

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS

64th Esplanade Court, Mumbai

CC: / MISC / 2025

Citizen and Trustee of a Public Charitable Trust, viz.
Petition Group Foundation Trust
(Regn. No. E-36451(M) Dated 10.12.2021.
(Through as trustee of PGF Kamalakar Ratnakar Shenoy)
Senior citizen aged 67 years,
Residing at B-903, Vaishali CHS,
Opp. MTNL Exchange, Sheth Motisha Lane,
Mazgaon, Mumbai - 400010.
Mob: 9870987359,
Email: shenoykr2001@yahoo.co.in

.... Complainant

versus

1. Mr. Bhushan Gagrani, Municipal Commissioner, BMC
2. Mr. Ashwini Joshi, Addl. MC (City), BMC
3. Mr. Gangaratan JT MC Vigilance
4. DMC zone 1 since 2020
5. Mr. Valanju, Asst. Commissioner, Market Department
6. All other Asst commissioners of Market dept. and Asst Commissioners of A ward since 2020.
Having their Head office at BMC HQ CST, Mumbai 400001
7. Sr. PI MRA police station
Having office Below JJ flyover bridge
8. DCP zone-1
Having office in fort, Mumbai-400001.
9. Others unknown accused and role of
the elected representatives

.... Accused

Criminal Complaint under Sections 61(2) (120B), 125 (336) , 198 (166) , 199 (166A), 255 (217), 256(218), 316(5) (409), 326(b) (431) of BNS/ IPC, violation of article 49, 51 (f), (i) of Constitution, Maharashtra Prevention of Defacement of Property Act, 1995

1.1 The Applicant is a law-abiding senior citizen aged 67 years and resident of Mumbai at above address

1.2 The present application is filed against the above named accused who are public servants and holding top post in BMC having head office at CST, Mahapalika Marg, and other unknown accused, which also consist of elected representatives, who, while holding positions of authority and / or as public trustee, have deliberately and willfully abused their powers by permitting, protecting and promoting illegal shed / structures, construction, encroachment and obstructions on public roads and footpaths around Crawford Market and adjoining areas,

- i. MRA Marg
- ii. Service road below JJ flyover (permanent sheds for proposed fish market)
- iii. Anna sahib Daundkar Marg,
- iv. Parking space opp. Police commissioner Compound
- v. Footpath all around the Crawford market

by permitting illegal commercial activities on such roads adjoining to and attached to the grand heritage structure of Crawford Market, in gross violation of every law i.e. MRTP, MMC, circular 14.12.99 and several Hon. Bombay High Court and Hon. Supreme Court orders. The applicant has also filed PIL in this matter on civil side before Hon. Bombay High Court at Bombay.

1.3 the above accused have in active connivance, conspired to protect and promote the illegal shed, structures obstructions and encroachment on public roads and spaces. They have acted in furtherance of a deliberate and

unlawful design to prevent demolition and clearance of roads, footpaths parking spaces and other public areas in and around Crawford market. Such acts have been taken in concert with the Addl. MC city (accused no. 2) and Municipal Commissioner (accused no.1) and others, thereby facilitating the continuation of large scale encroachments and unauthorized occupations.

The said acts and omission constitute a continuing offence, attracting criminal liability under relevant provisions of law. Accordingly, even the present incumbent officers are equally liable to be prosecuted for aiding and abetting and perpetuating these continuing offences, in willful disregard of their statutory duties and obligations.

1.4 Violation of Heritage Protection - Crawford Market

The Mahatma Jyotiba Phule (Crawford) Market is a Grade-I heritage structure protected under the Mumbai Heritage Regulations, 1995 and monitored by the Mumbai Heritage Conservation Committee (MHCC). Any alteration, addition, obstruction, or commercial encroachment in or around such a notified heritage precinct is prohibited without specific sanction of the MHCC and the Municipal Commissioner as per Regulation 67 of the Development Control Regulations. No elected representative or municipal authority can remain a silent spectator to such illegality, as they are under a statutory and constitutional duty to safeguard heritage property, preserve its architectural character, and prevent defacement or unauthorised occupation. Granting or permitting such constructions, or allowing them by omission, amounts to dereliction of duty, criminal misconduct, and abetment of offences under the Maharashtra Prevention of Defacement of Property Act, 1995 and relevant provisions of the Mumbai Municipal Corporation Act.

