

MHRG140012892024



ORDER BELOW EXH-1

1. This is an application filed by the Applicant under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), seeking directions to the Uran Police Station for the registration of a First Information Report (FIR) and investigation against the Proposed Accused Nos. 1 to 3 for offenses punishable under Sections 115(1), 118(1), 352, 351(1), 314, and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "BNS").

2. The facts, as narrated in the application, are that the Applicant is associated with a company named "Elite Offshore Pvt. Ltd.", which was incorporated on 08/05/2015. The company specializes in offshore training and industrial safety. Initially, the Applicant, one Shri Bam Vinod Bhardwaj, and Proposed Accused No. 1 (Rajiv Kumar) were the Directors of the company. The Applicant worked as a Director until 2019 and thereafter continued as an investor and employee, while Proposed Accused No. 1 continued as a Director until March 2024. It is alleged that Proposed Accused No. 1, being tech-savvy, registered the company's official website in the name of his wife (Proposed Accused No. 2) without

the consent of the other directors, which came to light only in 2024. It is further alleged that during the incorporation, Proposed Accused No. 1 unilaterally and deceitfully allocated 34% shares to himself, leaving 33% each to the Applicant and Shri Bam Bhardwaj, claiming later that it was an error committed by the Chartered Accountant.

3. The Applicant further states that to expand the company's business, a plot of land bearing Survey No. 61/9/2 situated at Mauje Vindhane, Taluka Uran, District Raigad was purchased in the name of the company vide Registered Sale Deeds bearing Registration Nos. 4256/2021 and 463/2022. The names of the Applicant and Proposed Accused No. 1 were mutated in the Record of Rights (7/12 extract) as authorized signatories of the company. However, Proposed Accused No. 1 allegedly developed a dishonest intention to usurp the property. On 16/02/2024, Proposed Accused No. 1, through his advocate, sent a false notice to the Applicant claiming 50% personal ownership of the said land. Subsequently, on 22/02/2024, the Proposed Accused Nos. 1 to 3, along with 10 to 15 laborers, unauthorizedly entered the land, put up a wire fencing over half of the plot, and took illegal possession without any corporate resolution or authority. When Shri Bam Bhardwaj and others objected, they were allegedly threatened and abused.

4. It is further alleged that on 24/02/2024, when the Applicant's wife (Manju Sharma) and others visited the spot, Proposed Accused Nos. 1 to 3 brought construction materials

(cement, sand, bricks) to build a permanent structure. When obstructed, Proposed Accused No. 2 physically assaulted Manju Sharma, pulled her hair, twisted her hand, and threatened her with life. The police were informed via a '100' emergency call, and they stopped the construction. The illegal wire fencing was reportedly removed on 25/02/2024. The board of directors later passed a resolution in an Extraordinary General Meeting (EGM) on 26/03/2024, removing Proposed Accused No. 1 from his directorship. The Applicant states that he approached the Uran Police Station to lodge an FIR on 28/03/2024, but the police refused to register the case, stating that the matter was corporate and civil in nature. Hence, this application.

5. Upon receiving the application, this Court called for an Action Taken Report (ATR) / Inquiry Report from the Uran Police Station under the relevant statutory provisions. The police conducted a preliminary inquiry and submitted their detailed report at Exhibit 14, signed by the Assistant Police Inspector, Uran Police Station.

6. The Inquiry Report (Exh. 14) contains the recorded statements of the Applicant, witnesses Manju Sharma and Bam Vinod Bhardwaj, the Proposed Accused Nos. 1 to 3, and an independent spot witness, Shrikant Shripad Patki. The Proposed Accused No. 1, in his statement, refuted all allegations and contended that he has been the primary driving force of the company since its inception, holding a 34% shareholding. He asserted that the domain of the website was legally purchased by his wife (Proposed

Accused No. 2) to support the business. He further contended that the land at Vindhane, Uran, was purchased by securing bank loans against his personal properties, which constituted 63% of the total mortgaged value, whereas the Applicant's family contributed only 37%. He alleged that the Applicant had quietly resigned from directorship on 01/05/2019 but continued to illegally execute sale deeds as a Director, and clandestinely inducted his own family members as directors. He further stated that the disputes regarding the company's management and assets are currently sub-judice before the National Company Law Tribunal (NCLT), Mumbai Bench. The independent witness, Shrikant Patki, stated that he was present on the site on 24/02/2024 and witnessed no physical assault, abuse, or violence, and categorized the incident as a purely verbal, civil dispute regarding boundaries.

7. Heard the learned counsel for the Applicant, Adv. Vrushali Navneet Patil. I have carefully perused the application (Exh. 1), the Inquiry Report submitted by the police (Exh. 14), the written notes of arguments filed by the Applicant (Exh. 15), and the documents placed on record.

