



nita

**IN THE HIGH COURT OF BOMBAY AT GOA.
CRIMINAL WRIT PETITION NO. 178 OF 2026.**

Arvind Coutinho, Son of William A Coutinho,
52 years of age, Unemployed
R/o flat No.109, Dreams Skyline
Maintenance Housing Society Pvt. Ltd.,
Calvaddo, Navelim, Salcete, South Goa.

...PETITIONER

~ VERSUS ~

1. State of Goa,
Through the Public Prosecutor, High
Court of Bombay at Goa, Porvorim-Goa.
2. The Police Inspector, Margao Police Station
Margao- Goa
3. Keagan Cardoz Resident of Flat No. 110
Dreams Skyline Maintenance Housing
Society Pvt. Ltd.,Calvaddo, Navelim, Salcete,
South- Goa.

...RESPONDENTS

APPEARANCES:

for the Petitioner.

**Mr. Nigel Costa Frias with Mr. Shane
Coutinho and Ms. M. Fernandes,
Advocates.**

for the Respondent No.1
and 2.

**Mr. Nikhil Vaze, Addl. Public
Prosecutor.**

For the Respondent No.3. Mr. Ravindra Kudalkar with Mr. N. De. Sousa, Advocates.

CORAM : AMIT S. JAMSANDEKAR, J.

Reserved on : 19th August 2026.

Pronounced on : 11th September 2026.

JUDGMENT

1. By the present Petition, the Petitioner seeks the quashing of FIR No. 84/2025. The Margao Police Station registered the FIR on 26.10.2025 based on the complaint filed by the 3rd Respondent. Subsequently, the prosecution filed a chargesheet against the Petitioner. Accordingly, the Petitioner also seeks the quashing of the subsequent Chargesheet No. 33/2026 and the criminal case arising therefrom, pending before the Judicial Magistrate First Class, Margao (*the JMFC*).
2. Heard Mr. Costa Frias, learned Counsel appearing on behalf of the Petitioner, Mr. Vaze, learned Additional Public Prosecutor appearing on behalf of the State, i.e. the 1st and 2nd Respondents, and Mr. Kudalkar learned Counsel appearing on behalf of the 3rd Respondent.

3. **Rule.** The Rule is made returnable forthwith by consent of the parties and heard finally. Mr. Vaze, learned Additional Public Prosecutor, waives service on behalf of the 1st and 2nd Respondents. Mr. Kudalkar waives service on behalf of the 3rd Respondent.
4. The FIR was filed on 26.10.2025 on the basis of a complaint lodged by the 3rd Respondent on the same day. The FIR was filed for offences under Sections 281 and 125(a) of the Bharatiya Nyaya Sanhita (**BNS**), 2023. Subsequently, on 11.03.2026, the said Chargesheet was filed under Sections 281 and 125(a) of the BNS as well as Section 134(a)(b) of the Motor Vehicles Act, 1988 (**M.V. Act**) against the Petitioner as the sole accused.
5. The brief facts of the case as per the Prosecution are that on 26.10.2025, in front of the office of Dream Skyline Housing Society, Calvaddo, Navelim, Salcete – Goa, the Petitioner rode his scooter in a rash and negligent manner within the society premises and dashed against the 3rd Respondent's left elbow, causing injuries to him, following which the Petitioner fled from the spot without providing medical aid to the 3rd Respondent.
6. Mr. Costa Frias, learned Counsel on behalf of the Petitioner, submitted that the complaint and the evidence produced on record

by the prosecution do not make out any ingredient of the offences under Sections 281 and 125(a) of the BNS and Section 134 of the M.V. Act. He further submitted that the Prosecution's entire story is false and an abuse of the process of law. It is submitted that admittedly there are disputes between the Petitioner and the 3rd Respondent. The present complaint and the subsequent criminal case were filed only to harass the Petitioner. There is no injury caused to the 3rd Respondent. The hurt certificate makes it clear that no injury was caused. If that is so, then the invocation of Section 281 and 125(a) of the BNS and Section 134 of the M.V. Act against the Petitioner is unsustainable and the Petitioner ought not to suffer the entire trial. Mr. Costa Firas, further submitted that the CCTV footage of the incident clearly establishes that there was no intention on the part of the Petitioner to cause any injury to the 3rd Respondent and that all the allegations of the 3rd Respondent are false. The Petitioner's case is that the impugned criminal proceedings are a counterblast to the earlier complaints and disputes between the parties.