The acts and omissions of the concerned municipal officers and elected representatives clearly demonstrate mens rea and deliberate negligence. Despite being fully aware that the Crawford Market is a Grade-I heritage monument, they have permitted or failed to prevent construction of illegal sheds, structures, encroachment and obstructions of shops, stalls, and such structural alterations that deface and damage the protected precinct due to continued inaction and tolerance despite public complaints and statutory

obligations, constitute willful dereliction of duty, aiding and abetting offences under the Maharashtra Prevention of Defacement of Property Act, 1995, Sections several sections of Indian Penal Code, and criminal breach of public trust by public servants. **Such inaction and complicity have the effect of destroying a public heritage asset protected under Article 49 and Article 51A(f) of the Constitution of India, amounting to a conscious conspiracy to defeat the purpose of heritage conservation and the public duty imposed by law.**

2. Details of the Offence

2.1 The accused who are employees of BMC and are considered to be public servant (2(28) BNS/ 21 IPC) **have been entrusted** with control over public roads, footpaths, traffic islands and parking spaces in Mumbai. The accused **also have dominion** over the public roads, footpaths, traffic islands and parking spaces in Mumbai. These accused BMC officers have committed criminal breach of trust by changing the user of these spaces reserved for free movement of pedestrians and motorists by granting illegal permission to encroachment and to create obstruction vide making make commercial use of such public space reserved for public amenities by illegal erection of shops, structures, tin shed etc and thereby obstruct the free flow and movement of the pedestrians and motorist.

2.2 As per the MRTP Act and the BMC Act, as well as the Circular dated 14.12.1999 of the BMC, and several binding judgments of the Hon'ble Bombay High Court and the Hon'ble Supreme Court, no construction or encroachment / obstruction (temporary / permanent structures) is permissible on roads, traffic islands and footpaths. The road, footpath and traffic island space cannot be used for any commercial activities also. These roads, footpaths and traffic island, parking spaces, must be kept free for safe, smooth and unobstructed movement of pedestrians and motorists.

Hereto annexed and marked as **Exhibit--A** is copy of the circular 14.12.1999

2.3 The accused, however, knowingly and wrongfully permitted illegal structures and created encroachment and obstructions, to facilitate commercial activities, and shops to occupy the roads and footpaths, thereby

reduce the useable space for motorist and pedestrians movements which have resulted into endangering public safety, causing severe traffic congestion, and denying the citizens their constitutional right to free movement on road, footpath and traffic island/ parking space all around the special heritage structure of Crawford Market, Mumbai-400001.

Hereto annexed and marked as **Exhibit- B colly** are the photos of the illegal structures/ encroachment / obstruction by way of commercial shops, tin sheds and other structures on road, footpath, public spaces and parking spaces.

2.4 The illegal acts committed by the accused include but are not limited to permitting and promoting a so called “transit market” in blatant violation of mandatory statutory and regulatory requirements such as

- i. Failure to comply with the conditions stipulated in the Fire No Objection Certificate (NOC)
- ii. Absence of valid NOC from the Joint Commissioner of Police (traffic)
- iii. Failure to produce Fire Compliance certificate supported by documentary evidence demonstrating compliance with all conditions laid down in the fire NOC
- iv. Absence of MOC from Executive Engineer (T& E)
- v. Failure to verify and safeguard underground utilities prior to granting or continuing permission.
- vi. Non-compliance with requirements and approvals from the concerned regulatory authorities. And
- vii. Failure to coordinate with or obtain necessary intimation from the local police station despite commission of cognizable offences for which the Senior Inspector of Police is legally bound to register FIR u/s 166 (198), 166A (199), 217 (255), 218 (256) 336(125), 409 (316 (5), 431 (326B).

Without prejudice to my rights and contentions, it is further submitted that even if such permissions or NOC has been purportedly granted by the Joint

Commissioner of Police (Traffic), the Fire brigade, or any other authority, the same would amount to be creation of false and fabricated documents for the purpose of cheating and misleading the Court and public at large, as no authority can lawfully over rule or contravene statutory provisions or binding Court directions.

2.5 It is further submitted that the Assistant Commissioner, Market Department, vide letter dated 6.1.2025, has admitted that no requisite NOCs were obtained for the closure of the public road. On the contrary, the said letter incorrectly records that the concerned road is “not in use for traffic movement.” Moreover, the letter fails to disclose the name and designation of the signatory, rendering it defective and non-compliant with the requirements of Government Resolution dated 3.5.2018, which mandates proper authorization, accountability, and disclosure in all official communications and permissions.

Hereto annexed and marked as **Exhibit-C** is copy of the letter dt. 6.1.25 and **Exhibit-D** is GR 3.5.2018.

2.6 the applicant vide letter dt. 13.8.25 sought all documents / permissions from A ward to allow illegal encroachment / obstruction/ shed / structures on road / footpath / parking space/ and public spaces. The Assistant Commissioner, A Ward, vide letter dated 13.08.2025, had directed the Assistant Commissioner, Market Department, to furnish copies of all mandatory NOCs and permissions obtained in respect of the said market activities. However, no such documents or compliances have been produced, thereby conclusively proving non-compliance with the mandatory legal and regulatory requirements. This omission clearly establishes that the actions undertaken are in violation of law and devoid of any lawful authorization.

