


MHRG170014072025 	Received on	:	17.07.2025.
	Registered on	:	23.07.2025.
	Decided on	:	06.04.2026.
	Duration	:	Y M Days 00 08 20

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,

PANVEL, DIST-RAIGAD

(Presided over by Dinesh E. Kothalikar)

(B.Com. LL.M.)

CRIMINAL REVISION APPLICATION NO.50/2025

CNR No.MHRG170014072025

EXHIBIT NO.11/A

Nikita Seshnath Rai

Age – 26 years, Occu. Service,
R/at- Flat No.224, Ganesh Panchami
CHS, Sector 23, Kopar Khairane,
Navi Mumbai 400709.

... Petitioner

V E R S U S

**State Through Khandeshwar
Police Station**

...Respondent

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REVISION: **Application against the order below Exh.14
dated 08/04/2025 passed by learned 3rd
J.M.F.C. Panvel in Cri. Misc. Appln.
No.3477/2023.**

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APPEARANCES :

The learned advocate for petitioner : Mr. S. S. Bijlani
The learned advocate for respondent : Mr. Amolkumar Thakur.

AND

MHRG170014082025 	Received on	:	17.07.2025.
	Registered on	:	23.07.2025.
	Decided on	:	06.04.2026.
	Duration	:	Y M Days 00 08 20

IN THE COURT OF ADDITIONAL SESSIONS JUDGE ,

PANVEL, DIST-RAIGAD

(Presided over by Dinesh E. Kothalikar)

(B.Com. LL.M.)

CRIMINAL REVISION APPLICATION NO.51/2025

CNR No.MHRG170014082025

EXHIBIT NO.10/A

- Mahipal Singh**
Age – 45 years, Occu. Business,
R/at- Room No.44, Sai Pooja Society,
Sai Nagar, Panvel, Raigad-410206.
- Rambabu Kharva**
Age – 37 years, Occu. Business,

R/at- Room No.44, Sai Pooja Society,
Sai Nagar, Panvel, Raigad-410206. ... **Petitioners**

VERSUS

**State Through Khandeshwar
Police Station** ...**Respondent**

REVISION: Application against the order below Exh.15
dated 08/04/2025 passed by learned 3rd
J.M.F.C. Panvel in Cri. Misc. Appln.
No.3477/2023.

APPEARANCES :

The learned advocate for petitioners : Mr. Manish Rai
The learned advocate for respondent: Mr. Amolkumar Thakur.

COMMON JUDGMENT
(Delivered on 06th Day of April, 2026)

1. Being aggrieved by the orders passed below Exhs.14 and 15 in S.C.C. No.3477 of 2023, by the learned JMFC, Panvel the petitioners have approached this court to exercise discretion under Section 438 of the BNSS and to stop the proceeding under Section 258 of the Code of Criminal Procedure.

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Panvel-Raigad.

2. Since, similar issue is involved in both the petitions, they are decided by the common judgment. The parties are referred hereafter as per their status before the learned JMFC.

Briefly stated the facts of case as under;

3. That the death of deceased Ramnaresh Roy had taken place on 02.09.2022 at about 2.15 p.m. According to the prosecution, accused No.1 Mahipal was the labour contractor, accused No.2 Rambabu was the site supervisor and accused No.3 Nikita was the site engineer. It is claimed by the informant Princekumar Navalkishor Roy that he along with deceased Ramnaresh and others used to do labour work. According to him, on 02.09.2022 he along with other labours had been to labour Naka to find out the work and that at about 9.40 a.m. the informant along with deceased and other labours were carried by accused No.2 Rambabu at plot No.54-55, Sector 8, New Panvel (East) and that they were asked to do the digging work, where already the pit having depth of around 6 feet was there. While the labours were doing the work, at that time there was water logging as there was mud and that accordingly the work of digging the pit of 6-7 feet was done and that the depth of the pit was around 12-15 feet.

