

MHRT070002712025

Cri.M.A.No.20/2025

Saher Kaskar V/s. Sajit Kaskar

ORDER BELOW EXH.01
(Passed on 28.05.2026)

The present application is filed by the applicant for seeking direction under Section 175(3) of B.N.S.S. for offence punishable under of Sections 3 and 4 of the Muslim Women Protection of Right on Marriage Act, 2019.

02. Heard the Ld. Advocate Shri.Sheth for the applicant. Applicant also filed on record, written arguments at Exh.05. Perused the application, record of the case. It is the case of the applicant that, applicant resides at the above-mentioned address along with her two children's. She is a housewife. Both applicant and accused No.1 belong to the Muslim religion. Her marriage with accused No.1, Sajid Mahmud Kaskar, was solemnized on 08/06/2008 at Lad Hall, Kherdi, Tal.Chiplun, according to Muslim customs and traditions. Thereafter, harassment was inflicted upon applicant for domestic reasons. Therefore, she filed D.V. Application No. 35/2022 in the Court of the Judicial Magistrate First Class at Chiplun. The said application is still pending before the court.

03. Thereafter, around 26/08/2024, Accused No. 1, Qazi Munavvar Ali, sent applicant a letter through RPAD along with a Divorce Certificate dated 26/08/2024. The said certificate was sent in both Urdu and English languages. In the Urdu version of the Divorce Certificate the signature and

thumb impression of accused her husband, Sajid Kaskar, are present, and the signatures of Qazi Munavvar Ali, Chief Qazi, and Sameer Nigal are also present. The R.P.A.D. was sent by Qazi Munavvar Ali, Chief Qazi, and Wahab Mujawar, and the English version of the Divorce Certificate was prepared by them.

04. In the said Divorce Certificate, accused No.1 (husband) granted applicant 'One Divorce', i.e. 'Talaque-E-Rajai', on 26/08/2024. Although the said divorce (talaq) is described as 'Talaque-E-Rajai', meaning a revocable type of divorce, from the surrounding contents it appears that, the said divorce (talaq) is an 'instantaneous and irrevocable divorce'. In the said Divorce Certificate, the accused have not stated that the divorce is revocable. Before finalizing Talaque-E-Rajai divorce (talaq), the wife i.e. the complainant was neither called for discussion/reconciliation nor given any opportunity for the same. The accused neither kept nor provided any opportunity for reconciliation or reconsideration. Legally, for a valid divorce (talaq), an opportunity for reconciliation or reconsideration is mandatory. However, after returning the Mehr amount, the accused clearly intended to give an 'instantaneous and irrevocable divorce'. The intention of the accused to give an irrevocable divorce has been clearly mentioned in the Divorce Certificate. Thus, the accused granted the complainant an 'instantaneous and irrevocable divorce'. By the effect of the said Divorce Certificate, the accused has given an 'instantaneous and irrevocable divorce'. The divorce has been completed. The complainant was neither called nor given an opportunity for the same. In this manner, by giving talaq at

one time itself, the accused completed the divorce and committed the offence. The accused husband did not call applicant for reconciliation or reconsideration regarding the talaq.

05. Accused no.2, Qazi Munavvar Ali, despite being aware of all the legal provisions regarding talaq, still assisted Accused no.1 by signing the same. On the said Divorce Certificate, witnesses namely Sameer Syyed Qadri Shamsuddin Bashiruddin Nigal and Accused No. 2 Qazi Munavvar Ali, Chief Qazi, Greater Mumbai, also signed and thereby committed the offence. Therefore, applicant have filed this complaint against the accused.

06. Applicant have sent the said complaint through R.P.A.D. to the Police Inspector, Chiplun; D.Y.S.P. Chiplun; S.P. Ratnagiri; and the Home Minister, Maharashtra State, Mantralaya. As per the online tracking reports, all the said R.P.A.D. letters have been delivered. Their consignment numbers and reports are as follows. The R.P.A.D. receipts and online tracking reports are attached along with this complaint. Therefore, a applicant has been filed present complaint against non-applicants under provisions of Sections 3 and 4 of the Muslim Women Protection of Right on Marriage Act, 2019.

07. In the facts of the case in hand, the applicant has not complied with directions given by Hon'ble Apex Court in case of ***Priyanka Shrivastava And Another V/s. State of U.P and others : 2015 SCC Online SC 272.***

08. It is well settled that, when complaint case is

filed, the Court has two options either to get the investigation through police under Section 175(3) of the B.N.S.S. or to proceed under Section 223 of B.N.S.S. It is alternative procedure which the Court 'May' or 'May not' adopt at the stage of consideration of application under Section 175(3) of the B.N.S.S.. Remedy under Section 175(3) of the B.N.S.S. is discretionary one as the provisions proceeds with word 'May'. The Court is required to pass order under Section 175(3) of the B.N.S.S. only if, it is satisfied that the information reveals commission of cognizable offence and police aid is necessary for investigation in peculiar facts of case.

09. In the facts of the case in hand, *prima-facie* no case is made out for invocation of provisions of Section 175(3) of the B.N.S.S. In such circumstances it would not be proper to direct the police to investigate the offences as alleged and file the charge sheet. Hence, I proceed to pass following order-

ORDER

- 1) Prayer of applicant for Section 175(3) of the B.N.S.S. is rejected.
- 2) Matter be kept for verification statement of the complainant as per Section 223 of B.N.S.S.

Place - Chiplun
Date - 28.05.2026

(K.A. Powar)
J.M.F.C., Chiplun.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	Mr. S. J. Thorat
Name of Court	C.J.J.D. & J.M.F.C., Chiplun.
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