Hereto annexed and marked as **Exhibit - E & E1** is copy of the letter dt. 13.8.25 addressed to Asst Comm. A ward and letter by Assistant Commissioner A ward to Assistant Commissioner, Market Department.

Blatant violations of JT CP Traffic police and Fire Brigade norms.

2.7 The applicant states that there is no space for movement and emergency activities of fire brigade and other emergency vehicles. The whole market is constructed with highly combustible materials, which can be devastating and can spread like a wild fire in case of fire and no escape routes as per fire brigade norms.

The applicant has also filed an **application dt. 25.9.25 with JT CP Traffic and CFO fire brigade** to provide all NOC and permissions granted. The same shall be produced as and when directed by this Hon. court.

3. Conduct of the Accused: The accused No.1 and no.2 are the most responsible persons for better and efficient working of BMC and these two accused are IAS officers. These officers are habitual offenders and violate almost every provision of law. These accused 1 and 2 are seized with all knowledge and information of the continuous offences of encroachment and obstruction being carried out all along the road, footpath parking space of the most important heritage structure. These accused senior IAS officers have willfully chosen to protect such illegal change of user, obstruction / encroachment on road and footpath / traffic island / parking spaces and public spaces. The proof of their direct involvement is that no action under conduct rules / disciplinary action / departmental actions are initiated against subordinate officers and no directions are given to demolish these illegal structures / encroachment / obstructions.

Such permission / consent by accused 1 and 2 are not only illegal but also bad in law. It was duty casted upon these officers to supervise the working of lower rank staff. Thus all these accused have collectively failed to take action and remove the illegal structures inspite of complaints.

3.1 The accused have committed the following offences with full knowledge that they are violating every provision of law and causing unwarranted injury and unsafe road and footpath to citizens, as under amongst other namely

- a. Creation of encroachment and obstruction in free movement of pedestrians and motorists.

- b. Disobeyed the binding directions of MMC and MRTTP act, BMC Circular dated 14.12.1999, and judicial pronouncements.
- c. Violated / disobeyed Article 49 (**protection of monuments places and objects of national importance**)
- d. Violated Article 51A(f) (**to value and preserve the rich heritage of our composite culture**)of the Constitution of India
- e. Violated and disobeyed the directions Maharashtra Prevention of Defacement of Property Act, 1995,
- f. Misused and abused their official position for wrongful gain to private entities and wrongful loss to the public.
- g. Erected illegal fire combustible structures on road and footpath.
- h. Closed the roads / footpaths for commercial use and violated the fundamental rights of pedestrians and motorists to have free and safe roads and footpaths.
- i. Created unsafe conditions on road / footpath / traffic islands, endangering life and limb of pedestrians by blocking safe passage and obstructing smooth vehicular movement.
- j. Made the road and footpath impassable and less safe for movement and use of pedestrians and motorists.
- k. Issued illegal allotments and permissions to erect tin shed and shops for commercial use which they were not competent to issue.
- l. caused wrongful loss and injury / harassment to public at large by erecting such illegal structures with tax payer's monies.
- m. Their acts cannot be said to have been done in good faith, as they were carried out without due care and attention, particularly when the law itself expressly prohibits such illegal acts.

**As per Section 52 of the Indian Penal Code,
'Nothing is said to be done or believed in good faith which is done
or believed without due care and attention.'**

4. No Sanction Required: Any act of omission or commission that attracts penalty, prosecution, or disciplinary action cannot be construed as an act done in the discharge of official duty. The Supreme Court has consistently held that protection under the guise of ‘official duty’ does not extend to acts which are in excess of authority, mala fide, or criminal in nature (Matajog Dobey v. H.C. Bhari, AIR 1956 SC 44; Prakash Singh Badal v. State of Punjab, (2007) 1 SCC 1).

4.1 The applicant submits that no sanction for prosecution is required in the p r e s e n t - c a s e .

4.2 The Hon’ble Supreme Court and various High Courts have consistently held that where a public servant’s act has no nexus with the discharge of official duty, and / or amounts to misuse of position and violating the laws and code the protection of prior sanction does not apply.

4.3 The illegal acts committed by the accused—permitting illegal shops and structures on public roads and footpaths, in defiance of binding Circular dated 14.12.1999 and judicial orders—are in gross violation of law and entirely beyond the scope of discharge of their official duty.

4.4 Such acts are mala fide, arbitrary, without good faith, and constitute willful disobedience of law, conspiracy, making of incorrect documents and using them as genuine. Hence, the bar under sanction provisions does not apply.

4.5 the documents such as granting permission / NOC by any authority namely JT CP traffic, CFO fire brigade, underground utility agencies and regulatory authorities comes to protect and promote an illegal activity to cause encroachment and obstruction of road and footpath falls within the ambit of willfully making of incorrect documents, using them as genuine for purpose of cheating and endangering life of citizens and by violating several orders of the Hon. Courts.

