



Order below Exh.01 In Cri.M.A.No.164 of 2025

(Passed on this 13th day of August, 2026)

Habib Ajhar Vs. Sallauddin & Ors.

CNR NO.MHLA060033592025

This is an application filed under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita (B.N.S.S.).

02. Perused the application, say of respondents No.1 to 5 at Exh.13. Submission of concerned police station was also called. However, in spite of sufficient opportunities the police failed to file the submission. Hence, proceeded to pass the order without the submission from the police station vide order below Exh.1 dated 09.06.2026.

03. Heard ld. Advocate for the applicant and ld. Advocate for the respondents.

04. The applicant averred in the application that on 18.04.2025 at 5.30 p.m. he was at his home. His younger brother viz Habib Khijar Habib Isa told him that when their driver viz Ajmat Kadri was returning to their house from their farm, near mosque of Bagwan Galli one girl child came running from her house and collided with the rear door of the car and fell down which caused injury to the head of that girl child. The girl child already had disability to the sight. After the incident the driver took the child to the hospital. Thereafter the applicant and his brother also rushed to the hospital. The relatives of that child demanded Rs.1,00,000/- to the applicant for the reason that they wanted to consult to a more qualified doctor. The applicant arranged two rented vehicles for them and paid Rs.50,000/- in front of his brother. The child was

taken to Sahyadri Hospital, Latur where she was treated. The applicant sent his brother to visit the injured child. At that time the relatives of the child took Rs.24,000/- in cash from the brother of the applicant. On next day i.e. 19.04.2025 the respondents gave phone call to the applicant and demanded money. The respondents gave threats to the applicant of lodging case against him and to defame him. So also, they threatened to set fire to the applicant and his car. The applicant got frightened. So, on 19.04.2025 he sent Rs.20,000/-, on 21.04.2025 he paid Rs.20,000/-, on 22.04.2025 he paid Rs.5,000/- and on 23.04.2025 he again paid Rs.17,000/- through phone pay on mobile No.8530617103. The said mobile number belongs to respondent No.1. On 28.04.2025 in the afternoon respondents No.1 to 5 gave phone call to the applicant and made demand of Rs.5,00,000/- and gave threat that if the applicant failed to make payment they would lodge complaint against the applicant and his brother and they would set fire to them and their car. They would hurl stones towards the vehicle of the applicant. Therefore, the applicant lodged report before police station, Ahmedpur and Sub Divisional police officer, Ahmedpur but they failed to initiate any action against the accused. On 23.05.2025 when the applicant and his brother were traveling from Talegaon road towards Latur-Nanded Highway at about 2 p.m all five respondents came on two motorcycles. They confined the applicant and his brother and started asking why they approached the police. They caught hold shirt collar of the applicant and threatened him of dire consequences. Accused No.2 was carrying a knife, he made demand of Rs.5,00,000/- to be paid within 8 days and to withdraw the complaint against them, else they would kill him. At that time two witnesses came on other motorcycle and they rescued the applicant

and his brother from the accused. When the applicant inquired with his driver about the incident then the driver revealed that the girl child fell down on the back side of the vehicle from tarace, the vehicle was not hit to her, he had taken the child to the hospital out of the sympathy. On 03.05.2025 the accused lodged false complaint against the applicant. Thus, the applicant prayed for investigation of the incident happened with him through police as per Section 175(3) of the B.N.S.S.

04. The respondents contended that respondent No.5 has lodged report with Ahmedpur police station. On 18.04.2025 at 5.30 p.m. younger daughter of respondent No.5 viz Safiya Sajid Bagwan was playing in front of their house. At that time one vehicle came from Talegaon road and was moving towards Kranti Chauk, it was in high speed, it gave dash to the child which caused injury to the child, a rear tire of the vehicle went over the head of the child. At that time, he and his brother came out of the house and caught the driver of the vehicle. The number of the vehicle was MH 24 BC 7200. When they asked name to the driver, the driver revealed his name as Anas Shaikh and stated that he is a nephew of Advocate Isa Chaus R/o Gadi Galli, Ahmedpur. Since, the child was grievously injured, the people who were gathered started abusing the driver so he ran away. Respondent No.3 and other relatives of the child took the child to Patil Hospital, Ahmedpur wherefrom she was referred to Latur. The child was admitted at Sahyadri Hospital, Latur in ICU. She was unconscious when admitted. At that time the applicant came and assured to bear the expenses of treatment. On 19.04.2025 the applicant paid Rs.20,000/-, on 21.04.2025 he paid Rs.30,000/-, on 22.04.2025 he paid Rs.5,000/- and on 23.04.2025 he again paid Rs.17,000/- on mobile number of the

relative of respondent No.5 viz Rubina Sallauddin Bagwan. The child was admitted at Sahyadri Hospital, Latur for 10 days. She was referred to L. V. Prasad Eye Institute, Hyderabad for further treatment. Since, her eye was damaged in the incident, respondent No.1 gave phone call to the applicant and gave information about expenses for further treatment then the applicant denied to pay the expenses. The child has lost her complete sight due to the incident. So, she was sent back from Hyderabad. So, thereafter respondent No.5 lodged report with the police station against the driver Anas Shaikh. After lodging the report against the driver, the applicant threatened respondents and their advocate. Hence, the respondents requested to reject the application.

