

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4374 OF 2026

Vijay Sunil Agarwal & Ors.

.. Petitioners

Versus

State of Maharashtra & Anr.

.. Respondents

.....

- Mr. Prashant Trivedi a/w Mr. Amankumar Shahi & Mr. Manish Kumawat i/by Mr. Amankumar Shahi, Advocates for Petitioners
- Ms. Rajeshree V. Newton, APP for State
- Mr. Rehan H. Ghoshia i/by Diamondwala & Co., Advocates for Respondent No. 2
- PI Shiranand B. Kambhoj, EOW, Mumbai

.....

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 1, 2026

P. C.:

1. Heard Mr. Trivedi, learned Advocate for Petitioners; Ms. Newton, learned APP for State and Mr. Ghoshia, learned Advocate for Respondent No. 2.

2. Present Petition is filed seeking quashing and setting aside of the FIR and the consequential proceedings, if any, arising therefrom.

3. Parties are before the Court for consent quashing. By virtue of the settlement agreement dated 01.08.2026, they have reconciled their dispute with regard to the *lis* between them which is *prima facie* seen to be private and commercial in nature. The directors of both Private Limited Companies are present before me.

4. Consent affidavit dated 03.09.2026 filed by Respondent No. 2 - Complainant is appended at page Nos. 70-78 of Petition. I have perused the same. Complainant is present before the Court. Petitioners are also present before the Court. Since parties are / were having a well-established business and commercial relationship between them, in that view of the matter, I am inclined to accept the request made by the parties and after interacting with them, I am of the opinion that the present Petition should be allowed.

5. Ms. Newton, learned APP would persuade the Court to record her objection in view of EOW having stepped in. *Prima facie*, it is seen that the dispute that arose was because of a purely commercial transaction between the parties and the element of cheating and conspiracy has found its way in view of the relationship between the parties. Since the parties have reconciled and a comprehensive settlement proposal has been arrived at between the parties which is *prima facie* evident from the deed of settlement placed on record, I am inclined to accept the case of the Petitioners for consent quashing and reject the submissions made by the learned APP.

6. 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.

7. In *State of Hararyana 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.

1 1992 AIR 604

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

9. 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.

10. 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.

11. Applying the aforesaid principles to the facts of the present case, I am of the opinion that the Petitioners for their actions resulting in the Complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Petitioners are 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.

12. Petitioners through their Advocate agree to pay the aforesaid costs amount to the charity within a period of two weeks from today.

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

“a). This Hon'ble Court may issue a Writ of Certiorari or any other appropriate writ, order, or direction in the nature thereof, quashing and setting aside the F.I.R. No. 954 of 2025 dated

09.10.2025, registered with Sakinaka Police Station, Mumbai, for offences punishable under Sections 316(5), 318(4), 336(2), 338, 340(2), 61(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and subsequently registered as E.O.W. F.I.R. No. 97 of 2025, and all proceedings, investigations, and actions arising therefrom

- c. *This Hon'ble Court may pleased to direct the concerned Investigating Agency and/or the concerned Banks to forthwith unfreeze/de-freeze the bank accounts set out in Paragraph 13 hereinabove and permit the respective account holders to operate the said accounts in the ordinary course;*

14. All bank accounts of the Petitioners in whichever bank they have been attached and frozen are directed to be immediately released from attachment and freeze and the money available in those accounts shall be made available to the Petitioners for their personal use."

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

16. Learned Advocate for Petitioners shall remain present and show compliance on the returnable date for compliance failing which this Court will pass appropriate order for recall of this order.

17. Criminal Writ Petition is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

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