



IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.220 OF 2025(F)

Mrs Rajashree Naik Gaonkar
Wife of Devu Gaonkar
42 years of age,
Indian National,
Residence of H.No.21,
Sateri wada, Camurlim,
Bardez-Goa.

...Petitioner

Versus

1. State of Goa,
Through Public Prosecutor,
High Court of Bombay,
At Porvorim, Goa.

2. The Attorney,
Comunidade of Camurlim,
Camurlim, Bardez-Goa.

... Respondents

Ms Prachi Sawant, Advocate for the Petitioner.

Mr Pravin Faldessai, Additional Public Prosecutor for Respondent
No.1.

Mr Kapil Kerkar, Advocate for Respondent No.2.

CORAM : ASHISH S. CHAVAN, J.

Reserved on : 25th MARCH 2026
Pronounced on : 2nd APRIL 2026

JUDGMENT :

1. By way of the present Petition, the Petitioner has invoked the inherent jurisdiction of this Court in quashing and setting aside FIR



No.79/2024 dated 12.10.2024, registered at the instance of Colvale Police Station against the Petitioner and one Jayesh Arondekar (co-accused), and subsequent chargesheet bearing No.3/2025 dated 27.01.2025 filed in the Court of JMFC, Mapusa, for offences punishable under Sections 329(3), 324(4) r/w 3(5) of BNS, 2023.

2. The Petitioner is arraigned as accused no.2 in the aforesaid chargesheet along with the co-accused, who is arraigned as accused no.1. The FIR is registered at the instance of Colvale Police Station. The Complainant, at whose instance the FIR is registered, is Respondent No.2.

3. The chronology of events necessary to determine the issue arising out of the present Petition is summarised as under:

(i) It is the case of the Petitioner that the Petitioner's grandfather-in-law was cultivating the property in the Survey No.104/0 situated at Camurlim Village, Bardez Taluka, as a tenant, prior to the liberation of Goa. After his death, the Petitioner's father-in-law and subsequently mother-in-law along with her sons and daughters-in-law, including the Petitioner, were cultivating the said property with the help of agricultural labours.

(ii) It is further the case of the Petitioner that since her father-in-law and grandfather-in-law were in peaceful and continuous possession of the said property, in respect of the area admeasuring 33000 sq. mtrs., the mother-in-law of the Petitioner filed application under the Goa, Daman and Diu Agricultural Tenancy Act, 1964, before the Court



of Mamlatdar at Mapusa, praying to be declared as tenant of the part of property admeasuring an area of 33000 sq. mtrs. The matter is pending for disposal.

- (iii) Despite being aware of the aforesaid facts, the Complainant H.B. Prabhu, Attorney of Comunidade of Camurlim, filed a written complaint stating that the Petitioner along with co-accused Jayesh Arondekar, with their common intention, engaged a tractor and dug the playground in the aforesaid property, part of which was allotted by the Comunidade of Camurlim to the Camurlim United Sports Club.
- (iv) Acting on the aforesaid written complaint, the Colvale Police Station registered the aforesaid FIR against the Petitioner and the co-accused for offences punishable under Sections 329(3), 324(4) r/w 3(5) of BNS 2023.
- (v) After completion of investigation, the chargesheet was filed and the proceedings are now pending before the Court of JMFC, Mapusa.

4. Heard Ms Prachi Sawant, learned Counsel for the Petitioner, Mr Pravin Faldessai, learned Additional Public Prosecutor for Respondent No.1/State and Mr Kapil Kerkar, learned Counsel for Respondent No.2.

5. Rule. The rule is made returnable forthwith at the request of and with the consent of the learned Counsel for the parties.

6. With the assistance of the learned Counsel for the parties, I have perused the record.



7. On behalf of the Petitioner, it was submitted that the registration of the FIR and the subsequent chargesheet is an abuse of the process of law. Taking the contents of the FIR and the chargesheet as the gospel truth offences punishable under Sections 329(3), 324(4) r/w 3(5) of BNS 2023 are not made out. It was also contended that the Petitioner is an agricultural tenant/Gaonkar of the said property and tenancy case for declaration of her tenancy is pending before the Court of Mamlatdar at Mapusa. In fact, the Complainant (Respondent No.2) at whose instance the FIR was registered and who happens to be the Attorney of the Comunidade of Camurlim himself represents the said Comunidade in the tenancy case. Knowing fully well the legal status of the Petitioner, the Respondent No.2 has deliberately filed the complaint which was taken cognizance of and the FIR was registered. Thus, a criminal colour is being given to a tenancy dispute by the Complainant, i.e. Comunidade of Camurlim. Further, it was argued that the ingredients of the offences alleged are not made out in the entire chargesheet or the FIR.

