr. Manoj Meshram told to wait for some time there and meantime the explosion of work in building PE No.23 in extrusion bay. He could not open the die mouth. Thus, it is evident that the occurrence of accident could have avoided if the maintenance Fitter Mr. Narendra Wanjari had been permitted by the building in-charge Late Mr. Manoj Meshram charge man to open the die mouth. The Additional report of the Board of Enquiry constituted to enquiry into the fatal accidents also discloses that the accident occurred due to the explosion in the extrusion process only and that may be due to the development of high pressure. The report of the Labour Enforcement Officer Mr. Prashant Jadhav also discloses that the cause of accident is due to malfunction of machines and equipment during manufacturing of LTPE (low temperature plastic explosives) at PE-23 building and Ordnance Factory, Jawaharlal Nagar, Bhandara.

12. Thus, at this stage, these reports sufficiently shows that the machines were not working properly which was brought to the notice of the in-charge, but they have not paid any heed towards it. Therefore, the report of the Deputy Director

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Industrial Safety and Health, Bhandara is relevant, who has specifically stated that during enquiry it reveals to him that trainees apprentice were deputed to work though they are not trained and have not supposed to employ in the dangerous operation work. His report further shows that building No. PE-23 was non- AC building. The temperature of P.D. is maintained at 39 °C before the extrusion process. The die mouth portion is about 1 feet long where there is no provision of heating arrangement with hot water to loosen the solidified material. This accident happened in the morning hours of the winter season and the temperature of the P.D. might have come down below 39 °C and the P.D. might have been solidified at the die mouth portion. Low temperature plasticised explosives are sensitive to friction and heat generated during extrusion process, potentially leading to accidental ignition / detonation. Further, blockages in the extrusion equipment can cause pressure to built up, potentially leading to an explosion. So, it is concluded that initiation of the explosion has resulted only because of the generation of adiabatic compression further to source of ignition and shock wave formation resulted into detonation initiated of the die mouth portion in the extrumix. Thus, he observed that as per the provisions of Section 7A(2)(a) of Factories Act, 1948, the occupier shall ensure the provisions and maintenance of plant and system of work in the factory that

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are safe and without risk of harm to the workers working there. In this operation of LTPE manufacturing in PE-23 section, SOPs were not followed completely and also provisions were not made to prevent the solidification of P.D. material so as to prevent the explosion due to adiabatic compression as mentioned in point No.11(C)(a). It is further observed that the Work Permit System was not used when chargemen of LTPE section and maintenance team faced a difficulty of die mouth blockage. Thus, this observation of the Deputy Director of Industrial Safety and Health, Bhandara shows that there was a negligence on the part of the present applicants, who were in-charge of the said sections and also working in the management.

13. Section 125 of BNS deals with act any endangering life or personal safety of others. -- Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two thousand five hundred rupees, or with both, but —

(a) where hurt is caused, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

(b) where grievous hurt is caused, shall be punished with imprisonment of either description for a term which may

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extend to three years, or with fine which may extend to ten thousand rupees, or with both.

14. Section 106 of BNS deals with causing death by negligence it reads as under:

“106. Causing death by negligence.— (1) Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if such act is done by a registered medical practitioner while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Explanation.— For the purposes of this sub-section, “registered medical practitioner” means a medical practitioner who possesses any medical qualification recognised under the National Medical Commission Act, 2019 (30 of 2019) and whose name has been entered in the National Medical Register or a State Medical Register under that Act.

(2) Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a police officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine.

15. Section 106 of BNS is equivalent to Section 304A of the IPC. Section 304-A carves out a specific offence where death is caused by doing a rash or negligent act and that act does not

amount to culpable homicide under Section 299 or murder under Section 300. Negligence is a specific tort and in any given circumstances is the failure to exercise due care which the circumstances demand. What amounts to negligence depends on the facts of each particular case. It may consist in omitting to do something which ought to be done, or in doing something which ought to be done either in a different manner or not at all. Where there is no duty to exercise care, negligence in the popular sense has no legal consequence. Where there is a duty to exercise care, reasonable care must be taken to avoid acts or omissions which can be reasonably foreseen to be likely to cause physical injury to persons or property. The degree of care required in the particular case depends on the surrounding circumstances, and may vary according to the amount of the risk to be encountered and to the magnitude of the prospective injury. The duty of care is owed only to those persons who are in the area of foreseeable danger.

