MHYA150008452025

ORDER BELOW EXH 01 IN OMCA NO.71/2025
(Passed on 02.05.2026)

This is an application filed by the complainant under section 175(3) of the Bhartiya Nagrik Suraksha Sanhita, 2023 (BNSS) for directing Non-applicant No.1 to take cognizance of offences u/s 316, 338.340 r/w 3(5) of the BNS against Non-applicant No.2 and investigate the matter.
(For short the Bhartiya Nagrik Suraksha Sanhita, 2023 is called as the BNSS)

2] **In short, the story of the complainant can be summarized as under :**

The complainant company previously known by their name as M/s Jinbhuvish Power Generation (M.P) Pvt. Ltd, on 5th December 2024 the company had changed their name as M/s OCTA Power Generation Pvt. Ltland accordingly the Government of India through Ministry of Corporate Affairs had duly issued a certificate pursuant to change of name to this effect. The complainant is a company incorporated under Companies Act 1956 having its registered office at House No. 623, Gajanan Nagar, Hingana, Nagpur and engaged in the business of power generations. In the year 2011 the complainant company intended to purchase land at village Kolura in Ner parsopant Tahsil of Yavatmal District, Maharashtra.

3] It is contended that, Non-applicant No.2 represented the complainant company that he is having land in the said locality and to prove their ownership he showed ownership record like 7/12 extract copy of Gat Nos. and specifically state that he is having all authority to sell it. The said land is in this possession in Mouza Kolura Tahasil Ner Parsopant Dist. Yavatmal more specifically described as Gat No. 120, 119,118,133.

4] The complainant company assuming land ownership documents submitted by Non-applicant No.2 being genuine, the complainant company decided to purchase the land from Non-applicant No.2. AS per agreed terms and conditions it was agreed that the complainant company will pay an amount of Rs. 9,50,000/- (Rs. Nine lakhs fifty thousand only) toward sale consideration.

5] Further, it is contended the complainant company rely on representation and ownership record like 7/12 shown by Non-applicant No.2 the complainant company entered into sale transaction with Non-applicant No.2. Non-applicant No.2 executed a registered sale deed in favour the complainant company for aforesaid land which is duly registered before the Sub Registrar Grade-I Ner Parsopant on January 29, 2011 vide Document No. 177/2011. It is submitted that Non-applicant No.2 had annexed forged 7/12 of Gat No. 118 with sale deed in which the name of Non-applicant No.2 is showing as owner. As per agreed term the entire sale consideration Rs. 9,50,000/- (Rs. Nine lakhs fifty thousand only) was paid by the complainant company vide cheque bearing no. 750035 dated 29.01.2011 drawn on State Bank of India, Branch Datta Chowk Yavatmal which is duly honored in favour of Non-applicant No.2.

6] Further the complainant company contended that the recently the company could not commence mutation process timely due to some technical problem. Hence, process for mutation of land in their name was some what delayed. Recently the complainant company moved an application for mutation of their name in the revenue record. Competent Revenue Authority refused to mutate the name of the company in the record by citing reason that Gat No.118 not belong to Non-applicant No.2 and he has no right to sale the said property and Non-applicant No.2 fraudulently sold said property of Gat No.118 to the complainant company.

7] The complainant company contended that, police station, Ner, has not taken any action on the report lodged by the complainant company. Thereafter the complainant company moved an application to the office of superintendent of police. However, despite this action has been taken by state. Hence, prayed to grant application.

8] In support of the submission the complainant company filed following documents.

DOCUMENTARY EVIDENCE

Sr.No.	Particular of documents	Exhibit No.
1.	Xerox Copy of Registered Sale-deed- **Article A**	
2.	Certified Copy of Ferfar No.12/20	Exh.11
3.	Certified Copy of 7/12 Extract	Exh.12
4.	Copy of police complaint	Exh. 13

5.	Copy of complaint filed before superintendent of police	Exh.14
6.	Copy of notice issued by police station to Non-applicant No.2	Exh.15
7.	Copy of letter issued to police station Ner.	Exh.16
8.	Copy of 7/12 Extract of Gat No.119.	Exh.17
9.	Copy of 7/12 Extract of Gat No.120.	Exh.18
10.	Copy of 7/12 Extract of Gat No.133.	Exh.19

9] Heard the learned counsel for the complainant company at sufficient length. The complainant company not filed the certified copy of the sale-deed bearing No.177/2016 dated 29.01.2011.