8. The statutory scheme under Section 175(3) of the BNSS, which corresponds to the erstwhile Section 156(3) of the Code of Criminal Procedure, 1973, mandates that an applicant must exhaust the prior administrative remedies before seeking judicial intervention for directing the registration of an FIR. Specifically, the applicant must first approach the officer-in-charge of the police

station under Section 173(1) of the BNSS. Upon refusal or inaction, the applicant is legally obligated to submit a written representation to the Superintendent of Police or equivalent higher authority under Section 173(4) of the BNSS. In the present case, a meticulous review of the entire record reveals that there is absolutely no document showing that the Applicant, Vijaykumar Sharma, ever approached the higher police authorities (such as the Superintendent of Police or Deputy Commissioner of Police) after the alleged refusal by the Uran Police Station. The mandatory requirement of verifying compliance under Section 173(4) of the BNSS is a condition precedent to invoking the powers of this Court under Section 175(3) of the BNSS. In the absence of any such written representation on record, this application suffers from a fatal statutory omission.

9. A close examination of the documentary exhibits relied upon by the Applicant reveals significant jurisdictional and identity-related discrepancies:

- a) The Applicant has placed on record a copy of a written report/complaint submitted to the Uran Police Station dated 05/03/2024. However, this document clearly reveals that the complaint was lodged and signed by the co-director, Shri Bam Vinod Bhardwaj, and not by the present Applicant, Vijaykumar Sharma. The Applicant cannot claim compliance based on a complaint lodged by a third party.
- b) The Applicant has submitted a written complaint dated 17/05/2024, which was addressed to the Senior Police Inspector,

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Nerul Police Station, Navi Mumbai. This complaint was received by the office of the Assistant Commissioner of Police, Turbhe Division, Navi Mumbai. Both Nerul and Turbhe do not fall within the territorial jurisdiction of the Uran Police Station or this Court.

c) The Applicant has further placed on record a copy of FIR No. 95/2024, which was registered at CBD Belapur Police Station, Navi Mumbai, on 28/04/2024, for offenses punishable under Sections 420, 406, 409, 465, 467, 468, 471 r/w 34 of the IPC against Proposed Accused No. 1. The CBD Belapur Police Station falls entirely outside the territorial jurisdiction of this Court. Consequently, the reliance placed on these out-of-jurisdiction complaints and FIRs does not aid the Applicant in establishing a valid cause of action or territorial nexus within the local limits of the Uran Court.

10. On the merits of the allegations, the dispute is deeply rooted in corporate governance, administrative control, and shareholding conflicts of 'Elite Offshore Pvt. Ltd.'. The records show that Proposed Accused No. 1 is an admitted co-founder, shareholder (holding 34% shares), and his name is recorded on the 7/12 extract of the land at Survey No. 61/9/2, Vindhane, Uran, alongside the Applicant. Therefore, Proposed Accused No. 1 is not an outsider or an encroacher, but a co-owner in the capacity of a director/shareholder. The disputes concerning his removal from directorship, the validity of the EGM dated 26/03/2024, and the ownership of the website domain are already subject matters of a company petition pending before the National Company Law Tribunal

(NCLT), Mumbai Bench. A criminal court under Section 175(3) of the BNSS cannot be used as an alternative forum to settle commercial, corporate, or civil battles or to secure leverage in pending civil/tribunal proceedings.

11. Regarding the allegations of physical assault, criminal trespass, and criminal intimidation on 22/02/2024 and 24/02/2024, the Inquiry Report (Exh. 14) and the statement of the independent witness, Shrikant Patki, clearly indicate that the incident was limited to a corporate/civil boundary dispute and that the temporary wire fencing was voluntarily removed by the next day, i.e., 25/02/2024. No independent material or medical evidence is placed on record to support the allegation of physical violence. The allegations appear to be heavily colored with criminal overtones to bypass the civil remedy. For these reasons, no prima facie case of a cognizable offense warranting a police investigation or registration of an FIR is made out.

12. In view of above discussion this Court is of the considered opinion that the application is devoid of statutory compliance, lacks territorial backing on key complaints, and is essentially civil/corporate in nature. There are no sufficient grounds to direct an investigation under Section 175(3) of the BNSS. Hence, the application deserves to be rejected. Hence, I proceed to pass following order:

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ORDER

1. This Criminal Miscellaneous Application No. 63 of 2024 is hereby rejected.
2. No order as to costs.

Uran
Date – 22.07.2026

S. P. Wankhade
(Judicial Magistrate F. C. Uran)
Court No. 1