4. The informant has further alleged that when the water was logged, accused No.2 Rambabu had asked the labours

to put the electric motor in the water for removal of the water from the pit, but the labours have disclosed that since the pit was deep, the labour may drown in it. At that time, accused Nos.2 and 3 have forcibly asked the labours to complete the work, else they would not get the labour charges. Therefore, the labours have decided to complete the work by getting down in the pit and that deceased Ramnaresh on the say of accused No.2 Rambabu had carried the motor in the water and that the motor had sunk in the water and that water level was upto the knees of deceased Ramnaresh.

5. It has been further alleged that at that time accused No.2 Rambabu had asked the watchman to turn on the button for starting with the motor and that accordingly the motor was started, but there was no water flow and therefore, accused No.2 had asked deceased Ramnaresh to put his hand in the water and shake the motor and that accordingly deceased Ramnaresh had put his hand in the water and started to shake the motor, at that time he had shouted by saying that he was electrocuted and that accused No.2 Ramnaresh had asked other labours to take out Ramnaresh out of the pit and that at that time informant, Nitish Kumar and Sonu Roy have also received electric shock.

6. According to the informant, accused No.2 Rambabu had turned off the button and that the body of deceased

Ramnaresh was taken out of the pit, but at that time Ramnaresh was unconscious and that he was carried to Panacia Hospital, where Ramnaresh was declared as dead. In this background, the accused have been charge-sheeted for the offence punishable under Section 304-A read with 34 of the Indian Penal Code.

7. During pendency of the above proceeding, the accused have submitted applications Exh.14 and 15 and prayed for discharge. However, after hearing the submissions advanced by both the sides the learned JMFC did not favour the accused and pleased to reject the applications.

8. The orders rejecting the applications Exh.14 and 15 have been challenged by filing present petitions.

9. I have heard the submissions advanced by learned advocates for the accused and learned APP Mr. Amolkumar Thakur.

10. On the basis of the submissions advanced before me following points arise for consideration and I have recorded my findings against them for the reasons recorded hereafter;

Sr. No.	Points	Findings
1.	Whether the order passed by the learned Magistrate is legal, proper and correct ?	.. In the affirmative

2.	Whether the order passed by the learned Magistrate requires interference ?	.. In the negative
3.	What order?	.. As per final order.

:: REASONS ::

As to Point No.1 -

11. Learned advocate for the accused have submitted that the material collected by the investigation does not make out prima facie case for proceeding against the accused and that there is no whisper to state that the accused have acted either rash or negligently, so that the trial can proceed against them. In support of the submissions reliance has been placed on following judgments;

1. **Yuvraj Laxmilal Kanther Vs. State of Maharashtra, AIROnline 2025 SC 138**
2. **Jacob Mathew Vs. State of Punjab, AIR 2005 SUPREME COURT 3180**
3. **Peer alias Petra Fernandes Vs. State of Goa, 2015:BHC-GOA:790**

12. So far as the considerations for deciding the aspect of charge, learned advocates for the accused have submitted that at the stage of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts

emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. In support of the submissions reliance has been placed on the judgment of Hon'ble Supreme Court in the case of **Niranjan Singh Karam Singh Punjabi Vs Jitendra Bhimraj Bijaya AIR 1990 SC 1962.**

13. According to the learned advocates for the accused have submitted that the criminal justice cannot be a punishment and that guilt of the accused has to be determined on the basis of the legal evidence. Thus, it is claimed that since there is no legal evidence, the accused need to be discharged, by invoking section 258 of the Code.

14. Per contra, learned APP Mr. Thakur has submitted that the investigation revealed that the accused did not take proper care and that they did not provide security instruments like shoes and hand-gloves and that thus, it can be said that they have acted rash and negligent manner and as such he would submit that the learned Magistrate has rightly appreciated the material and rejected the application. Thus, it is prayed for dismissal of petitions.