7. On the contrary, Mr. Kudalkar, learned counsel for the 3rd Respondent that Sections 281 and 125(a) of the BNS are rightly invoked against the Petitioner. No case is made out to quash the FIR and the chargesheet. The Petitioner has intentionally caused injury to

the 3rd Respondent. However, it is admitted in the submissions as well as in the pleadings that there is a dispute between the Petitioner and the 3rd Respondent in respect of the dumping of garbage in the society. It is denied that the FIR is a counterblast to the existing disputes between the Petitioner and the 3rd Respondent.

8. Mr. Vaze, the Addl. Public Prosecutor, submitted that there is a previous enmity between the Petitioner and the other society members on the issues related to the functioning of the society. It is submitted that, as per the complainant, after the incident, 108 and 112 were called, and the 108 ambulance shifted him to the hospital for treatment, where he collected the hurt certificate from the hospital, which certified, the injury as 'simple' in nature. Accordingly, Section 125(a) of the BNS is applied to the FIR. Further, during the course of investigation, the statements of the witnesses were recorded, who have stated that the Petitioner rode his scooter in a rash and negligent manner and thus Section 281 of the BNS was applied to the FIR. It is also submitted that the statements of the witnesses disclose a rash and negligent act and accordingly the Sections have been applied to the FIR. It is submitted that subsequently the chargesheet came to be filed as per the evidence

collected. In light of the same, it is prayed that this Petition be dismissed.

9. I have heard the rival submissions and also perused the chargesheet. I have also viewed the CCTV footage of the incident.
10. The CCTV footage clearly depicts the incident and shows how it occurred. The incident has occurred in the housing society premises. The left mirror of the Petitioner's scooter has merely touched the left elbow of the 3rd Respondent. The footage does not disclose any rash, reckless or negligent driving, any deliberate/intentional attempt to hit/injure the 3rd Respondent, or any act undertaken in a manner endangering human life or the personal safety of any person. The contact between the Petitioner's scooter and the 3rd Respondent was purely accidental and there was no intention whatsoever to cause any injury to the 3rd Respondent. The Petitioner stopped his vehicle immediately thereafter.
11. Even if the allegations in the FIR and the material collected during investigation are taken at their highest, the essential ingredients of Sections 281 and 125(a) of the BNS are not satisfied. More importantly, the CCTV footage demonstrates that the incident did not occur as alleged by the 3rd Respondent and does not disclose the commission of the alleged offences.

12. Section 281 of the BNS deals with rash driving or riding on a public way. The essential ingredients which are required to be established are:

- i. that the accused was driving a vehicle or riding on a public way;
- ii. that the vehicle was being driven/ridden in a manner which was rash or negligent;
- iii. that such rash or negligent manner was of such a nature as to endanger human life; or
- iv. that it was likely to cause hurt or injury to another person.

13. In the present case, the material on record does not disclose any such conduct on the part of the Petitioner. The Petitioner was admittedly manoeuvring his vehicle within the society premises and was proceeding at a very slow speed. The contact was only between the rear-view mirror and the elbow of the 3rd Respondent. There is no material demonstrating that the Petitioner drove the vehicle at an excessive speed, drove recklessly, endangered any person, or adopted any manner of driving which could reasonably be characterised as rash or negligent. Further, the CCTV footage objectively demonstrates the actual manner of occurrence. The footage does not show the Petitioner deliberately riding into the 3rd Respondent, accelerating towards him, or driving in a dangerous or

reckless manner. Therefore, the foundational requirement of rash or negligent driving in a manner endangering human life or likely to cause hurt or injury is conspicuously absent.

14. A mere accidental and incidental contact between a vehicle's rear-view mirror and a person's elbow, without the requisite rash or negligent manner of driving, cannot by itself constitute an offence under Section 281 BNS.

15. Section 125 of the BNS deals with an act done so rashly or negligently as to endanger human life or the personal safety of others. Clause (a) applies where hurt is caused. Thus, for Section 125(a) to be attracted, the prosecution must establish:

- i. an act committed by the accused;
- ii. that such act was done rashly or negligently;
- iii. that the act was such as to endanger human life or the personal safety of others; and
- iv. that hurt was caused as a consequence of such rash or negligent act.

