

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS**  
64<sup>th</sup> 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 Kamlakar 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](mailto:shenoykr2001@yahoo.co.in)

..... Complainant

Versus

1. Mr. Iqbal singhChahal (then Municipal Commissioner
2. Mr. BhushanGagrani, Municipal Commissioner, BMC
3. Mr. Sanjeev Kumar (then Addl MC city)
4. Mr. Ashish Sharma (then Addl MC city)
5. Smt. Ashwini Joshi, Addl. MC (City), BMC.
6. JT MC Vigilance
7. JT MC Mr. Chore (OSD to MC accused no. 2)
8. Uddhav Chandanshive. (then Asst Comm B ward)
9. Smt. Sangeeta Hasnale (then DMC zone-1) Having office at BMC head office CS, Mumbai-400001
- 10.Sr. PI JJ Marge police station, Mumbai Below JJ flyover bridge, Mumbai-400008
- 11.DCP zone-1, Mumbai. Having office at Fort, Mumbai - 400001.
- 12.Others unknown accused and role of the elected representatives

.....Accused

**Criminal Application 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**

The applicant is prosecuting the above accused person mentioned herein above for making engineering changes under the guise of beautification as well as in violation of MRTP act.

**Meaning of 'Beautification' – Legal Clarification**

**1. Meaning vs. Structural Change**

“Beautification” does not legally mean changing the original structure of a road, footpath, or divider, altering measurements or width of the carriageway, reducing usable road space for pedestrians or vehicles, or changing the original approved layout or alignment of a public road or footpath. **These are engineering or planning alterations, not beautification.**

**2. What “Beautification” Covers (as per administrative practice)**

BMC and similar civic bodies use “beautification” to mean surface-level aesthetic improvement only, such as:

- Painting, resurfacing, cleaning
- Lighting, benches, garden elements, tree plantation
- Installing bollards, railings, tiles, planters
- Decorative structures or murals
- Repairing or relaying existing footpath or divider without changing its width, alignment, or design

**Thus, beautification is cosmetic or aesthetic, not structural or dimensional.**

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 structures, construction and creating obstructions and encroachment in the middle of the road by converting and changing the size of dividers illegally under guise of beautification illegally and wrongfully.

**The whole plan of cafeteria and reading room in the middle of the road, where citizens cannot cross, no parking spaces are available and motorist move at a snail pace in the most congested area was mockery of the accused public servants and in connivance with local elected representatives who have played fraud on the citizens**

**Starting from JJ fly over near JJ police station to Fort side near MRA Police station** 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. The same is pending.

1.3 The above accused have conspired to protect the illegal structures and acted in furtherance to evil design to not demolish the illegal obstruction and encroachment and clear the road, along with the Addl MC city (accused no. 2) and Municipal Commissioner (accused no.1) and others. The offence is a continuous offence and hence even the present officers along with then officers are equally responsible for being prosecuted for protecting, aiding and abetting these continuous offences.

## **2. Details of the Offence**

- a. 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 road by **constructing illegal permanent structures thereby reducing the usable space of road denying free movement of pedestrians and motorists.**

- b. 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 obstruction (temporary / permanent structures) is permissible on roads, traffic islands and footpaths. The road, footpath and traffic island space cannot be used for any other purpose but for safe and free movement of pedestrian and motorist.

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

- c. The accused, however, knowingly and wrongfully permitted illegal structures and created 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 constructed below the JJ flyover bridge.

- d. The applicant also submits letter dt. 18.7.23 from DMC (accused no. 7) where in other matters of encroachment on road and footpath she has directed demolition of the structures on roads within 15 days. However, thereafter she did not allow the demolition.

Hereto annexed and marked as **Exhibit—C letter dt. 18.7.23** is copy of the accused no. 7 letter dt. 18.7.23 to demolish the illegal structures on road and footpath.

- e. Vide letter dt. 15.12.2023 the JT CP traffic has informed the BMC not to carry out any beautification without taking NOC from JT CP traffic police

Hereto annexed and marked as **Exhibit--D** is copy of the JT CP letter dt. 15.12.23 to BMC

- f. The applicant states that vide letter dt. 12.3.24 the Dy. Chief Engineer has informed the accused that the NOC and other conditions have not been obtained.
- i. without compliances of fire NOC conditions
  - ii. without JT CP Traffic NOC
  - iii. Fire compliance certificate of all conditions laid in NOC has been complied with documentary evidences.
  - iv. NOC from EE ( T& E )
  - v. Underground utilities.
  - vi. Regulatory authorities
  - vii. Local police station (cognizable offences committed for which Sr. PI is responsible 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 that even if such permission / NOC is given by JT CP Traffic and fire brigade and / or any other agencies it shall be making of false / incorrect documents and using them as genuine for purpose of cheating by the officers of Fire brigade as well as JT CP Traffic and other authorities, as they cannot overrule law and Court directions.

