2025 INSC 1323

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 2628 of 2025)

PRASHANT PRAKASH RATNAPARKI AND ORS. ....APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA AND ANR. ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Heard.

2. Leave granted.

3. The present appeal by special leave takes exception to the order dated 31st January, 2025 passed by the High Court of Judicature at Bombay, Aurangabad Bench[1] in Criminal Application No. 4528

[1] Hereinafter, being referred to as 'High Court'.

of 2024. By the aforesaid order, the High Court partially allowed the petition filed by the appellants under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023[2] [Corresponding to Section 482 of Code of Criminal Procedure, 1973[3]] and quashed the FIR C.R. No. 270 of 2024, P.S. Nandurbar Taluka, District Nandurbar, to the extent of the offences punishable under Sections 115(2), 351(2), 351(3) and 352 of the Bharatiya Nyaya Sanhita, 2023[4] [Corresponding Sections 326, 506 and 504 of the Indian Penal Code, 1860[5] respectively]. However, the proceedings arising from the said FIR were permitted to be continued in respect of the offence punishable under Section 310(2) of the BNS [Section 395 of the IPC].

[2] For short, "BNSS".
[3] For short, "CrPC".
[4] For short, "BNS".
[5] For short, "IPC".

4. The afore-stated FIR came to be lodged by respondent No.2-complainant with the following allegations: -

> "My name is Rajendra Pura Rathod aged 44 years, Occupation Service, Address AT & PO Chowpale Taluka District Nandurbar Mobile No. 8390270785.
>
> I have personally come before the police station and narrate the facts of my complain that I am living with my family at the above mentioned address, and, since the year 2006 I am employed as Senior Clerk at P. G. Public School, Chowpale Taluka District Nandurbar. As per daily routine on 04/10/2024 at 08:00 am I attended the P. G. Public School, Chowpale, Taluka District at Nandurbar. Thereafter (02) Zubair Khalil Shaikh, Bus Manager, (03) Khandu Chindhu Sarode, Senior Clerk and Organization Secretary, also came. Thereafter at around 08.15 hrs a white colored Kia Sonet car of UP passing and Mehndi Green coloured Ertiga MH 04 full number not known approached near the entrance gate of our office. 2 such cars had arrived. From those cars 6 to 7 unknown persons descended from the cars and came into the office. I was waiting at the cash counter. So when I asked them what do they want so one of them asked where is your Principal Sir, I told them that I will call the Principal Sir, at the same time that person grabbed my mobile phone and pushed me when Zuber Sheikh came, they also took his mobile phone. That person grabbed the collar

of my shirt and Zubair Shaikh and asked us both where are your Engineering and B.A.M.S. files. He was threatening saying where are the files kept. After that, when we said that we don't have any files, that person slapped me on the ear and took us to the chairman's hall and forcefully asked us to remove the files from the cupboard there. When we said that we don't have the key, they abused us and opened the drawer of the table in the chairman's hall, when they saw the key of the cupboard and the organization's cheque book, they took the cheque book with them they and gave the key to me and forced me to open the cupboard.

In the meanwhile, one of them was shooting a video on his mobile phone. After I placed the file in the cupboard on the table, he checked the said file and among those files they did not see the B.A.M.S. college files. Then he opened the other drawer of the table. In it, there was the salary of the school teachers amounting to one and half lakh rupees and P. G. Public School one whole book of blank letter pads of the organization was taken out and taken into their custody. The first two pages of the pad of the said letter were signed by me and Zubair Shaikh and the seals of the said organization were also impressed thereon. After that he asked us to show them the BAMS office from us. So we took him to the BAMS office. Where is the office he shouted loudly, so hearing him also Jagdish Khandare Sir, Rohit Mahale Sir came from the school. The accused also threatened him and took away his mobile phone. One of those persons named Girish

was told to show your B.A.M.S. office. And was saying to show the office, Girish takes B.A.M.S. with him. After that the said persons came back with Girish. Then that person had B.A.M.S. 5 to 6 files with him. At the same time Principal Shri Anand Suresh Pardeshi Sir came. One of these persons questioned Anand Sir and sat with Anand Sir in the principal's hall. After that, one of those persons also went to the principal's hall. When Anand Sir asked him about his identity, he did not give any additional identity. Also Rs. 20,000 which he kept in the cash table was also taken. After that computer of HP CBIN 1970 of P. G. Public School, Chowpale Taluka District, Computer with full data saved of Nandurbar organization were forcibly taken from us. Those persons forcibly took the files from us. They made Girish to keep it in their Kia car.

After that they took all the computers forcibly removed from our office, blank letter pad book of the organization, check book of the organization, all the stamps of the organization and cash of Rs.1,50,000/- and kept with them in their car. They forbade us to come out of the office, Principal Anand Sir went near him, they threatened to kill Anand Sir and kidnap his children and students if he told anyone about the incident.

Therefore, this is my complaint against them for taking legal action them."