15. It is settled law that the revisional powers of the criminal court is limited while exercising the jurisdiction and it cannot be used to re-appreciate any evidence. It is confined to

check that the order passed by the subordinate court does not suffer from any error of law. The Hon'ble Supreme Court, in a plethora of judgments, had the occasion to dwell upon the purview of the revisional jurisdiction of the criminal courts and its application on the manifestly illegal orders. In order to exercise the revisional power, certain requirements must be satisfied. The mere fact that the lower court's order had a mistake or irregularity did not justify the exercise of revisional jurisdiction. Revisional power should instead only be applied in situations where the order contains a "manifest illegality" that results in a "miscarriage of justice." The revisional power is a type of supervisory jurisdiction meant to rectify injustices; it is not the same as appellate jurisdiction.

16. The question as to whether charge for an offence punishable under Section 304-A of the Indian Penal Code, can be framed against the accused on the basis of the material relied upon by the prosecution. So far as the offence punishable under Section 304-A of the Indian Penal Code is concerned, it reads thus;

304-A. Causing death by negligence.-Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

17. The requirements of Section 304A I.P.C. are that the death of any person must have been caused by the accused by doing any rash or negligent act. In other words, there must be proof that the rash or negligent act of the accused was the proximate cause of the death. There must be direct nexus between the death of a person and the rash or negligent act of the accused. The act of causing death must be the *causa causans*; it is not enough that it may have been the *causa sine qua non*. The court has to determine whether the act of the accused is the *causa causans* or has there been a cause intervening which has broken the chain of causation so as to make the act of the accused, though a negligent one, not the immediate cause or whether it amounts to an act of gross negligence or recklessly negligent conduct. It is to be noted that the material must *prima facie* show that the alleged act of the accused was the direct result of rash and negligent act.

18. It is material to note that considering the allegations levelled against the accused persons and the material collected by the investigation officer, at the outset there would be no hesitation to *prima facie* start with the belief that there is ample material to *prima facie* establish that accused No.1 was the labour contractor, accused No.2 was the site supervisor and accused No.3 was the site engineer. It has come on record that it was accused No.2 Rambabu, who had called the deceased and other labours for doing the work and that the labours including

the deceased Ramnaresh had done the work partially.

19. Upon perusal of the police papers, it is prima facie revealed that when the water was logged, accused No.2 Rambabu had asked the labours to put the electric motor in the water for removal of the water from the pit, but the labours have disclosed that since the pit was deep, the labour may drown in it and that at that time, accused Nos.2 and 3 have forcibly asked the labours to complete the work, else they would not get the labour charges and that therefore, the labours have decided to complete the work by getting down in the pit and that deceased Ramnaresh on the say of accused No.2 Rambabu had carried the motor in the water and that the motor had sunk in the water and that water level was upto the knees of deceased Ramnaresh. It goes to prima facie suggest that the labours were having apprehension that some untoward incident may occur, if they enter into the pit, but due to the threats given by accused Nos.2 and 3 they were forced to complete the work.

20. It has been further brought on record that thereafter accused No.2 Rambabu had asked the watchman to turn on the button for starting with the motor and that accordingly the motor was started, but there was no water flow and therefore, accused No.2 had asked deceased Ramnaresh to put his hand in the water and shake the motor and that accordingly deceased Ramnaresh

had put his hand in the water and started to shake the motor, at that time he had shouted by saying that he had received electric shock and that accused No.2 Ramnaresh had asked other labours to take out Ramnaresh out of the pit and that at that time informant, Nitish Kumar and Sonu Roy have also received electric shock. Thus, it is prima facie clear that had it been the case that the proper safety measures were taken by the accused persons being the labour contractor, site supervisor and site engineer, the incident of getting electrocuted by the deceased Ramnaresh would not have occurred.

21. It is material to note that there was water in the pit upto the knees of the deceased and that there was water in the electric motor. In such circumstances accused No.2 was not supposed to ask the deceased Ramnaresh to put his hand in the water and shake the motor. It is pertinent to note that as per the directions given by accused No.2 Rambabu, deceased Ramnaresh had put his hand in the water and started to shake the motor and that he got electrocuted, goes to speak volume.