Illegal acts and disobeying of law cannot fall within ambit of discharge of official duties.

5. The applicant states that acts committed by the accused persons fall within some of the below mentioned categories amongst others and are not limited to these only. Without prejudice to my rights and contentions, if this Hon'ble Court concludes that sanction is required and that the acts complained of fall within the ambit of "discharge of official duty", the Court must pass a detailed, reasoned and speaking order explaining:
- i. Any act of omission or commission that attracts penalty, prosecution, or disciplinary action cannot be construed as an act done in the discharge of official duty
 - ii. Any / every act committed by any public servant while holding official position cannot be considered to be as an act which falls within ambit of discharge of official duty.
 - iii. The question is not whether the public servant was in service or on duty or not but whether the alleged offences have been committed by them while acting or purporting to act within the ambit of discharge of official duty.
 - iv. The indulgence of public servants in false oath of allegiance towards Constitution of India, acting in conspiracy, disobedience of direction of law, misuse and abuse of position, aiding and abetting of illegal acts and offences, criminal breach of trust, falsification of accounts and calculations, cheating, fabrication of records, issuing wrongful orders in contradiction to the main act / law, misappropriation, permit evasion of duty, cause loss to revenue, causing wrongful gains to others, acting against larger public interest cannot fall within the ambit of discharge of duty.

Request Hon. Court that the offences mentioned in this application discloses the cognizable offences which does not fall within the ambit of discharge of official duties and hence no sanction is required to file the present complaint:

6. The applicant states that acts committed by the accused persons fall within some of the above and below mentioned categories amongst others and are not limited to these only. Without prejudice to my rights and contentions, if this Hon'ble Court concludes that sanction is

required and that the acts complained of fall within the ambit of “discharge of official duty”, the Court must pass a detailed, reasoned and speaking order explaining:

- i. Whether the public authorities who willfully and deliberately fail to display boards outside their cabins and at prominent places in all the offices and branches and thereby concealing the public information / intellectual property held by these trustees namely disclosing names, addresses tel no. email address and all relevant information about the sanctioning authority, comes within the ambit of discharge of official duty act.
- ii. Whether acts impermissible in law falls within ambit of discharge of official duties
- iii. Whether dereliction of duties, illegal acts disobeying the law, misuse and abuse of public office, if the act is contrary and not as per law, falls within the ambit of discharge of official duty.
- iv. Whether disobeying circular 14.12.1999 not to permit any temporary and permanent structures on road, footpath and traffic island comes within ambit of discharge of official duty.
- v. Whether disobeying the direction of Constitutional court and illegally allow obstruction / encroachment on road, footpath, traffic islands and parking spaces comes within ambit of discharge of official duty.
- vi. Whether carrying out encroachment / obstruction on public spaces without NOC / permissions of the competent authorities come within ambit of discharge of official duties.
- vii. Whether any public servant illegally and without legal authority giving NOC / permission to encroach road, footpath, traffic island and public spaces and obstruct free movement of traffic and pedestrians fall within the ambit of discharge of official duty.

7. Compliance of section 154(1) and 154(3) CRPC

The Applicant has filed complaint u/s (173(1) BNSS with MRA police station and complaint u/s 173(4) corresponding BNSS with DCP zone 1-with reminder. However, no FIR is registered nor any intimation that the complaint does not disclose commission of cognizable offences is received from the police station and DCP. Hence, this application is filed before this Hon. Court.

Hereto annexed and marked as **Exhibit- F & G** is copy of the complaint filed to MRA police station MRA police station and complaint filed before DCP zone-1

8. Role of SR. PI MRA Marg police station and DCP zone-1. SR PI and DCP zone-1 have failed to register FIR and disobeyed the direction of DGP circular 17.2.2012 and Hon. Supreme Court direction to immediately register FIR when cognizable offence is disclosed. Hence, the SR. and DCP Zone-1 are also accused and FIR shall be registered u/s 199 BNSS (166A) and other relevant sections. No FIR is registered nor has any reply been provided informing that no cognizable offence has been disclosed in the application u/s 154(1) and 154(3) CRPC. (173(1) 173(4) BNSS. Hence the SR PI MRA Marg and DCP zone-1 have harbored the offenders by misusing their positions to cause injury to public at large.