10] The complainant company contended that in the year 2011 it was decided to purchase land bearing Gat Nos. 118, 119, 120 and 133 for its business purpose. According to the complainant company Non-applicant No.2 represented himself to the owner and person having authority over the said lands and produced 7/12 extract and other revenue documents. Showing his ownership and possession. Relying upon said representation and documents, including 7/12 extract of disputed Gat No.118 available at a time of transaction. The complainant company entered into same transaction with Non-applicant No.2 and registered a sale-deed came to be executed in favour of company after payment of consideration amount. Thus, by virtue of registered sale-deed, the complainant company claims ownership in respect of above said properties. Thereafter, when the complainant company approached the revenue authority for mutation of name of the complainant company in revenue record. The revenue officer refused to mutation in respect of Gat No.118 and stated that the land stood recorded in the name of another person and therefore Non-applicant No.2 has no authority to transfer the same. On the basis of such refusal of mutation entry, the complainant company alleged that Non-applicant No.2 dishonestly sold the property of Gat No.118 despite having no title and thereby committed cheating and fraud.

11] I have carefully perused the application, affidavit and documents and record including copy of registered sale deed, 7/12 extracts, revenue documents It is an admitted position that four properties bearing Gat Nos. 118, 119, 120 and 133 were purchased by the complainant company from Non-applicant No. 2 through a registered sale-deed executed in the year 2011.

12] The main dispute relating to the land of Gat No. 118. The complainant company has filed the 7/12 extract of Gat No. 118 which was available at the time of execution of the sale deed and according to the complainant company, the same reflected the name of non-applicant No. 2 and formed the basis of the transaction. The complainant company has also relied upon the subsequent revenue position noticed during mutation proceedings, wherein the Revenue Officer stated that Gat No. 118 stood in the name of another person and therefore mutation of the complainant company could not be effected. Thus, the dispute essentially arises because of difference between the revenue position relied upon at the time of sale transaction and the position noticed subsequently at the time of mutation proceedings.

13] The 7/12 extract is an official government revenue record and not a private document created by Non-applicant No.2.

14] Considering the submission of the complainant company it appears that dispute arise because at a time of mutation revenue authority stated that, 7/12 Extract of the Gat No.118 is in the name of other person and not in the name of Non-applicant No.2.

15] In such situation, it is necessary to discuss the relevant provision regarding 7/12 Extract. Section 157 of the Maharashtra Land Revenue Code, 1966 provides as

> **Section 157 Presumption of correctness of entries in record of rights and register of mutations**.
>
> "An entry in the record of rights, and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefore."

16] On plain reading of the above provision, it is crystal clear that an entry in the record of rights including 7/12 extract and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new lawful entry is substituted therefor. Therefore, the 7/12 extract relied upon by the complainant company itself carries a statutory presumption of correctness. Unless such entry is challenged before the competent authority and proved to be false, forged, fabricated, cancelled, corrected or otherwise set aside, it continues to possess presumptive evidentiary value.

17] In the present matter, there is no material on record to show that the 7/12 extract of Gat No.118 relied upon at the time of transaction was ever declared false or fraudulent by any competent Revenue Authority or Civil Court. Mere refusal by the Revenue Officer to mutate the complainant's name does not by itself rebut the statutory presumption attached to the revenue record.

18] It is also significant that the complainant company has based its allegation solely upon the observation made by the Revenue Officer that Gat No. 118 stands in the name of another person and therefore mutation cannot be granted. However, the complainant company has neither add the concerned Revenue Officer as a party in the present proceeding to explain the basis of such observation, nor placed sufficient material on record to show on what legal and factual basis such conclusion was reached. Further, the complainant company not filed any affidavit of the said Revenue Officer regarding submission of the complainant company. Further, the person in whose name the present 7/12 extract of Gat No. 118 allegedly stands has neither been joined as party in the present proceedings nor has any affidavit of such person been filed. In absence of such necessary material, this Court cannot conclusively determine whether the title of Non-applicant No. 2 was defective from inception or whether the matter concerns overlapping title claims requiring adjudication before competent civil or revenue authorities. Only because mutation entry is presently not possible in the name of the complainant company, it cannot automatically be said that Non-applicant No. 2 committed cheating. Mutation entry is primarily a fiscal and revenue entry and refusal of mutation does not by itself determine title conclusively nor does it automatically establish criminal liability.

19] The question whether Non-applicant No. 2 had valid title, transferable interest or lawful authority to execute the sale deed is essentially a matter concerning title adjudication and civil rights over immovable property. Such issues are required to be adjudicated by the competent Civil Court or Revenue Authority and not through criminal prosecution unless clear fraudulent intention from the inception is shown.

20] It is also relevant that the complainant is a company engaged in purchase of multiple properties involving substantial financial consideration. In such transactions, proper due diligence is ordinarily expected, including verification of title documents, search report, inspection of revenue records, inquiry regarding encumbrances and verification of lawful ownership.

21] The complainant company itself contended that it relied upon 7/12 extracts and revenue documents before entering into the transaction. This indicates that the transaction was based upon documentary verification and not merely upon oral inducement. If after such transaction a dispute regarding title or mutation arises, the same would ordinarily give rise to civil consequences unless there is clear material showing intentional suppression or fraudulent deception from inception. Failure of the purchaser to undertake complete verification of title cannot by itself convert a civil title dispute into a criminal offence of cheating in absence of prima-facie proof of dishonest intention from the very beginning. For constituting the offence of cheating, it must prima-facie appear that from the very beginning of the transaction, the accused had dishonest or fraudulent intention to deceive the complainant company and thereby induced delivery of property.