8. The Comunidade of Camurlim, Respondent No.2, filed a reply opposing the grant of any relief to the Petitioner. It is the contention of Respondent No.2 that the FIR and the chargesheet, taken at their face value, disclose a clear case of trespass and mischief, and hence the FIR and chargesheet ought not to be interfered with by this Court.

9. The arguments of the learned Additional Public Prosecutor echo the same submissions as that of Respondent No.2.



10. A perusal of the chargesheet indicates that the entire basis of the chargesheet is the complaint dated 21.09.2024 by the Comunidade of Camurlim through their Attorney Mr H.B. Prabhu. In the complaint, he states that the name of the Comunidade figures in Form No.I and XIV of the property bearing Survey No.104/0 of village Camurlim. It is further mentioned that vide NOC dated 20.12.2021, a part of the aforesaid property has been allotted to the Camurlim United Sports Club and that the Club has taken possession of the part of the property. It is alleged that on 21.09.2024, the Comunidade received a letter from Mr Deepak Govind Naik, stating that Jayesh Arondekar (co-accused) and the Petitioner were digging playground with the help of a tractor. It is further alleged that the aforesaid letter mentions that when Mr Deepak Naik visited the site and asked the tractor driver to stop digging, the tractor was stopped and the tractor driver called up the Petitioner and the co-accused. The complaint further alleges that the letter mentions that the Petitioner informed Deepak Naik that she was in possession of the property. It is thus evident that the complaint, even taken at face value, does not make out any ingredients of the offences punishable under Sections 329(3), 324(4) r/w 3(5) of BNS 2023. The chargesheet also reflects the aforesaid complaint of Mr Deepak Naik dated 21.09.2024 addressed to the Colvale Police Station. It is a verbatim reproduction of the complaint made by the Comunidade of Camurlim.

11. The statements recorded by the Police, forming part of the chargesheet, also do not make out any ingredients of the offences for which the Petitioner herein is being prosecuted for. It is pertinent to note that the



chargesheet reflects the copies of the tenancy application filed by the mother-in-law of the Petitioner and pending before the Court of Mamlatdar at Mapusa. Even the reply on behalf of the Respondent No.2 at para 12 clearly states that Comunidade records reveal that late Shankar Gaonkar, the Petitioner's grandfather-in-law was the Gaonkar of the aforesaid property and Gaonkars are the indirect owners of the Comunidade land.

12. Thus, it is seen that taking the allegations in the FIR, the chargesheet and the statements recorded by Police, the ingredients of the offences for which the Petitioner is sought to be prosecuted is not made out. I find force in the submission of the Petitioner that the Comunidade, despite being a party to the tenancy application and knowing fully well that the grandfather-in-law of the Petitioner was a Gaonkar of the said property, has filed a complaint on the basis of which the edifice of the criminal proceedings against the Petitioner stands. In other words, the prosecution has given a criminal colour to a dispute which is civil in nature.

13. The continuation of the proceedings against the Petitioner would amount to an abuse of law and the complaint, the allegations in the FIR taken at face value and the material collected during investigation, forming part of the chargesheet, not advertent to the defence, if any, of the Petitioner would fall squarely within the parameters set out in the judgments of the Hon'ble Supreme Court in *Anand Kumar Mohatta V/s. State (NCT of*



*Delhi*¹, *Joseph Salvaraj A. V/s. State of Gujarat*², *A.M. Mohan V/s. State*³, *Mamta Shailesh Chandra V/s. State of Uttarakhand*⁴.

14. Consequently, the FIR No. 79/2024 dated 12.10.2024 registered at the Colvale Police Station for offences punishable under Sections 329(3), 324(4) r/w 3(5) of BNS, 2023 and the subsequent Chargesheet No.3/2025 dated 27.01.2025 pending before the learned JMFC, Mapusa, is quashed and set aside.

15. Rule is made absolute in the above terms.

16. Office objections, if any, to be waived.

ASHISH S. CHAVAN, J.

¹ (2019) 11 SCC 706

² (2011) 7 SCC 59

³ 2024 SCC OnLine SC 339

⁴ 2024 SCC OnLine SC 136