9. Role and Accountability of Elected Representatives and Guardian Minister.

The MP, MLA, Councilors and Guardian Minister of Mumbai cannot be silent spectator to such blatant illegalities. They have to justify their act of omission and commission along with section under MMC act and MRTP act. They have taken oath of allegiance towards the Constitution of India and have failed to abide by it, thereby making a false statement on oath and

acting against the larger public interest. Hence it is necessary to investigate their role in the commission of this crime.

a. Oath of Allegiance and Breach of Constitutional Duty by Elected Representatives

That every Member of the State Legislature, including the Member of the Legislative Assembly and Member of the Legislative Council, is constitutionally bound under Article 188 read with Schedule III, Part IV of the Constitution of India to take an oath or affirmation declaring that he or she will bear true faith and allegiance to the Constitution of India as established by law, will uphold the sovereignty and integrity of India, and will faithfully discharge the duty upon which he or she is about to enter. This solemn oath is a binding constitutional obligation and not a mere formality. Any failure, inaction, or conduct contrary to the spirit of this oath—such as permitting or ignoring illegal acts, shielding corrupt officers, or acting against the larger public interest—constitutes a breach of oath, violation of constitutional trust, and dereliction of statutory duty. Such misconduct attracts scrutiny under Articles 191 and 192 of the Constitution, the Prevention of Corruption Act, 1988, and other penal provisions for abuse of position, abetment, or criminal negligence. Hence, the role and accountability of these elected representatives require investigation to determine whether their acts of omission or commission have facilitated the continuance of illegality or caused loss to the public at large.

b. The illegal shops and encroachments on roads and footpaths around the heritage precinct of Crawford Market reflect a complete failure of municipal governance and neglect of statutory duties by elected representatives and officers. Under Section 61(1)(a), (d), (k), (m), (n), and (o) of the Mumbai Municipal Corporation Act, 1888, it is the duty of the Corporation and its officers to maintain streets, remove encroachments, regulate street trading, protect open spaces, and safeguard heritage property. The Municipal Officer (MO)

and Ward staffs are responsible for enforcement and daily supervision, and their inaction amounts to breach of duty.

- c. . Under Article 243W read with the Twelfth Schedule (Entries 1, 12, 13, and 15) of the Constitution, elected Councilors, MLAs, MPs, and the Guardian Minister are equally responsible for ensuring lawful urban governance and preservation of public property. Their silence and inaction despite visible violations near a centrally protected monument show willful neglect and tacit approval. Citizens are put to great difficulty due to the total failure of elected representatives who remain indifferent to the illegal activities of public servants and encroachers. Such continuing illegality endangers public safety and degrades the city's heritage, warranting urgent judicial direction for removal of encroachments and fixing of personal responsibility on all concerned.

10. Section 3. Oath or affirmation to be made by public servants.

(1) Every person who is appointed to a public service or post in connection with the affairs of the Union or of a State shall, before entering upon his office, make and subscribe an oath or affirmation in the following form, namely:—

"I, A.B., do swear in the name of God / solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, and that I will carry out the duties of my office loyally, honestly and with impartiality."

11. BMC Service Conduct rules 1999

1. Every Corporation employee shall at all times

- i. maintain absolute integrity**
- ii. maintain devotion to duty**
- iii. shall always be courteous and cordial to all persons with whom he comes in contact in the discharge of his duties.

2. no corporation employee shall be dishonest, insubordinate, disobedient, and make willful mis-statements, conceal facts, or tamper with or destroy records and make willful damage to corporation property. Damage

3. Every Corporation employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Corporation employees for the time being under his control and authority.

4. no corporation employee shall in his performance of his official duty or in the exercise of his powers conferred on him, act otherwise than in his best judgments except when he is acting under the direction of his official superior and shall, where he is acting under such direction, obtain the direction in writing, wherever practicable, and where it is not practicable to obtain the direction in writing, he shall obtain written confirmation of the direction as soon thereafter as possible.

12.IAS, IPS, IRS and elected representatives, are the real and habitual violators of law conspire to conceal mandatory information.

A common man should be aware of the following details which are dishonestly concealed by these top ranking public servants

- i. It is most respectfully submitted that directions be issued to all competent authorities to ensure that boards disclosing details of the **authority which grants sanction to prosecute are fixed outside every cabin** and at prominent places in government offices, clearly displaying the designation, office address, official email address, and telephone number of officers, particularly those belonging to the IAS, IPS, IRS cadres, and elected representatives.
- ii. This measure is essential to promote transparency and accountability so that citizens can easily identify and approach the appropriate authority for grievances, complaints, or applications for sanction to prosecute. As mandated under Section 4 of the Right to Information Act, 2005, every public authority must

proactively disclose details of the competent authority empowered to grant sanction for prosecution.

- iii. Further, in accordance with Regulation 9(2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005, the designations, **office addresses, email addresses, and telephone numbers of at least three senior officers authorized to receive complaints** should be prominently displayed in every office. Such transparency is vital for enabling a common citizen to understand where to file complaints or applications for prosecution sanction, thereby ensuring accountability and preventing deliberate evasion of responsibility by public officers.
- iv. The above **information is public intellectual property which entrusted, and is in dominion of the above public servants with direction of law prescribing the mode in which such trust / information / intellectual property is to be discharged**, or of any legal contract, express or implied, which is touching the discharge of trust, and willfully causes suffering / injury / denial of fundamental rights to citizens who want to prosecute and file complaints to set the law in motion against the corrupt and non performing public servants.
- v. Hence the accused have violated the direction of law and **committed criminal breach of trust by public servants** who are entrusted the information and have dominion to such mandatory and vital information.