Hereto annexed and marked as **Exhibit--E** is copy of the BMC road and traffic dept letter dt. 12.3.24 to BMC.

- g. Accused no., Mr. IqbqI Chahal was Municipal commissioner from 8<sup>th</sup> may 2020 to 21.3.24 during his tenure the illegal encroachment below the JJ flyover bridge started under guise of beautification.

And Addl. MC was accused no.2, Mr. Sanjeev Kumar and Ashish Sharma

**Conclusive evidence to prove direct involvement of accused no. 2,4,6,7**

- h. the B ward official vide noting ACB/ AE(M) 810/SR/gen/5-12.8.24 requested for consent of accused no.2 Mr. Bhushan Gagrani. The accused no.2, disclosed his dishonest intentions and did not sign the noting. Instead the accused no. 5 Mr. Chore noted on 11.9.24

**“This was discussed with Hon. MC by you in presence of AMC (C). Please do the needful.”**

This proves the direct involvement in the crime of Bhushan Gagrani, Ashwini Joshi, Mr. Chore and Mr. Chandanshive (then Asst Com B ward)

Hereto annexed and marked as **Exhibit –E1** is the file noting signed by Chore on 11.9.24 and Ashwini Joshi on 4.9.24.

- i. The accused have also violated the GR 3.5.2018 wherein it is directed that the name and designation of the person signing shall be readable.

Hereto annexed and marked as **Exhibit---E 2** is GR 3.5.2018.

- j. The DMC zone-1 Sangeeta Hasnale vide her noting dt. 13.8.2024 has clearly noted that  
**“Call urgent meeting at your office or Hon. MC sir office be called in the office.”**  
 i.e. in the office of accused 2 and 4. Namely Mr. Bhushan Gagrani and / or Smt. Ashwini Joshi.

- k. **Role of all IAS officers made out:** Hereto annexed and marked as **Exhibit- E3** is chart of direct involvement against the IAS officers.

- l. **NO NOC from Traffic police:** attached letter dt. 1.2.2024.

Hereto annexed and marked as **Exhibit E4** is copy of the traffic police objecting to beautification below JJ flyover.

**3. Conduct of the Accused :** The accused No.1 and no.2 are the most responsible persons and who 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 being carried out all along the road, footpath parking space. 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 no action under conduct rules are initiated against subordinate officers and no directions are given to demolish these illegal structures.

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 applications.

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. Disobeyed the binding directions of MMC and MRTP act, BMC Circular dated 14.12.1999, and judicial pronouncements.
- b. Violated and disobeyed the conditions of heritage building.
- c. Misused and abused their official position for wrongful gain to private entities and wrongful loss to the public.
- d. Erected illegal structures on road and footpath.
- e. Created unsafe conditions on road / footpath / traffic islands, endangering life and limb of pedestrians by blocking safe passage and obstructing smooth vehicular movement.
- f. Made the road and footpath less safe for movement and use of pedestrians and motorists.
- g. Issued illegal permissions to erect structures.

- h. Caused wrongful loss and injury / harassment to public at large by erecting such illegal structures with tax payer's monies.
- i. 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 present case.

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.

- v. I rely on SC judgments that Sanction is not required for registration of FIR and can be decided by the Ld. Magistrate while proceeding with trial. **(copy attached) Ram Sagar v/s CBI**

**Request to Hon. Court to pass speaking and reasoned orders whether the offences mentioned in this application disclosing cognizable offences comes within ambit of discharge of official duties if at all sanction is required.**

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. Directing the public authorities to display boards outside their cabins and at prominent places in all the offices and branches disclosing names, addresses tel no. email address and all relevant information about the sanctioning authority.
  - 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.

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

The Applicant has filed application u/s (173(1) BNSS with JJ Marg police station and application u/s 173(4) corresponding BNSS with DCP zone 1-with reminder. However, no FIR is registered on the grounds that BMC has authority to create obstruction and encroachment on road vides MMC section 61 (M) which reads as under:

**MMC act Section 61 M:** it shall be incumbent

The construction, maintenance, alteration and improvement **of** public streets, bridges, culverts, causeways, and the like: **(and also other measures for ensuring the safe and orderly passage of vehicular and pedestrian traffic on streets.)**

Hence, this application is filed before this Hon. Court.

