

MHAU030309462025



Order Below Exh-01
Cri.M.A./4236/2025
Shaikh Javed Shaikh Abdullah
Vs.
The State of Maharashtra

Present application is filed under section 175 (3) of Bharatiya Nagarik Suraksha Sanhita (BNSS in short) seeking this court to direct Jinsi Police Station to register crime against proposed accused Nos.1 to 4.

2. Briefly it is contention of applicant that, he has transport business, he does it in Maharashtra, Gujrat, Haryana and other states, proposed accused No.2 is driver, he knows him, proposed accused No.2 is brother of accused No.4 who is habitual offender, proposed accused No.2 has taken his Creta car bearing registration No.HR-52-F-5334 (in short said car) from the house of applicant on the say that he will return it within 3 to 4 hrs, but he did not return it even after 2 to 3 days, he inquired about said car and filed compliant against accused in Jinsi Police Station on 30.09.2025, police have not taken any action against them, proposed accused came to his house and have abused his wife by removing her cloths and abusing her by threatening that if said car is claimed to be returned they will kill her, for that separate crime is registered with Jinsi Police Station. Their car is not returned by accused, police have not taken action against proposed accused even after repeatedly filing compliant before them. Proposed accused No.4 is habitual offender and police are not taking any action against them. Complaint is filed before Commissioner of Police Chhatrapati Sambhajinagar, on 17.11.2025, but no action is taken against the proposed accused. Therefore, complainant prayed to pass necessary order under section 175(3) of BNSS. This application is supported by affidavit.

3. After hearing Ld. Advocate for applicant necessary direction under section 175(3) of BNSS was issued to Jinsi Police Station to submit their report as to what action they have taken on the said complaint filed by applicant before them. Jinsi Police Station carried necessary inquiry and filed their say before the court and it is uploaded on e-filing.

4. Ld. Advocate for applicant argued that, applicant is in need of possession of said Creta car and the proposed accused be directed to handover the custody of said car in his possession. The applicant was present he also submitted in person that his car be directed to be given to him from the proposed accused. Ld. Advocate further submitted that, applicant is owner of said vehicle, he is in need of said vehicle otherwise the proposed accused are planning to sale its parts.

5. I have gone through the contentions mentioned by applicant, arguments advanced and documents e-filed. Applicant has filed RC book of said car. It shows that said car is in the name of applicant. It is contention of applicant that proposed accused No.2 has taken possession of said vehicle by requesting them to return within hours to use it for some urgent work. But he has not returned the same and now not ready to return the same to them. They have filed complaint before police but no action is taken against them.

6. I have gone through the inquiry report filed by Jinsi Police Station on the direction of this court. It shows that police have narrated the story mentioned by the applicant, they have taken statement of proposed accused No.2 in which he has mentioned another transaction with this applicant about 12 tyre vehicle bearing registration No. MH-20-DE-1616, against which this applicant has given said car to him and he has also mentioned that in another crime this applicant was arrested for using duplicate registration number to the 12 tyre vehicle bearing No. MH-20-DE-1616 in Haryana State. Further, police have also concluded that there are disputes between applicant and proposed accused for monetary transaction and applicant has given said car in possession of proposed accused No.2 by mentioning that he will give stamp paper for the same.

7. Needless to mention that, said report filed by Jinsi police is not binding on this court. Now, the case of applicant as narrated and supporting documents e-filed on record shows that applicant admits that there were transactions with proposed accused No.2 before said alleged incidence. There appears previous transactions of this applicant with proposed accused No.2

with another vehicle. There appears transactions of civil nature took place between these parties and merely said car is not returned does not prima-facie attract offence of cheating. It further appears that both parties know each other and the alleged transaction between them is also part of their previous transactions. It is admitted by applicant in his application that he has previous transaction with proposed accused No.2 on the basis of it 12 tyre vehicle was given on rent by him in Haryana State. Therefore, prima-facie it appears that there are civil transactions between the parties and the same cannot be colored to be criminal act of offence, for the same criminal law cannot be set in motion. Therefore, no grounds are made out to pass any order under section 175(3) directing Jinsi Police Station to register a crime. Thus, following order:

ORDER

Application is rejected and disposed off accordingly.

Date :09/07/2026
Aurangabad

(Dr. D. G. Patwe)
Judicial Magistrate First Class
(Court No.3), Aurangabad.

<u>CERTIFICATE</u>	
I affirm that the contents of this P.D.F. file Judgment are same, word to word, as per the original Judgment.	
Name of the Stenographer	N. R. Pawar
Court	3 rd Jt. Civil Judge Junior Division & Judicial Magistrate First Class, Aurangabad
Date	09/07/2026
Order signed by the presiding officer on	09/07/2026
Order uploaded on	09/07/2026