

MHNS070025412025



Received on 26.11.2025

Registered on 01.12.2025

Decided on 18.03.2026

Duration **Y M D**  
**00 03 17**

**IN THE COURT OF THE SESSIONS JUDGE MALEGAON**  
**AT : MALEGAON, DIST. NASHIK.**

**(Presided over by Y. H. Ameta )**

**Criminal Revision Appln. No. 79 of 2025**

**Exh. 8.**

**Suhas Dwarkanath Kande,**  
Age - 45 years, Occu.-Business,  
R/at: Hanuman Nagar, Nandgaon,  
Tal. Nandgaon, Dist. Nashik.

.... Applicant.

**Vs.**

**The State of Maharashtra**  
Through :-The Police Inspector,  
Malegaon Taluka Police Station.  
Malegaon, Dist. Nashik

.... Respondent.

**And**

**Vinod Maruti Shelar.**

..... Intervenor.  
(Original Complainant)

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Adv. Shri. A. I. Wasif, Shri. R. J. Kasaliwal for the Applicant.  
Adv. Shri. Sonawane, Ld. A.P.P. for the State.  
Adv. Shri. M. D. Hiray, Ld. Advocate for the Intervenor (Original Complainant)

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**J U D G M E N T**

(Delivered on 18<sup>th</sup> March, 2026)

1. Vide present Revision application the applicant Suhas Dwarkanath Kande, being one of the accused in Sum. Criminal. Case no. 188/2025, seeks to assail the order dated 29.05.25, passed on Exh.

1, by the Ld. Magistrate, thereby issuing summons / process against the accused under sections 351(2), 351(3), 352, 179(c) of the Bhartiya Nyaya Sanhita, 2023 alongwith section 123(2) of the Representation of Peoples Act.

2. Shorn of unnecessary details, facts leading to present Revision are that a complaint lodged at Nandgaon Police station on 29.10.24, by Vinod Maruti Shelar, has been registered as a Non-Cognizable complaint no. 966/2024. It is the contention of the complainant that he is party worker of independent candidate Samir Bhujbal. It is alleged in the complaint that he had been to the Tehsil Office on 28.10.24, for filling the nomination form of his party candidate Samir Bhujbal, but Samir Kande had abused the complainant and even threatened him with dire consequences to his life. Also alleged in the complaint that Suhas Kande even reiterated that his terror is yet having force in Nandgaon. Accordingly, the complaint.

3. Upon Charge-sheet been filed, Ld. Magistrate proceeded to issue summons against this accused, vide its order dated 29.05.25, as stated aforesaid. Being aggrieved by the said order issuing process, hence, present revision application by accused Suhas Kande.

4. Ld. Advocate for the revision applicant-accused, vehemently contended that the Ld. Magistrate has mechanically and in casual manner passed the order issuing summons, and has not applied his judicious mind while passing the said order. Submitted that the recitals in the complaint alongwith the Charge-sheet ought to have been considered and then only if sufficient material would be found therein, then only could summons be issued against any accused; else the

matter ought to be dismissed.

5. Further submitted that complainant had also made a written complaint on 29.10.24 to the police alleging therein against this applicant-accused and also mentioning therein that if at all anything happens or any injury is caused to this complainant, his family member or any of his party workers, then this accused would be responsible. It is vehemently argued that even if that complaint is to be accepted as it is then also, it would reveal that nobody has been assaulted, nobody has suffered any injury; therefore, the complaint has lost its steam and there was no case for filing the Charge-sheet against this accused.

6. Further submitted that the Non-cognizable Complaint no 924/2024, against this accused is also false without any incriminating material against this accused, so as to issue process against him. Also submitted that any specific threatening and abusive words are not mentioned in the complaint, therefore allegations of that extent are vague, ambiguous and cannot be considered. Submitted that alleged threatening and or abusive words ought to have been specifically mentioned in the complaint. Vehemently submitted that the complaint does not disclose any 'Mens-Rea' of the accused, therefore also complaint cannot be acceptable.

7. Vehemently submitted that when any investigation is to be carried out in respect of any Non-Cognizable complaint, permission of the Court is required under section 178 Bhartiya Nagrik Suraksha Sanhita, 2023, but there is no permission sought in this matter. Further submitted that the threat ought to be with intention, mere utterance of

words not sufficient to attract any complaint. Submitted that the complaint ought to be read and basic ingredients of offence whether made out are required to be found out. Further submitted that the complaint merely consists of apprehensions in the nature of 'if and buts', but no specific whisper of any threat to cause death is stated in complaint.

