

MHPU080003522025**Cri.M.A./54/2025
Nitin Mahadeo Bhawar Vs Sanjay
Daniel Tribhuvan****ORDER BELOW EXH. 1**

This is the complaint filed by the complainant under section and 223 of B.N.S.S. with the prayer to issue process against respondent no. 1 to 3 under section 237,322,335,336(3),339 and 340 of B.N.S. After verification the court issued a notice under section 223 of B.N.S.S. to respondent no. 1 to 3 before taking cognizance under section 227 of B.N.S.S. Thereafter the respondent no. 1 to 3 have appeared and they have filed their say. Heard both parties. It is submitted by the complainant that the complainant no. 1 is the secretary and complainant no. 2 is the treasurer of Satya River Co-Operative Housing Society registered under the Maharashtra Co-Operative Societies Act, 1960 bearing registration No. PNA/PNA2/HSG/(TC)/7268/2004-05 dated 30.03.2005 located at Bhau Patil Road, Bopodi, Pune.

2. Here from the very first para of the complaint it appears that the complaint is filed on behalf of Co-operative society above mentioned. Moreover the overall facts of the case prima facie shows the transaction between the co-operative society and the respondent no. 1 to 3. According to the complaint the respondent no. 1 to 3 constituted a criminal conspiracy and have forged lease deed agreement executed by the society with M/S Indus Towers Ltd. Dated 29/10/2010. According to the complaint the said lease agreement was executed for lease of Rs. 19,000/- per month with a 15% increment every three years for next 20 years. However the respondent no. 1 fraudulently altered the rent amount from 19,000/- to Rs. 10,000/- per month and also omitted the increment of 15% and the said fraud came to the knowledge of the society in the month of March-2024. From the said facts it is again very clear that the whole case is based on the transaction

and lease agreement entered into between the Satya River Co-operative Housing Society and respondent no. 2 and 3. Therefore it was necessary to file the complaint on behalf of the society and the society should have made the party first. Here in the title clause of the complaint it appears that the complainant no. 1 Mr. Nitin Mahavev Bhavar is the secretary of the above named society and complainant no. 2 Mr. Prashant Ashok Jadhav is the treasurer of the said society. But, nowhere the Satya River Co-operative Housing Society is made a party by the complainant. Since it is a criminal complaint and the society being legal entity it should have been made a first party as complainant no. 1 and the complaint should have been filed through its secretary or treasurer as complainant no. 2. Without making a society as a complainant no. 1, the secretary and the treasurer of the society cannot proceed with the trial. They are representing the society and the said complaint is not filed in their personal capacity. Therefore, I do not want to go further to verify the facts of the case.

3. Moreover, in the said title clause itself the complainant has again made one of the previous secretary of the Satya River Co-operative society as respondent no. 1 and the managing director and CEO of M/s Indus Towers Ltd. as respondent no. 2. Moreover the respondent no. 3 is the circle head (Maharashtra and Goa) of M/s Indus Towers Ltd. Here again the complainant has not made M/s Indus Towers Ltd. as the accused/respondent no. 1. The respondent no. 2 and 3 are the representatives of the M/s Indus Towers Ltd. Therefore the said company being legal entity should have been made accused first. The transaction and the lease deed has been entered into between the society and M/s Indus Towers Ltd. i.e. between two legal entities. It is not executed with respondent no. 2 and 3 in their personal capacity. On this note I want to rely on some authorities of Hon'ble Supreme Court, **Ravindranath Bajape Vs. Manglore Special Economic Zone**, in this case The Hon'ble Supreme

Court has held that the Managing director or executive director etc. cannot be held vicariously liable unless specific allegation are levied against them with respect to their individual role in a criminal case.

4. Relying on the said authority and as per the provisions of B.N.S.S. in the case of complaint against the company, the company must have been made accused first and it cannot be filed directly against its representatives or the officers responsible for the company. Here the complaint lacks in this aspect also. As discussed earlier the complaint is filed on behalf of the society, without making the society a party as complainant no. 1 it cannot stand further. Therefore, this complaint has erred since inception making erroneous title clause. Hence, I do not want to discuss other facts and it is established that the complainant has not made out the prima facie case against the respondents. Hence, it is liable to be dismissed. Hence, I pass following order,

ORDER

1. The complaint is dismissed under section 226 of B.N.S.S.
2. The proceeding is closed.

Date :- 07/03/2026

(P S. Apte)
Judicial Magistrate F.C.
(Court No.2), Khadki, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word for word as per original Judgment.

Name of Stenographer	:	Shubham S. Waykar
Court Name	:	Hon'ble Smt. P. S. Apte, J.M.F.C., Court No.2, Khadki, Pune.
Date of Order/Judgment	:	07/03/2026
Order/Judgment signed by presiding officer on	:	07/03/2026
Order/Judgment uploaded on	:	09/03/2026