13. Duty of the Judicial officer to Verify / confirm whether board disclosing Information of authorities who grant sanction to prosecute the public servants are installed at the prominent places in the public authority offices.

- i. It is respectfully submitted that it is the bounden duty of the Judicial officer to verify / seek information whether the concerned Public Authority has complied with the above statutory mandate of displaying, at prominent places in their office premises, the details of

the sanctioning authority, the designated officers, and other information necessary for public awareness and access to justice.

- ii. This statutory duty is reinforced by Article 19(1)(a) and Article 51A(j) of the Constitution of India, which collectively ensure transparency, accountability, and excellence in public administration. Hence, it is the legal and constitutional obligation of the Learned Magistrate to verify and enforce such disclosure, and any failure by a public officer to do so renders him liable for action for dereliction of duty and violation of citizens' fundamental rights.

Gist of Cognizable Offences:

The acts of commission and omissions of the accused persons, being public servants entrusted with the management and control and dominion of public roads, footpaths, and traffic islands, and these trustees illegally by misusing and abusing their positions allowed encroachment to create obstruction in free movement of pedestrians and motorists clearly disclose the commission of cognizable offences under various provisions of the Bharatiya Nyaya Sanhita, 2023 and the Indian Penal Code. The accused have, in conspiracy, permitted and protected illegal structures/ encroachment and obstructions on public roads and footpaths, parking areas, public spaces, falsified official records, disobeyed lawful directions, and thereby endangered public safety and caused wrongful loss to citizens. Their deliberate misuse of authority to permit

- i. defacing of heritage structures,
- ii. allowing commercial activities, shops on road, footpath, parking spaces and public spaces, surrounding the heritage structures
- iii. closing the roads for commercial activities,
- iv. creating encroachment and obstruction in free movement of pedestrians and motorists.
- v. Endangering life and property by violation of basic / mandatory and life-saving rules / regulations and law.

amounts to criminal breach of trust by public servants, disobedience of law, abuse of position, falsification of records, blatant disobedience of direction

of law and creation of unsafe conditions endangering life and property. These acts are punishable under Sections 61(2), 120B, 125, 166, 166A, 217, 218, 409, and 431 BNS, and fall squarely within the definition of cognizable offences, warranting immediate registration of FIR under Section 173(1) BNS without any prior sanction.

In view of above the applicant prays to

- A. Direct to register an FIR forthwith against all accused mentioned above in the application to register FIR as well as against the SR PI Azad Maidan Police station and DCP zone-1, along with other unknown accused.
- B. Direct the applicant to submit clarification / explanations in writing if there are any grounds / doubts that this application does not disclose prima facie cognizable offence against the accused.
- C. Direction to competent authorities to fix boards outside cabin and prominent places of the offices disclosing designation, office address. Email address, telephone numbers especially of IAS, IPS, IRS, and elected representatives to enable the citizens to file application before the correct authority.
 - i. details of authority which gives sanction to prosecute (section 4 of RTI act)
 - ii. **The names and contact details of three senior officers** to whom complaints may be filed, as mandated under **Regulation 9(2) of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay or Misconduct in Discharge of Official Duties Act, 2005.**

Mumbai

Dated this ____ day of November 2025.

Complainant

Verification

I, Kamlakar Ratnakar Shenoy, the applicant herein, do hereby verify that the contents of this complaint are true and correct to my knowledge and belief.

Mumbai

Dated this ____ day of November 2025.

Complainant

VERIFICATION

I, the deponent above named, do hereby verify that the contents of this affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed there from.

Verified at Mumbai on this __ day of November 2025.

Kamlakar Ratnakar Shenoy

(Deponent)

Identified by:

Advocate for the Complainant
(Signature & Stamp)

Citation

S. No	Citation	Page No.
1.	Delhi HC CrI. MC 2793 / 2009 <u>Locus of every citizen under Article 51A of constitution.</u> Para 7, 9, 11, 12, 13.	
2.	<u>Illegal obstruction and encroachment road and footpath</u> Bombay HC PIL 141 of 2023 Qaneez E Fatemah Sukhrani v/s PMC order dt. 3.4.25 BY CJ Bombay HC <u>Para 1 & 2:</u> road and footpath neglected, safe passage for pedestrians on footpath <u>Para 5:</u> installation of <u>fuse Boxes by electric company cannot be allowed</u> on ground that it help smooth functioning of their service cannot be valid ground to deny the pedestrians of their rights to have safe passage	
3.	AIR 2013 SC 927 Dipak Mukharjee v/s Kolkata Municipal corporation <u>Page 1 Para A:Illegal / unauthorized construction affects fundamental rights:</u> Benefit of getting sanctioned revised plan cannot be given to builder. Construction made liable to be demolished. Para Notes A & B. Para 3, 6 8, 9	
4.	Bombay high Court Contempt petition 90 of 2024 in W.P. 2601 of 2018.	