8. Further submitted that order issuing process to be cryptic in nature, no reason recorded, thus illegal. Reliance is placed on **Manik Taneja & Anr. Vs. State of Karnataka & Anr. 2015 CJ(SC) 51** and also on **Judgment and Order dated 10.02.2015** passed by the **Hon'ble Supreme Court of India**, in **Criminal Appeal no. 1584/2007**, in the matter between **Sharad Kumar Sanghi Vs. Sangita Rane**. Accordingly, submitted the order to be erroneously passed without considering entire material before it. Thus, prayed for allowing this revision application and the order issuing summons against this accused requires to be quashed and set-aside.

9. Per contra, Ld. APP submits that at the time of issuance of process, the Charge-sheet is not required to be gone into minutely; albeit mere prima-facie case if made out or not is to be seen. Further submitted that mere process is issued, accused as yet is not put up to face trial. Also submitted that thus present revision application is premature and not tenable. Further submitted that offence under section 351(3) of the Bhartiya Nyaya Sanhita, 2023, is cognizable. Also submitted that the exacts words in the FIR whether making out the intention of the accused, or not, shall be a matter for consideration at trial. Also submitted that all minute aspects of offence would be required to be considered at the time of recording plea of the accused

or framing charge against him and or at trial. Accordingly, submitted that thus the order issuing process against this accused is proper, legal not requiring any interreference, in this Revision. Accordingly, submitted to reject the present revision application.

10. Ld. Advocate for the intervenor, has adopted the arguments advanced by the Ld. APP and contended the present revision application to be rejected.

11. Upon perusing the application, the impugned order and hearing both the Ld. Advocates, following points arise for consideration, and the same are answered as mentioned against each of them, for the reasons following, thereafter.

<b><u>Sr. No.</u></b>	<b><u>Points.</u></b>	<b><u>Findings.</u></b>
1	Whether the impugned dated 29.05.2025, passed by the Ld. Magistrate below application Exh. 01 in Sum. Criminal Case no. 188/2025 is legal, just and proper ?	Yes.
2	Whether the impugned dated 29.05.2025, passed by the Ld. Magistrate below application Exh. 01 in Sum. Criminal Case no. 188/2025 requires any interference in the instant Revision?	No.
3	What Order?	As per final Order.

### **REASONS.**

#### **As to all the Points :-**

12. Instant revision assails the impugned order issuing summons / process against the revision applicant. Specific objection raised is that

both the Non-cognizable Complaints being NC nos. 924/24 and 966/24 lodged by the complainant, even if accepted as it, do not make out any case for issuance of summons against the accused. Also submitted that the complaints do not reveal of there being any Mens-Rea, no sufficient material for issuing summons, neither the complainant nor any of his family member assaulted or injured; order issuing summons being cryptic; just vague allegations of abusing and threatening without specific words in the complaint would not be sufficient to consider peace been breached or anybody been threatened.

13. It would be pertinent that while issuing process /summons the Ld. Court has to form an opinion as to whether there is sufficient material against the accused to proceed for; rather not expected at anticipate the probable outcome of the trial. Resort can here be held to a **Judgment and Order dated 26.04.2024**, passed by the **Hon'ble Supreme Court of India**, in **Criminal Appeal no. ---- of 2024 (Arising out of S.L.P. (CRL.) No. 10746 of 2023)**, in the matter between **Aniruddha Khanwalkar Vs. Sharmila Das & Ors.**, wherein, in its paragraph no. 12.1 it has been interalia observed that, *"...The Learned Sessions Court has considered the revision against the summoning order as if after trial the findings of conviction and acquittal was to be recorded. It was a preliminary stage of summoning. For summoning of an accused, prima facie case is to be made out on the basis of allegations in the complaint and the pre-summoning evidence led by the complainant."* Thus, it appears that only the material in the complaint is to be considered for prima-facie case been made out, while proceeding to issue summons. Perusal of the complaint would show it to contain the allegations in specific

words about the complainant been abused and threatened with dire consequences to his life and even of the accused stating that still there is his terror in Nandgaon. Even a copy of hand-written complaint dated 29.10.24 by present complainant against this accused and relied upon by this accused in revision, would reveal about complainant fearing threat to his life and also of his family members, from this accused. Mens-Rea always would not appear independently, extending threats and proof of it is sufficient evidence of existence of Mens-Rea. More often than not, evidence of Mens-Rea is gathered from attending circumstances. Thus, existence or not of the Mens-Rea would get unveiled only after evidence is adduced from either side, at trial. Nonetheless, the complaint NC no. 966/24, based on which final report under section 193 of the BNSS, is presented, would reveal clear allegations of this accused having abused and threatened the complainant as to his life. In view of settled position about the complaint not being an encyclopaedia of crime, but just a means to set criminal law into motion, therefore, the effects of non-inclusion of specific abusive words in the complaint, shall be a matter for consideration at trial. Thus, here is a complaint containing clear allegations this applicant-accused Suhas Kande having abused and of threatening this complainant, a rival political party worker. Therefore, it is not a case of there being no material at all, to proceed against the accused.

