

MHPU01-011201-2024



Presented on :- 12/07/2024
Registered on :- 12/07/2024
Decided on :- 28/05/2026
Duration :- Y. M. D.
01 10 16

IN THE COURT OF DISTRICT JUDGE -20 ADDL. SESSIONS
JUDGE PUNE AT PUNE

Presided Over by P. R. CHOUDHARY

Cri. Revision No. 240/2024

Exh.

Kishor Vasant Kunjeer
(Original complainant)
Age: 54 yrs., Occu: Business
R/at: A-1121 Clover Palisades,
27 NIBM Road, Pune

...Applicant.

VERSUS

- 1] State of Maharashtra**
(Market Yard Police station, Pune)
Address: Market Yard, Residency Building
Near flower Market, Market Yard
Pune
- 2] Ms. Anagha Deshpande**
Sr. Police Inspector
(Market Yard police station, Pune)
Address: Market Yard,
Gultekdi, Pune
- 3] Mr. Rajendra Galande**
Asstt. Commissioner of Police
Address: Sinhagad police station,
Sunder Sahawas, Suncity Rd.
Sun city, Daulat Nagar, Pune

4] **Ms. Namrata Patil**
Dy.Commissioner of Police
Zone-5,Pune
Address- First Floor, Mahatma Phule
Sanskrutik Bhavan, Wanowarie
Pune

...Respondents.

CRIMINAL REVISION UNDER SECTION 438 OF THE BNSS.

Appearance :

Advocate for the Applicant : Smt.S.S.Katekar
Advocate for Respondent no.1 : Shri. Sapre

J U D G M E N T

(Delivered on this 28th day of May, 2026)

This is revision preferred by the informant of FIR no.31 of 2019 registered under section 419 and 420 of IPC, Sec. 43, 65, 66, 66C and 66D of Information Technology Act of by police station Market yard, Pune. Against the act of I.O. for filing summary report under section 169 B of CR.PC.

2] In brief, it is case of the original informant/the revisional applicant that the original informant Kishor Vasant Kunjeer is a commission agent of vegetable market working at Shivaji Market Yard, Gultekdi, Pune. He is doing the said business from his forefathers from 1984 and he is having license of Krishi Utpanna Bazar Samiti, Pune. To maintain the records of the business, he decided to have a software solution and was in search of it where he was in contact with Virendra Jamdade. Virendra

Jamdade was preparing software for the same businesses in the marketyard. On his request Virendra Jamdade prepared a software for him. The said software was FoxPro 2.6 in programming language. The said software was useful for the trade of transporters, memo entry to finalization of the books. The said software was handed over to him in 1995-96. Jamdade helped him to make necessary changes to do the business by using the said software till 2006. The accused Yogesh Jeware was helping Virendra Jamdade for preparation of softwares. In 2006-2007 Virendra Jamdade stopped to work for informant. Thereafter the accused Yogesh Jeware was having knowledge of that software agreed to work for him for yearly charges of Rs. 10000/-.

3] Thereafter, accused Yogesh Jeware have prepared the deceptively similar software by name Visual foxpro and was using it and selling it to other traders. Thus, the accused have cheated the informant. So he lodged report against accused at Marketyard police station.

4] Yogesh Jeware have filed anticipatory bail in the said CR before this Court. It was rejected. Thereafter Yogesh Jeware have filed anticipatory bail before Hon'ble High Court bearing case no. 4526/2019. In the said petition Yogesh Jeware have submitted an application to send two softwares i.e. software of informant and software prepared by Yogesh Jeware to FSLA. The Hon'ble High Court granted anticipatory bail directing the IO to send the two softwares for FSLA for obtaining opinion. The Hon'ble High Court have directed the investigation officer not to file chargesheet till

receiving of FSLA report.

5] The FSLA report is not received till today. The IO have filed 169-B summary after getting opinion from Cyber Expert Aniruddha Kulkarni and recording statement of Virendra Jamdade and his wife Mrs. Jamdade in whose name the business was carried out of preparation of softwares by Virendra Jamdade. The IO came to conclusion that Yogesh Jeware is having independent softwares and is registered in 1999 and the language of the said software is different and is prepared by My software company which is in the name of Yogesh Jeware which is registered on 11/12/2006 and agreement executed with the informant is of November 2007. The programme and language of both softwares is different. Hence submitted B summary before the Ld. JMFC.

6] The accused Yogesh Jeware appeared before Hon'ble High Court in case no. 4526/2019 and withdraw the anticipatory bail application contending that the IO have already submitted B summary under section 169 B of CRPC so he want to withdraw the bail application. The Hon'ble High Court allowed the said application and disposed of the anticipatory bail application. Yogesh Jeware had informed the Hon'ble High Court that Yogesh Jeware will have liberty to file proceeding of defamation against the original informant.