22] In the present matter, execution of a registered sale deed, existence of government revenue documents and completion of consideration through lawful transaction do not by themselves establish that from inception Non-applicant No. 2 had deceitful intention. Mere failure of title, dispute regarding ownership, or subsequent difficulty in mutation of revenue entry does not automatically amount to cheating unless Mens-rea at inception is clearly shown. At this stage, no sufficient prima-facie material is available to infer that Non-applicant No. 2 had fraudulent intention from the beginning of the transaction.

23] The transaction was completed through a formal registered instrument before the competent registering authority and full sale consideration was paid by the complainant company to Non-applicant No. 2. By virtue of such registered sale-deed, the complainant company itself claims ownership over the said properties. Therefore, merely because mutation entry is subsequently not effected in the revenue record, it cannot straightway be concluded that the transaction itself was fraudulent or that the offence of cheating is made out.

24] The complainant company has relied upon the following judgment of the Hon'ble Bombay High Court. I have gone through this judgment.

In the case of Sujit Suhasrao Deshmukh vs The State Of Maharashtra, Criminal Writ Petition No. 1123 of 2024, decided on 10 December, 2024.

25] In this judgment there was specific prima-facie material showing that the accused had prior knowledge that the land in question had already been transferred to Municipal Council and that the persons executing the transaction had no lawful transferable title. Despite such knowledge, the accused proceeded with execution of sale deed and there were serious allegations of cheating, forgery, use of forged documents and criminal conspiracy. The Hon'ble High Court found active participation in a knowingly illegal transaction and therefore criminal prosecution was held justified.

26] The Hon'ble High Court held there was sufficient material on record to establish a prima-facie case for trial. The Hon'ble High Court found enough evidence to support the charges of conspiracy and land fraud, it dismissed the petition and upheld the lower court's refusal to discharge the accused.

27] In the present case, no such material exists showing prior knowledge of defective title, use of forged documents, criminal conspiracy or deliberate fraudulent conduct from inception. Here, the complainant company itself relies upon official 7/12 extract carrying statutory presumption under Section 157 of the Maharashtra Land Revenue Code and no forgery is prima-facie established. The dispute herein arises only after refusal of mutation entry and primarily concerns title adjudication and revenue entries, which is predominantly civil in nature. The fact and circumstance of the above judgment and fact and circumstance in the present matter are totally different. Therefore, the principle laid down in the aforesaid judgment cannot be applied to the facts and circumstance of the present matter.

28] The entire dispute appears to be mainly civil in nature concerning title, ownership and mutation of revenue entries. Appropriate remedies such as declaration of title, cancellation, compensation or other civil reliefs are available before competent Civil Court. Further, the matter is based entirely upon documentary evidence already available on record. No special police investigation appears necessary for deciding title rights or correctness of mutation entries.

29] Mere breach of contractual obligations or failure to fulfill a promise, without such initial mens-rea, would not attract criminal liability and would at best give rise to a civil dispute. In the present case, no such material exists showing prior knowledge of defective title, use of forged documents, criminal conspiracy or deliberate fraudulent conduct from inception. Here, the complainant company itself relies upon official 7/12 extract carrying statutory presumption under Section 157 of the Maharashtra Land Revenue Code and no forgery is prima-facie established. The dispute herein arises only after refusal of mutation entry and primarily concerns title adjudication and revenue entries, which is mainly civil in nature.

30] Criminal law cannot be permitted to be used as an instrument for converting a civil property dispute into a criminal prosecution in absence of clear ingredients of cognizable offence.

31] In the light of aforesaid discussion, considering the principle laid down in above judgment and considering entire material available on record I am of the opinion that, that prima-facie ingredients necessary for directing registration of First Information Report under Section 175(3) of the BNSS are not made out. Hence, I pass following order:

O R D E R

1. The application filed under section 175(3) of the BNSS is hereby rejected.

2. The matter is disposed off.

(Order pronounced in open Court)

GAJANAN CHANDRAKANT FULZALKE

Digitally signed by GAJANAN CHANDRAKANT FULZALKE
Date: 2026.05.02 17:50:57 +0530

Date : 02.05.2026

(G.C. Fulzalke),
Judicial Magistrate F.C.,
Ner.

CERTIFICATE

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

Name of Junior Clerk	:-	Ku.S.G.Bhoyar
Court	:-	Civil Judge Jr. Dn., Ner.
Date	:-	02/05/2026
Order signed by the Presiding Officer on	:-	02/05/2026
Order uploaded on	:-	02/05/2026