05. Ld. Advocate for the applicant argued the same as that of the application.

06. Ld. Advocate for the respondents argued that this application is not maintainable being the second application on the same facts. The applicant has withdrawn the first application which was filed in this Court itself . He relied on the ratio laid down in **Shyam Sachdev Vs. Vijay Paruthi** decided on 07.12.2022 by Hon'ble Madras High Court in that case, the complaint was lodged under Section 138 of the Negotiable Instrument Act and it was withdrawn. The complainant had moved application seeking permission to withdraw the complaint and file a fresh complaint. He was granted a permission to withdraw the complaint only, in spite of that the complainant lodged fresh complaint which came to be challenged. In the circumstances, Hon'ble Madras High Court held that unlike civil suits, in Code of Criminal Procedure there is no provision to give liberty to the complainant to withdraw the complaint and file a fresh complaint

on the same cause of action and further held that the complaint being the second for the same cause of action, is not maintainable. He further relied on the ratio laid down in **Bhawna Jain Vs. State of Uttar Pradesh** SLP (Cri.) No.2241/2023 in Cri Appeal No.2415/2023 in which Hon'ble Supreme Court held that a second complaint without disclosing the fact of earlier complaint is abuse of process of law.

07. Ld. Advocate for the applicant relied on the ratio laid down in **Jatinder Singh Vs. Ranjit Kaur** AIR 2001 SC 784 the facts in the cited case are as under; the complaint was dismissed due to the absence of the complainant. The complainant, instead of taking up the matter to higher Court chose to file another complaint before the same Court containing the same allegations. The cognizance of second complaint was taken by the Court and process was issued against the accused. In the facts Hon'ble Supreme Court held that there is no provision in the Code of Criminal Procedure or any other statute which debars a complaint from preferring a second complaint on the same allegations. If the first complaint did not result in a conviction or acquittal or discharge, section 300 of the Code of Criminal Procedure does not debar a second trial, the provision has taken care to explain that the dismissal of a complaint or discharge of an accused is not an acquittal for the purpose of that section. However, when a Magistrate conducts an inquiry under Section 202 of the Cr.P.C. and dismisses the complaint on merits, a second complaint on the same facts cannot be made unless there are very exceptional circumstances. The exceptional circumstances are enumerated by the Hon'ble Supreme Court.

08. Ld. Advocate for the applicant also referred the ratio laid down in **Mahesh Chand Vs. B. Janardhan Reddy** AIR 2003 SC 702 in which the same ratio as that of Jatindar's case is laid down.

09. On hearing both the sides it seems essential, at the first instance to decide whether the application being the second is maintainable or not. Admittedly, this is a second application before the same Court based on the same facts. The first application is not resulted in conviction or acquittal or discharge of the accused. It was an application for setting a law in motion without specific prayer. It was disposed of as withdrawn, in that application process was not issued against the respondents. Therefore, it was disposed of without touching to the merits of the case. Thus, it was not an adjudication on merits. Hence, in view the ratio laid down in Jatindar Singh's case, the bar of second trial laid down under Section 300 of the Cr.P.C. does not operate to the facts in hand.

10. In the authorities which are relied upon by the respondents, it is nowhere stated that the second application is not maintainable on account of double jeopardy. It is clarified by the applicant that since the previous application was moved without mentioning specific prayer instead of amending, it is withdrawn and the fresh application is filed. On perusal of the first application, it is seen that it was without specific prayer. Therefore, the second application on that ground seems justifiable. It is true that the applicant ought to have made mention of first application and orders passed thereon in the present application but it alone cannot be ground to discard the present application. Therefore, in view of the ratios laid down in the cited authorities especially in case of Jatinder Singh, the present application is maintainable.

11. The facts in respect of the happening of the incident on the given date and time and the payment averred in the application are admitted by the respondents in their say and in first information report in Cr. No.302/2025 lodged before Ahmedpur police station. The allegations made by the applicant are serious in nature. The allegations fulfill the essential ingredients to constitute the offence of extortion punishable under Section 308 of the Bharatiya Nyay Sanhita. The offence under Section 308 of the Bhartiya Nyay Sanhita is a cognizable. The applicant has complied the mandatory compliance of Section 173(4) of the B.N.S.S. Hence, it is a fit case to direct investigation through police. In result, I pass the following order;

ORDER

1. The application is allowed.
2. The police station, Ahmedpur is directed to investigate into the matter vide Section 175(3) of the B.N.S.S. and file report within two months from today.

Place: Ahmedpur.

(Swanandi D. Wadgaonkar)

Date:- 13.08.2026.

J.M.F.C. (Court No.01), Ahmedpur.