14. Arguments were also advanced that as the complaint does not disclose any attempt been made to cause injury to the complainant therefore, also no case is made out for issuing summons. It would be pertinent that the complainant has lodged complaint about being threatened by this accused as to dire consequences to his life.

Complaint is not of having inflicted actual assaults or any injury been caused; if that would have been so, some more sections of the BNS would have been added. Thus, it would not be any gain saying by the accused that attempt of committing assault was not made. Further pertinent that the complainant had made even a hand-written complaint to the police of threat to his life by this accused and further stated therein about this accused to be responsible in case of any untoward incidence happening to the life of himself or his family members. Therefore, there is a clear case of threat to complainant's life by this accused.

15. Argument was also advanced that investigation is carried out without seeking prior permission of the Ld. Magistrate per section 178 Bhartiya Nagrik Suraksha Sanhita, 2023. Thus, legality of investigation is attempted to be assailed, through such submissions. However, it would be pertinent that present is a Revision application before the Additional Sessions Court. With prayer clause in the instant revision seeking to set aside and quash the impugned order issuing summons against this accused, in Summary Summons Case no. 188/2025; therefore, the scope of this revision gets restricted to vouch the legality and propriety of the order sought to be impugned. It becomes a debateable issue as to whether investigation been vitiated due to lapses, can be agitated before a Sessions Court, in a revision assailing issuance of summons.

16. **Manik Taneja** (supra) was a petition under section 482 of the Cr.P.C., seeking the quashing of the FIR and criminal proceedings initiated pursuant thereto. Hon'ble High Court, Karnataka dismissed the same, resulting into a Special Leave Petition before the Hon'ble

Supreme Court of India. As against this here is a revision application, disputing merely the issuance of process. Undisputedly, Complaint quashing prayer would not be maintainable before the Sessions Court, under section 482 Cr.P.C. or its corresponding provision in the Bhartiya Nagrik Surakaha Sanhita, 2023. Thus, nature of reliefs sought and provisions under which the same been prayed, differring, **Manik Taneja** (supra) will be of least assistance to the applicant herein.

17. **Sharad Kumar Sanghi** (supra) again an appeal before the Hon'ble Supreme Court, as a result of Hon'ble High Madhya Pradesh, at Jabalpur declining under section 482 Cr.P.C. to quash Criminal proceedings pending before the Ld. Magistrate. Undisputedly, quashing prayers would not be maintainable before the Sessions Court, under section 482 Cr.P.C. or its corresponding provision in the Bhartiya Nagrik Surakaha Sanhita, 2023; nor it is done so. Thus, nature of reliefs sought and provisions under which the same been prayed, differring, **Manik Taneja** (supra) will be of least assistance to the applicant herein.

18. It would also be pertinent that the order sought to be impugned is passed on 29.05.2025, whereas present Revision application is preferred on 01.12.2025 i.e. after 06 months and 01 day; whereas the limitation period prescribed for preferring any revision is of 90 days, per the Limitation Act. No doubt it is contended in the revision application that upon notice accused appeared on 12.11.2025, however, the exact date of summons been served or gaining knowledge of issuance of summons is not averred in the revision application. Copy of summons served, or certified record from the concerned court proceedings revealing the date of summons served

are not submitted in revision to disclose the exact date of summons service or accused gaining knowledge of issuance of process. Thus, information disclosed in the revision application is not sufficient to determine the exact date since the initiation of limitation period for preferring revision application. Therefore, this revision to be clearly within limitation period also becomes disputable, as the same is preferred on 01.12.2025, i.e. clear 185 days after summons been issued against this accused, whereas the period of limitation for preferring any revision application is just 90 days. Therefore, present revision application, whether preferred within limitation period also becomes doubtful.

19. Thus, for the reasons supra, it appears that the impugned order does not suffer from any illegality or impropriety, so as to interfere in it. Thus, impugned order being proper and legal, does not warrant any interference, in present Revision. Hence, following order.

**ORDER.**

1. Present revision application stands dismissed.
2. Interim orders if any, stands vacated.
3. Records and Proceedings, if called for, be returned to the Ld. Trial Court.
4. Ld. Trial Court be intimated accordingly.

Date : 18.03.2026

**(Y. H. Ameta)**  
Additional Sessions Judge,  
Malegaon.