22. Thus, there would not be hesitation to prima facie conclude that because of the act of the accused, death of deceased Ramnaresh has taken place and that all happened, as seen at least prima facie the material led by the prosecution on record, because of rash and negligent act on the part of the accused who were in-charge of the site. In my view the

prosecution on the material as aforesaid had made out a prima facie case against the accused for being tried under Section 304A of the IPC. Section 304-A on this very finding can straightaway get attracted at least prima facie.

23. Consequently, there would be no hesitation to hold that a prima facie case is made out for framing charges under Section 304A against the concerned accused. If ultimately on the evidence led by the prosecution and even by the defence if at all they choose to lead evidence in rebuttal, it is found that the act complained of was not the proximate and efficient cause of death and intervention of other's negligence had taken place the accused may get acquittal after facing the full fledged trial. But that stage has yet not come. It would, therefore, be premature at this stage to say as to what would be the ultimate result of the trial once the accused are made to face such a trial. However, certainly, it cannot be said that on the material led by the prosecution at this stage even the face of culpable negligence or rashness is also not made out at least prima facie against the concerned accused and the trial should be nipped in the bud even for such a charge. At present this court is concerned with the short question as to whether on the material led by the prosecution at this stage a case is made out for framing charge under Section 304A, IPC or not?

24. So far as the judgment in the case of **Yuvraj Laxmikant Kanther** (Cited supra) relied upon by the learned advocates for the accused are concerned, in the said case there were allegations that the deceased employees were undertaking the work of decoration and that at that time they were electrocuted. In the case in hand, there is material on record to indicate that considering the depth of the pit and there was water logging the labours were hesitating to enter into the pit, but since accused Nos.2 and 3 have compelled them to work by threatening that if the work is not completed they would not pay the labour charges and that accused No.2 Rambabu had asked the deceased Ramnaresh to put his hand in the water and shake the motor and that accordingly deceased Ramnaresh had put his hand in the water and started to shake the motor, at that time he had shouted by saying that he was electrocuted, goes to show that on facts, the authority relied upon is not applicable to the case in hand.

25. In the light of the material brought on record it cannot be gainsaid that the voluminous material has been collected by the investigation officer in this connection at least prima facie shows that the accused who were responsible being the labour contractor, Site Supervisor and Site Engineer could be alleged to be guilty of rash and negligent act. As a result of the aforesaid discussion it is held that on the material led by the prosecution, charge for the offence punishable under Section

304A of IPC is required to be framed against the accused.

26. In the totality of the law and circumstances stated supra, I do not find merit in the contention raised by the learned advocate for the accused persons. As a sequitur to the above discussion, I hold that the findings recorded by the learned magistrate are legal, proper and correct. Thus, I answered point No.1 in the affirmative.

As to Point No.2 -

27. In the wake of the findings recorded against point No.1, viewed from any angle, the findings recorded by the learned JMFC are in consonance with the material brought on record. There is no perversity in the findings. Thus, no interference is called for in revisional jurisdiction. Hence, I answered point No.2 in the negative.

As to Point No.3 -

28. The upshot of above discussion is that the instant petitions lack in merit and the same deserve to be dismissed. Resultantly, I proceed to pass following order;

:: ORDER ::

1. Both the petitions are hereby dismissed.

Dinesh E. Kothalikar,
District Judge-2 and ASJ,
Panvel-Raigad.

2. Copy of the judgment be sent to the learned J.M.F.C.
3. Copy of the judgment be kept in Cri.Rev.Appln.
No.51/2025.

(Dictated and pronounced in open Court.)

Panvel.
Dt. : 06/04/2026

(Dinesh E. Kothalikar)
Additional Sessions Judge,
Court No.2, Panvel, Dist-Raigad.