16. Two elements which requires to be proved to establish the guilt of an accused are rashness and negligence, a person may cause death by a rash and negligent act which may have nothing to do with driving at all. Negligence and rashness to be punishable in terms of Section 304A must be attributable to a state of mind wherein the criminality arises because of no error

in judgment but of a deliberation in the mind risking the crime as well as the life of the person who may lose his life as a result of the crime. Where negligence is an essential ingredient of the offence, the negligence to be established by the prosecution must be culpable or gross and not the negligence merely based upon an error of judgment. According to the dictionary meaning 'reckless' means 'careless', 'regardless' of the possible harmful consequences of one's acts'. It presupposes that if thought was given to the matter by the doer before the act was done, it would have been apparent to him that there was a real risk of its having the relevant harmful consequences; but, granted this, recklessness covers a whole range of states of mind from failing to give any thought at all to whether or not there is any risk of those harmful consequences.

17. In the case of **Jacob Mathew Vs. State of Punjab and anr.** reported in **2005 (6) SCC 1**, wherein the Hon'ble Apex Court observed that "To impose criminal liability under Section 304-A, Indian Penal Code, it is necessary that the death should have been a direct result of a rash and negligent act of the accused, and that act must be the proximate and efficient cause without the intervention of another's negligence. It must be the causa causans; it is not enough that it may have been the causa sine qua non."

18. It is further observed by the Hon'ble Apex Court that negligence is the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. The definition of negligence as given in Law of Torts, **Ratanlal & Dhirajlal (edited by Justice G.P. Singh)**, referred to hereinabove, holds good. Negligence becomes actionable on account of injury resulting from the act or omission amounting to negligence attributable to the person sued. The essential components of negligence are three: 'duty', 'breach' and 'resulting damage'.

19. The word 'gross' has not been used in Section 304A of IPC, yet it is settled that a criminal law negligence or recklessness, to be so held, must be of such a high degree as to be 'gross'. The expression 'rash or negligent act' as occurring in Section 304A of the IPC has to be read as qualified by the word 'grossly'. For negligence to amount to an offence, the element of mens rea must be shown to exist. For an act to amount to criminal negligence, the degree of negligence should be much higher i.e. gross or of a very high degree. Negligence which is neither gross nor of a higher degree may provide a ground for action in civil law but cannot form the basis for the prosecution.

20. Thus, Section 304A deals with homicidal death by rash or negligent act. It does not create a new offence. Though the term negligence has not been defined in the Code it may be stated that negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs would do so, or doing something which reasonable and prudent man would not do so.

21. Thus, in the light of the above legal principles if the act of the present applicants is taken into consideration it shows that the applicant No.5 Devendra Meena, who is Safety Section Department, applicant No.7 Adil Rasheed Farooquee, Junior Work Manager Maintenance Department, applicant No. 4 Sanjay Dhapade, working in Administration Section, applicant No.6 Anandrao Faye Section In-charge and other senior officers, they are duty bound to follow the SOP. As per the report of Deputy Director Industrial Safety and Health, Bhandara that SOP was not followed. It also apparent that no provision was there to maintain the temperature at 39 °C degree before the extrusion process. The report specifically shows that the temperature of the P.D. is to be maintained at 39 °C before the extrusion process. The die mouth portion is about 1 feet long where there is no provision of heating arrangement with hot water to loosen

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the solidified material. It is specifically observed that this accident happened in the morning hours of the winter season and the temperature of the P.D. was lower down below 39 °C and the P.D. might have been solidified at the die mouth portion. Low temperature plasticised explosives are sensitive to friction and heat generated during extrusion process, potentially leading to accidental ignition / detonation. Thus, this observation of the Industrial Safety and Health Department is sufficient to show the negligence on the part of the present applicants. At this stage, investigation is in progress, charge sheet is yet to be filed and the material which is collected during the investigation especially report of the Deputy Director Industrial Safety and Health, Bhandara is sufficient to attract the offence punishable under Section 304A of IPC against the applicants.

22. At the time of the quashing of the FIR, the parameters laid down by the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**, which are reproduced hereinafter if applying.

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not

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disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

23 By applying the parameters laid down to the facts of the present case, no case is made out for quashing of the FIR. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order:

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ORDER

- (i) The application is **rejected**.
- (ii) The learned trial Court shall not be influenced by the observations made which is only for the purpose of quashing of the FIR.

(URMILA JOSHI-PHALKE, J.)