16. In the present case, the essential element of a rash or negligent act endangering human life or personal safety is totally absent. The prosecution cannot merely rely upon the fact that there was physical contact and thereafter infer criminal negligence. The manner in which the act occurred is material. In the present case, the CCTV

footage provides the best contemporaneous objective depiction of the incident and clearly shows that the Petitioner committed no deliberate or dangerous act. The CCTV footage does not depict any act of the Petitioner which can be characterised as rash or negligent so as to endanger human life or personal safety.

17. Consequently, the mere allegation of hurt, without the foundational requirement of a rash or negligent act of the nature contemplated by Section 125, cannot sustain the prosecution under Section 125(a) of the BNS. Further, the hurt certificate annexed at page no. 79 of the petition does not indicate any injury caused to the 3rd Respondent. Therefore, the ingredients of the offence under Section 125(a) of the BNS are not satisfied.

18. Section 134 of the M.V. Act prescribes the duty of the driver in case of an accident and injury to a person. The provision requires the driver, where a person is injured or third-party property is damaged as a result of an accident involving a motor vehicle, to take the prescribed reasonable steps, including securing medical attention for the injured person and furnishing/reporting the relevant information to the police in accordance with law.

19. In the present case, apart from the fact that there was no injury caused to the 3rd Respondent, there is no material demonstrating

that the Petitioner deliberately failed to comply with any statutory duty contemplated under Section 134 of the M.V. Act. The CCTV footage also does not depict any conduct on the part of the Petitioner which would constitute a deliberate failure to comply with the statutory duties contemplated under Section 134. Consequently, invocation of Section 134 (a), (b) of the M.V. Act is also unsustainable on the facts and material placed on record.

20. Thus, the objective material relied upon by the Prosecution itself, *prima facie* does not support the essential allegations required to constitute the offences under Sections 281 and 125(a) of the BNS and 134 of the M.V. Act. Therefore, I agree with the submission of Mr. Costa Frias, that the Prosecution evidence is not sufficient for conviction and that the essential statutory ingredients necessary to constitute the offence are absent from the material itself. On the basis of the material on record, I am satisfied that continuing proceedings against the Petitioner would be an abuse of the process of law.

21. Further, it is clear from the record that the present FIR has been lodged in the backdrop of a long-standing dispute between the Petitioner and the 3rd Respondent relating to the affairs of the housing society and various complaints concerning garbage, nuisance

and other issues. Admittedly, the Petitioner had made several complaints before statutory authorities concerning the affairs of the society. Pursuant to which action was taken against the society, and thereafter the 3rd Respondent developed animosity towards the Petitioner. The present FIR must therefore be viewed in its proper factual context, not as an isolated occurrence.

22. Therefore, I agree with the submissions of Mr. Costa Frias, that the FIR and the chargesheet ought to be quashed by applying the law laid down by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***, [1992 Supp (1) SCC 355]; more particularly its paragraph 102.

23. The Hon'ble Supreme Court in paragraph 102 of the said judgment enunciated specific illustrative categories of cases wherein the Court can exercise its inherent powers to prevent the abuse of the process of any Court and to secure the ends of justice. The present case squarely falls within Categories (1), (3), (5) and (7) as formulated by the Hon'ble Supreme Court.

Categories 1, 3, 5 and 7 read as thus:

“(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.”

“(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.”

“(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.”

“(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.”

24. The reliance placed by Mr. Kudalkar on the judgement in the case of ***Roopchand v. State of Chhattisgarh***, 2001 (1) MPHT 22 (CG)

is totally out of place and not applicable to the facts and circumstances of the present case.

25. In view thereof, the Petition is allowed in terms of prayer clause (A), (C) and (F) quoted as below:

“A) Issue an appropriate writ, order or direction, calling for the records and proceedings pertaining to FIR No. 84/2025 dated 26/10/2025 registered with Margao Police Station under Sections 281 and 125(a) of Bharatiya Nyaya Sanhita, 2023 and after examining the legality and propriety thereof, be pleased to quash and set aside the said FIR;

C) Quash and set aside all consequential proceedings arising out of FIR No. 84/2025 including any summons, notices or further criminal action against the Petitioner;

F) Quash and set aside the charge-sheet No. 33/2026 dated 11/03/2026 filed pursuant to FIR No. 84/2025 and the criminal case arising therefrom pending before the learned Judicial Magistrate First Class Margao.”

26. This is a fit case in which costs should be imposed on the 3rd Respondent for abusing the process of law. However, due to the

persuasive skills of Mr. Kudalkar, I have refrained from doing so.

Accordingly, there shall be no order as to costs.

27. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]