7] Against the said final report under section 169B of CRPC, the present revision has been preferred by the revisional applicant/informant that the IO did not perform the mandatory duties, did not collect the FSLA report. Without that FSLA report

no summary can be sent. Hence requested to set aside the summary report and direct the investigation officer to reinvestigate the matter.

8] After receiving the revision, I have issued notice to Yogesh Jeware and other respondent. APP for State appeared for the police officer and submitted that the IO have done the mandatory duties and after making due inquiry and came to conclusion that the informant have not prepared software. He did not purchase the software from Virendra Jamdade. The software is purchased by the informant from the wife of Virendra Jamdade i.e. Jayashree Jamdade. Jayashree Jamdade is housewife. She has no knowledge about preparation of software. Virendra Jamdade told that he did not sell the software or prepare the software for the informant. The accused Yogesh Jeware have prepared the software. Language of his software is differ from the software used by the informant. Yogesh Jeware have already prepared software in 1999. The language of that software is different. Hence, the final report submitted by the IO is proper and was rightly accepted by Ld. JMFC. Advocate Shri. Thombare for accused Yogesh Jeware have made same submission which already made by APP Shri. Sapre and brought on record above. In addition to it he submitted that the informant was not having special skill to prepare software. There is no document to show that he has purchased the software. There is no document on record to show that in what way the software was misused by the accused. Yogesh Jeware was using the said software from 1999 after preparing it. Only he has refused

to do the work of informant and was also doing the work of other traders, he has been involved in false case.

9] Advocate Smt. Pawar submitted that the investigation officer did not make the proper inquiry. The accused have no locus-standi to make any submission. The present petition is restricted with informant and investigation officer. So objection raised by the accused cannot be considered. She submitted that when Hon'ble High Court have directed to call the FSLA report. That FSLA report is not received. The genuineness of that software used by Yogesh Jeware and the question of tampering of the software of the informant can be opined by the forensic expert only. Hence, the summary report may be rejected and investigation officer may be directed to re-investigate the matter.

10] Here I want to brought on record that the summary report under section 169 B of CRPC is submitted by IO is accepted by Ld. JMFC by giving opportunity to the informant to file protest petition. The protest petition was considered and was rejected and B summary was granted. In such situation, now at this stage, this Court cannot go back and see whether the Summary report submitted under section 169 B is incorrect.

11] The case of informant starts from the preparation of software from him. Undoubtedly he is not having knowledge of preparation of software. He has purchased the software from Virendra Jamdade. The statement of Virendra Jamdade was recorded. It indicates that he did not send the so called software to the informant. The documents submitted by informant indicates

that he has purchased the software from the wife of Virendra Jamdade Mrs. Jayashree Jamdade. Statement of Jayashree Jamdade was recorded which indicates that she is housewife and she is not having special knowledge of preparation of software. She stated to police that she did not prepare and sell the software to the informant. Her husband used to develop software. The agreement executed between informant and Jayashree Jamdade does not reflects it.

12] There is material on record to show that Yogesh Jeware have developed the software in 1999 and was registered and he was using it for doing the business and maintaining the business of other traders of Market yard. The language of the software prepared by Yogesh Jeware and the so called software used by the informant is different as per the opinion of the expert Shri. Kulkarni. The informant was asked to submit the document about the source code of the software and notices were issued to him for three times. But he did not able to submit the said source code to investigation officer. When informant is alleging that the source code of his software was changed by Yogesh Jeware and was used to do the business by modifying the said source code, then he ought to have submit the said source code to investigation officer. The informant failed to submit the said source code. So his allegation that accused have misused his source code and made modification and changes in his source code for doing the business of other traders does not hold water. So the report of FSLA is not even necessary. The Hon'ble High Court directed to call FSLA

report in proceeding no. 4526/2019 and that proceeding was withdrawn. So the direction given by Hon'ble High Court to call the FSLA report comes to an end. So I think, it is not case in which intervention of this court is required. Hence, I proceed to pass following order.

ORDER

Revision Petition stands dismissed.

Date:-28/05/2026.

(P. R. Choudhary)
Additional Session Judge, Pune.

CERTIFICATE

I affirm that the contents of this PDF file order are same word to word as per original order.

Name of Steno	:	V.A.Nagarkar, Stenographer, Grade-I
Court Name	:	PR.Choudhary, Additional Sessions Judge, Pune.
Date on which the P.O.		28/05/2026
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