

P22. CRI APL ST-18957-26.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (ST) NO. 18957 OF 2026

Kaustubh Shivkumar Vibhute

.. Applicant

Versus

The State of Maharashtra & Anr.

.. Respondents

.....

- Mr. Dhanraj Lodha, Advocate for Applicant
- Ms. Shilpa G. Talhar, APP for State
- Mr. Siddharth Khandelwal, Advocate for Respondent No. 2

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 18, 2026

P. C.:

1. Not on board. Mentioned by way of filing a praecipe dated 18.09.2026.
2. Heard learned Advocates appearing for the parties.
3. Present Application is filed seeking quashing and setting aside of the FIR and the consequential proceedings arising therefrom.
4. Parties had a relationship whereby substantial amounts were advanced with regard to the services provided on the basis of existing vendor invoices with regard to the relationship between them. Because of outstanding amounts running into a humongous sum, criminal prosecution was invoked for cheating. Parties have reconciled their disputes fully and the entire amount now stands fully deposited / repaid and received by Respondent No. 2 - Company.

5. I have interacted with the Director and authorized signatory of Respondent No. 2 - Company on video call with the able assistance of the learned Advocate for Respondent No. 2. The Terms of Settlement / Compromise are filed before the Court which are taken on record. The entire amount stands fully repaid. No further amounts are required to be received by the Complainant. Both the parties therefore, persuade the Court to quash the criminal prosecution because the same is a hindrance to their business prospectus.

6. Considering the request made by the parties, I am inclined to accept the said request and allow the present Application.

7. Section 482 of the Criminal Procedure Code, 1973 conferred inherent powers on High Courts to pass such orders as are justified to give effect to any order in the Court, prevent abuse of process of any Court or secure the ends of justice. In the BNSS this provision stands incorporated with Section 528 which substantially reproduces the language and intent of Section 482 of the CrPC, 1973 High Courts invoke this provision to step in where cases have been instituted with *malafide* motives or to harass the accused person thereby avoiding procedural harassment. It empowers Court to dismiss FIRs or criminal proceedings if there is no *prima facie* case or evidence against the accused person/s or if orders are made in violation of the principles of natural justice. The exercise of such powers under Section 482 of CrPC

and now Section 528 of BNSS remains discretionary and varies from case to case.

8. In *State of Harayana vs Bhajan Lal*¹ the Supreme Court laid down model categories and guidelines in paragraph No. 102 of the said judgment in which the FIRs can be quashed. The Supreme Court has further asserted that power under Section 482 is an acknowledgment of "powers inherent" and not the source of powers additional. It has held that even non compoundable offences can be quashed where necessary. It has held that High Courts have to decide whether the prosecution of an offence would further or be against the interest of justice. It is also held that grievous offences such as murder, rape, and dacoity cannot ordinarily be quashed even after settlement because they involve societal implication.

9. In the above context, when parties settle their private dispute or the *lis* between them is purely civil and commercial or matrimonial and the offence is not heinous or does not impact the society at large, the Court can consider such request. In such a case awarding costs for putting the criminal law into motion on the act of the accused persons and thereafter both parties seeking quashing of proceedings by consent, in my opinion, can be considered by Court which can impose

1 1992 AIR 604

costs on the parties, especially so in matters coming before the Court by “consent quashing”.

10. For above levy of costs the legal principle rests on the logic that criminal law cannot be used as a bargaining chip or a tool for private settlements after draining the State and judicial resources. In simple words, Courts cannot be used as a recovery mechanism to settle scores and/or bring the parties into subjugation. I am of the firm opinion that imposition of costs in consent quashing matters is required to be levied for three main reasons viz., wastage of public resources, consumption of valuable judicial time and for deterrence against vexatious litigation. This is because after criminal machinery is set into motion, the Police Department is forced to take cognizance, conduct investigations, attend courts, deploy personnel, collect evidence and draft chargesheets, all using public funds/ public exchequer. Equally substantial judicial time of the Trial Courts and Sessions Courts is wasted for handling a case, presentation of a case, issuance of summons, scheduling of trial dates, appointment of prosecutors and their fees, etc. and ultimately if consent quashing is allowed such judicial time stands completely wasted, which could have otherwise been used for genuine Trial Court matters/ litigation. In one way such matters result in clogging the legal system and lead to humongous pendency which becomes difficult to tackle.

11. Another aspect to consider for imposing costs is that it curbs the growing trend of filing strategically exaggerated criminal complaints (especially matrimonial or commercial disputes) simply to force financial and legal settlements. In a given case made out on merits of the matter, even the Complainant can be put to costs while considering a quashing Petition purely on merits depending upon the facts of each case before Court. In some strong circumstances, even the State machinery can be put to costs if a purely civil dispute between parties strongly emanating from the facts on record is registered as criminal case and given the flavor of criminality. This Court is also equally conscious about not imposing costs blindly or mechanically if a particular party is not found to be remiss or at explicit fault for abusing the law, as also conscious about heinous offences impacting the society at large while considering consent quashing.

12. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Applicant for his actions resulting in the Complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Applicant is directed to pay costs of Rs. 25,000/- towards the Corpus of **A.K. Munshi Yojana** a trust which runs medical centres, vocational training centres and which also runs a Special School called **J.T. Sheth Mandbuddhi Vikas Kendra**, imparting education and training to the needs of 150 special children in the field

of Education (Classes for 6 to 18 years), early intervention (upto 6 years) and vocational training (18 years above) having its school address and building at A.K. Munshi Yojana Chowk, 3rd Panjarapole Lane, C.P. Tank, Mumbai – 400 004 [Contact Nos. 22425513 / 22423654] registered under the Society Registration Act, XXI of 1980 under No. : 387/81 GBBSD and the Public Trust Act, XXIX of 1950 under No. F-6809. RCI Reg. No. 0163.

13. Applicant through his Advocate agree to pay the aforesaid costs amount to the charity within a period of two weeks from today.

14. In view of the above matter, the present Application deserves to be allowed subject to payment of costs as directed herein above. It is so allowed in terms of prayer clauses (A) & (B) which read thus:-

“A. That this Hon'ble Court be pleased to quash and set aside FIR No. 0224 of 2026 dated 20/07/2026 registered with Baner Police Station, Pune City for offences punishable under Sections 318(4), 316(4), 336(3), 340(2), 335, 344 and 319(2) of the Bharatiya Nyaya Sanhita, 2023 r/w Sections 65, 66C and 66D of the Information Technology Act, 2000, along with all proceedings arising out of and in connection therewith, including the charge-sheet, if any, against the Applicant;

B. That this Hon'ble Court be pleased to direct Respondent No. 1 to forthwith lift / withdraw the freeze, if any, imposed on the bank accounts of the Applicant referred to in paragraph 5(iv) above in connection with the said FIR, and to communicate the same to the concerned banks;”

15. List the Application for compliance of the order regarding payment of costs on **9th October, 2026.**

16. Learned Advocate for Applicant shall remain present and show compliance on the returnable date for compliance. If he does not remain present and there is non-compliance of this order, Court will pass appropriate order for recall of this order.

17. Criminal Application is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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AMBERKAR
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