	<p>Para 16: it is <u>solemn duty of BMC</u>, who according to us falls within ambit of <u>Article 12 of the Constitution of India</u>, to take all necessary action against illegal structures, once it is pointed out, and even though they themselves are not interested in removing it. But once the citizens point out that certain structures are illegal, then it is duty of the BMC to take necessary action under provisions of law, notwithstanding the fact that it is private and public land. Prevention</p> <p>Para 17: this demolition of the unauthorized structures is to be taken by BMC or revenue authorities and that it is they alone who can deal with Squatters.</p> <p>Para 18: <u>the officers cannot be silent spectator to illegalities committed by certain person, constructing structures without lawful permission on that behalf.</u></p> <p>We cannot have two sets of laws one for law abiders and one for non-abiders.</p>	
5.	<p>Bombay HC WP 14989 of 2025</p> <p>Tiroli CHS v/s BMC Justice G.S.Kulkarni and Arif Doctor Order dt. 7.7.25</p> <p>Para 8: encroachment on road and footpath, accident of pedestrians, high time for accountability.</p> <p>Para 9: first and foremost, duty to take action against footpaths, roads, public amenities and public spaces cannot be taken lightly more particularly when there is large scale illegalities /encroachment</p> <p>Timely action of BMC authorities to remove encroachments</p>	

	<p>on road and footpath the matters would not have reached court.</p> <p>A city with neat and clean footpath cannot remain a dream.</p> <p>Para 10: open encroachment on footpath cannot take place without tacit support of ward officers</p> <p>Para 11: public denied of footpath constructed from tax payer's monies.</p>	
6.	<p>Bombay HC PIL 116 of 2024</p> <p>Rajesh Kumar Shukla v/s state of Maharashtra</p> <p>Justice Naresh Patil and G S Kulkarni</p> <p>Para 5: right of pedestrian to walk on street shall be preserved and maintained.</p> <p>In no case pedestrian shall be denied free access to public street and footpath.</p> <p>DCP traffic shall and corporation need to work to remove the encroachment</p>	

Role of Court / corruption

7.	<p><u>Madras HC W.P. 25846 and 30046 of 2018</u> P. Saravanan v/s District Collectors and others</p> <p>Page 3 para 4: corruption from birth to Death becomes way of Life.</p> <p>Page 10 par 5:Judiciary is not exempted from Corruption. Corruption in the Judiciary are also wide spread and</p>	
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	<p>admitted by the great Jurists and Hon. Judges.</p> <p><u>Page 8 Para 3:</u> the minority non-corrupt and right thinking persons are necessarily to be encouraged and protected by the Constitutional Courts and Authorities Competent to ensure that fight against majority corrupt is advanced.</p> <p><u>Page 9 Para 1:</u> providing a non-corrupt administration by State / Union is also integral part of the constitutional mandates.</p> <p><u>Page 9 Para 2:</u> Ample Anti- corruption laws are enacted and in force in our Nation. However, eve and efficient implementation of those laws are lacking on account of corrupt activities are wide spread in public administration.</p> <p><u>Page 11 Para 2:</u></p> <p><u>Corrupt Judicial officers are to be declared Anti National so also the public servants. They are antinational because they are obstructing the development activities of our great nation.</u></p> <p>Thus persons corrupt and acting against the development activities of our great nation are also to be declared as anti-Nationals.</p> <p>Thus, corruption in Judiciary is the greatest enemy to the constitution and Judiciary must also initiate drastic measures in order to control corruptions in various forms.</p>	
8.	<p><u>Gujarat High Court: Dr. Rajesh Chandulal Shah</u> v/s State of Gujarat Criminal</p> <p>Misc application 9278 of 2018 . order dt. 12.6.2018</p>	

Page 8 Para 15: if even a fraction of what was vox pupuli about the magnitude of corruption to be true, then it would not be far removed from truth, that it is **rampant Corruption indulged in with impunity by highly place persons that has led the economic unrest in this country.**

If the society in a developing **country faces a menace** greater than even the one from the hired assassins to its law and order, then that is **from the corrupt elements at the higher echelons of the government and of political parties.**

Page 9 Para 17: Therefore, duty of the Court is that any anti-corruption law has to be interpreted and worked out in such fashion as to strengthen the fight against corruption.

Page 9 Para 18: corruption by public servants have reached monstrous dimension in India.

