

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4986 OF 2024

Punit Vijay Madhwani and Anr.

.. Petitioners

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr. Abid Mulani a/w. Mr. Asish P. Agarkar and Ms. Harshada Parbhane, Advocates for Petitioners.
 - Mr. Yogesh M. Nakhwa, APP for Respondent No.1 – State.
 - Ms. Priya Nigwekar a/w. Bela Parab, Advocates i/by Chambers of Jangra & Associates for Respondent No.2.
 - PSI – Mr. Shital Dalvi, Vimantal Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 16, 2026.

P.C.:

1. Heard Mr. Mulani, learned Advocate for Petitioners; Mr. Nakhwa, learned APP for Respondent No.1 – State and Ms. Nigwekar, learned Advocate for Respondent No.2.

2. The Bank Officer who is the Complainant is present through video conferencing. He is represented by Advocate Ms. Nigwekar. Consent Affidavit is filed which is appended at page No.439 of the Petition of the Manager of Mahindra and Mahindra Financial Services Limited, which is an NBFC.

3. In the consent Affidavit, it is stated that the entire amount has been received and therefore consent is given for quashing of FIR

No.456 of 2017. The entire monies have been received by the Complainant. The request for quashing is therefore accepted by the Court so that the parties can be free to lead their lives without the ignominy of the criminal proceedings.

4. 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.

5. 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

¹ 1992 AIR 604

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.

6. 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".

7. 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.

8. 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.

9. Applying the aforesaid principles to the facts of the present case, I am of the opinion that Petitioners for their actions resulting in the Complainant invoking criminal proceedings and now both the parties seeking quashing by consent, the Petitioners should pay costs. Hence, Petitioners are directed to pay costs of Rs.25,000/- to Account Name: The High Court Employees Medical Welfare Fund at Mumbai, Bank Name and Branch: Bank of India, Mumbai (Main) Branch, Account No.: 000120110001337 and IFSC Code: BKID0000001 within a period of two weeks from the date of uploading of this order. Petitioners are present in Court and through their learned Advocate agrees to pay the aforesaid costs amount as directed.

10. In this view of the above, both the learned Advocates persuade the Court to allow the Writ Petition by consent quashing. The Writ Petition stands allowed in terms of prayer clause (a) which reads thus:-

“a) That, this Hon’ble Court may be pleased to quash and set aside all proceeding emanating from FIR vide C.R. No. 456/2017, registered with the Vimannagar Police Station, Pune, for the offences punishable under section 420, 406,

*465, 467, 468, 471, 478 r/w 34 Indian Penal Code and
R.C.C. No.4214/2018.”*

- 11.** List the Writ Petition for compliance of the order regarding payment of costs on **2nd November 2026**.
- 12.** Advocate for Petitioners shall remain present and show compliance on behalf of Petitioners 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, which shall be noted by the Petitioners.
- 13.** In view of the above, Criminal Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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by AJAY
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