5. The matter was settled amicably between the accused and respondent No.2-complainant. The High

Court, while partially allowing the quashing petition filed under Section 528 BNSS [Section 482 CrPC], was of the opinion that in exercise of its inherent powers, the FIR could be quashed on the basis of a compromise insofar as the offences were personal to the complainant. However, the High Court refrained from quashing the offence of dacoity punishable under Section 310(2) of the BNS [Section 395 of the IPC], on the ground that it was not an offence personal to the complainant, as the alleged act had occurred within the premises of the school and pertained to its property. In arriving at this conclusion, the High Court took into account the objections raised on behalf of the school, which asserted that it was the victim of the alleged offending act. Accordingly, the High Court vide impugned order dated 31st January, 2025 directed that the proceedings arising out of the FIR would continue in

respect of offence punishable under Section 310(2) of the BNS [Section 395 of the IPC].

6. The accused are before us questioning the legality of the aforesaid order.

Findings and Conclusion

7. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the impugned order and the material placed on record.

8. In pursuance of the notices issued to the respondents, State of Maharashtra-respondent No.1 did not file any counter-affidavit, whereas, respondent No.2-complainant has filed an affidavit wherein, he has stated that the appellants had returned all the money, blank cheque book, letter heads, stamps, files, and other materials belonging to the school to him. He has stated that no injury was caused to him or any other person by the appellants.

He has further mentioned that upon intervention of the society members and elders, he has amicably settled all the disputes and events set out in the FIR with the accused arraigned therein, and that he was not desirous of continuing with the prosecution against the appellants.

9. On going through the entire FIR, we find that the same was initially registered against unknown persons. The thrust of the allegations, as set out in the FIR, is that the 6 to 7 unknown individuals had entered the premises of P.G. Public School in search of certain Engineering and B.A.M.S. files. During the course of this incident, these individuals allegedly took possession of a cheque book, certain blank letterheads, stamps, files, and certain amount of money that was later stated to have been returned. The FIR itself discloses that the accused persons were primarily seeking access to specific institutional

records *viz.* Engineering and B.A.M.S. files, and had no intention to steal cash or property belonging to the institution. There is no allegation that the accused persons were armed with weapons or that they caused any serious injury to anyone. The alleged acts appear to have arisen out of a dispute concerning possession of certain documents rather than from any intention to commit dacoity.

10. To sustain a charge of dacoity under Section 310(2) of the BNS [Section 395 of the IPC], the offence of robbery [Section 309 of the BNS/Section 392 of the IPC] must first be established. Robbery, in turn, is an aggravated form of theft or extortion. A foundational element of 'theft' as defined under Section 303 of the BNS [Section 378 of the IPC] is 'dishonest intention', *i.e.*, the intention to cause wrongful gain to one person or wrongful loss to another. In the present case, the primary motive, as discernible from the FIR

was not to permanently deprive the school of its property for wrongful gain. The alleged acts of violence *i.e.* slapping, pushing and intimidation were, by respondent No.2-complainant's own account, employed to compel the staff to locate and produce engineering and B.A.M.S. files. The taking of cash, cheque books, and the computer appears incidental to this main purpose and not the primary object of the intrusion. This conclusion is significantly fortified by the voluntary affidavit filed by respondent No. 2-complainant, who confirms that all money, files, and other materials were subsequently returned to him and that there was no harm or injury caused to anyone and that an amicable settlement has been reached. This complete restitution and amicable settlement between the accused and respondent No.2-complainant completely dilutes the allegation of

'dishonest intention' required to constitute theft, and by extension, robbery or dacoity.

11. The High Court, in our considered view, erred in sustaining the objection raised by the school and in proceeding on the premise that the offence of dacoity was not personal to respondent No.2-complainant, who had already settled the dispute with the accused persons.

12. The contents of the FIR clearly indicate that the primary motive of the accused persons was to retrieve specific institutional files/information and not to seek any wrongful gain. This, coupled with the subsequent and complete return of all property, a fact affirmed by respondent No.2-complainant in his voluntary affidavit submitted before the High Court as well as before this Court, convinces us that it is a fit case warranting quashing of the complaint/FIR as a whole.

13. Once the High Court exercised its inherent jurisdiction to quash the FIR with respect to the offences punishable under Sections 115(2), 351(2), 351(3), and 352 of the BNS [Sections 326, 506 and 504 of the IPC], on the basis of the voluntary affidavit of respondent No.2-complainant, there was no justification whatsoever to sustain the same FIR for the offence punishable under Section 310(2) of the BNS [Section 395 of the IPC]. The factual matrix forming the basis of all the offences is inseparable and arises from a single transaction. The compromise that was accepted as genuine and sufficient to quash the other offences equally dilutes the foundation of the charge of dacoity, which rests on the same set of allegations and circumstances.

14. In this background, we are of the considered view that the continued partial prosecution of the appellants for the offence of dacoity punishable

under Section 310(2) of the BNS [Section 395 of the IPC] in connection with FIR C.R. No. 270 of 2024 is unjustified and deserves to be quashed.

15. Thus, in exercise of our powers under Article 142 of the Constitution of India, we hereby quash the impugned FIR and all proceedings sought to be taken in furtherance thereof in entirety.

16. The appeal is allowed accordingly.

17. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
NOVEMBER 17, 2025.