Page 10 Para 72:corruption is an enemy of nation and tracking down the corrupt public servants, however, high he may be, and punishing such person is a necessary mandate under PC Act 1988, The status or position of the public servant does not qualify such public servant from exemption from equal treatment.

The decision making power does not segregate corrupt officers into two classes as they are common crime-doers and have to be tracked down by the same process of inquiry and investigation.

Page 11 Para 61: unless people rise against bribery and corruption, society can never be rid of this disease. The people can collectively put off this evil by resisting

	corruption by any person, however, high he or she may be.	
9.	<p>SLP 2671 / 2021 Ram Sagar v/s CBI Para 7</p> <p>Sanction u/s 197 can be taken before the trial court at any stage of the proceedings. it would depend on the nature of the evidence that prosecution may lead in course of trial</p>	
10	<p><u>Vinodkumar pandey v/s Vijay Agarwal and others (SLP (C) 7900 of 2019)</u></p> <p>Para 25: no verification of correctness</p> <p>Para 32: prima facie cognizable offence disclosed register FIR</p> <p>Para 33: no action on grounds police cannot investigate CBI officers</p> <p>Para 34: Constitution bench conclusion prima facie offence disclosed. No reasons to interfere</p> <p>Para 35: registration of FIR against officers shall not cause prejudice; they have option to disclose in investigation no cognizable offence committed.</p> <p>Para 36: not prudent exercise to scuttle investigation after HC has opined prim facie offence disclosed.</p> <p>Para 37: it would dichotomy of justice if an offence is not allowed to be investigated for offence committed in 2000 particularly when there is involvement of CBI officers.</p> <p>It is high time that those who investigate should also be investigated to keep alive the faith of public at large in system.</p> <p>Para 41: the police officers who failed to register FIR are</p>	

	<p>directed to be present before the I.O.</p> <p>It is the department which is filing appeal who is no way concerned but a beneficiary by the order passed. the department has no locus standii to file such appeal</p> <p>The real accused have not filed any appeal.</p>	
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<p>12.</p>	<p>Bombay HC WP 2017 of 2025</p> <p>Maneesha CHS v/s BMC order dt. 13.10.25</p> <p>Fish market on footpath</p> <p><u>Para 7:</u> Municipal commissioner Responsible</p>	
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IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS

64th Esplanade Court, Mumbai

CC: / MISC / 2025

Mr. Kamlakar Ratnakar Shenoy,

Senior citizen aged 67 years.

Mob: 9870987359

Email: shenoykr2001@yahoo.co.in

... Complainant

Versus

Mr. Bhushan Gagrani,

Municipal Commissioner, BMC& others

....Accused

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Sr.No	Document	Exhibit	Page
1.	Application		
2.	BMC circular dt. 14.12.99	A 1	
3.	Photos of encroachment (separate file)	B	
4.	Letter dt. 6.1.25 addressed by BMC market dept to A ward	C	
5.	Gr 3.5.2018	D	
6.	Letter to A ward to provide legal permission Letter from Ward "A" DT. 13.8.25 to Market dept to provide all compliances and Noc	E E1	
7.	Application u/s 173(1)BNSS to MRA police station	F	
8.	Application under 173(4) to DCP zone -1	G	
9.	Affidavit		
10.	Vakalatnama		
11.	Docket		

V A K A L A T N A M A

I am/we are not a member of the welfare fund. Therefore stamp of Rs.2/- is/are not affixed herewith.

Signature

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS
64th KILLA, AT MUMBAI

C. C. No. / /2025

KAMLAKAR RATNAKAR SHENOY

...Complainant

Versus

MR. BHUSHAN GAGRANI,
MUNICIPAL COMMISSIONER, BMC AND OTHERS

...Accused

We hereby appoint Shri Kishor Shinde and Bhagyasha Kurane Advocates-High Court, Mumbai, to act, appear and plead on our behalf in the above matter. In witness whereof we have set our hands to this writing.

Dated this day of November., 2025

Accepted.

KISHOR SHINDE

(Complainant)

BHAGYESHA KURANE
(Advocates for the Complainant)

Date: .11.2025

IN THE COURT OF THE JUDICIAL
MAGISTRATE OF FIRST CLASS,
64TH COURT, KILLA MUMBAI
CASE NO. / MISC /2025

KAMLAKAR RATNAKAR SHENOY

... Complainant

V/S

Mr. Bhushan Gagrani, Municipal
Commissioner, BMC And Ors.

... Accused

COMPLAINT U/S 61(2) (120B), 125
(336) , 198 (166) , 199 (166A), 255
(217), 256(218), 316(5) (409), 326(b)
(431) OF THE BNS 2023

Dated this th day of Nov, 2025

KISHOR SHINDE

Advocate for Complainant

16 ½, Manu Seth, Chawl, Near Holi
Maidan Mumbai - 400017