Hereto annexed and marked as

**Exhibit- F** colly 2.3.24, 15.3.24, 19.3.24 correspondence with JJ marg police station u/s 173(1) BNSS / 154(1) CRPC

**Exhibit G** :JJ Marg police station letter dt.6.3.24 giving show cause notice to B ward.

**Exhibit- H:** JJ Marg police letter dt. 26.3.24 closing the application that BMC has been empowered to do under **MMC act section 61 (M)**

**Exhibit-I:** is copy of the application filed before DCP zone-1 under 154(3) CRPC / 173(4) BNSS

**8. Role of SR. PI JJ marg police station and DCP zone-1.**

- a. SR PI and DCP zone-1 has 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 any reply has been provided informing that no cognizable offence has been disclosed in the application u/s 154(1) and 154(3) CRPC i.e. (173(1) 173(4) BNSS. These two senior police officers acted in conspiracy with the accused by accepting the irrelevant submissions which is contrary to law and wrongfully did not register FIR.
- b. Hence the SR PI JJ marg police station and DCP zone-1 have harbored the offenders by misusing their positions to cause injury to public at large.
- c. Vide email dt. 2.4.24 the DCP zone 1, after being satisfied that cognizable offence is disclosed directed the ACP to

**“ACP Dongri Division, Mumbai Appropriate action should be taken as per law.”**

However, thereafter denied to register FIR.

**9. Role and Accountability of Elected Representatives and Guardian Minister.**(shall produce evidence when court directs or during investigation) **B ward letter dt. 6.2.24**

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.

### **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 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 Judgment** 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, applications, 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 applications** should be prominently displayed in every office. Such transparency is vital for enabling a common citizen to understand where to file applications 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 applications 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. As the senior most public servants / officers willfully fail to disclose the details as required under section 4 to disclose the details of sanctioning authority and 3 senior's officers to whom the complaint can be filed against them, the citizens are cheated and have every possibility of filing applications before incompetent authority.
- ii. 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 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.
- iii. The applicant relies upon the provisions of Section 4(1)(b)(c)(d) of the Right to Information Act, 2005, which mandate every Public Authority to proactively disclose and display at prominent places the powers and duties of its officers, the decision-making hierarchy, and the particulars of sanctioning and competent authorities.
- iv. 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 Judicial officers to verify and enforce such disclosure, and any failure by a public officer to do so render 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, used false and incorrect records as true to cheat the citizens, disobeyed lawful directions, and thereby endangered public safety and caused wrongful loss to citizens. Their deliberate misuse of authority 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, 125/336, 198/166, 199/166A, 255/217, 256/218, 316(5)/409, and 326B/431, 336/2- 465, 338/467, 336/3-468, 340/2-471 316/5-409, and 326B/431 BNS, and fall squarely within the definition of cognizable offences, warranting immediate registration of FIR under Section 173(1) BNSS without any prior sanction.

### **Prayer**

- A. Direct the applicant to submit clarification / explanations in writing if there are any doubts remaining in the minds of the Hon. Court that this application does not disclose prima facie cognizable offence against the accused.
- B. Direct to register an FIR forthwith against all accused mentioned above in the application to register FIR as well as against the SR PI JJ

- marg police station and DCP zone-1, for not register FIR in application disclosing cognizable offences along with other unknown accused.
- C. Confirmation of compliance and direction to competent authorities of all the accused 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
- i. authority which gives sanction to prosecute especially (section 4 of RTI act)
  - ii. Three senior officers to whom application can be filed (regulation 9 (2) of Maharashtra Government Servants Regulation of Transfers and Prevention 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 application are true and correct to my knowledge and belief.

Mumbai

Dated this \_\_\_\_ day of November 2025.

Complainant

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS**

64th Esplanade Court, Mumbai

**CRIMINAL APPLICATION NO. OF 2025**

**IN THE MATTER OF:**

Kamlakar Ratnakar Shenoy ...Complainant

versus

Bhushan Gagrani and Others ... Accused

**AFFIDAVIT IN SUPPORT OF THE APPLICATION**

**I, Kamlakar Ratnakar Shenoy**, aged 67 years, Indian Inhabitant, residing at B/903, Vaishali Apartment, Seth Motisha Lane, Opp. Telephone Exchange, Mazgaon, Mumbai – 400010, do hereby solemnly affirm and state as under:

1. That I am the applicant in the present matter and am fully conversant with the facts and circumstances of the case.
2. That I have filed the accompanying application under Sections 166A IPC / 199 BNS and others sections
3. That the facts stated in the application are true and correct to the best of my knowledge, belief, and information. The annexure marked as Exhibits A to J are true copies of their respective originals.
4. That prior to filing this application before this Hon'ble Court, I had approached the concerned Police Station by submitting application dated 20.8.25 under Section 154(1) Cr. PC (173(1) BNSS). Upon their

- failure to act, I filed application under Section 154(3) Cr PC (173(4) BNSS) before the Deputy Commissioner of Police.
5. That no FIR has been registered till date despite disclosure of cognizable offences.
  6. I have not filed any other application regarding the same cause before any other competent court or authority.

### **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

Sr. No	Citation	Page No.
1.	Delhi HC CrI. MC 2793 / 2009 <b><u>Locus of every citizen under Article 51A of constitution. Para 7, 9, 11, 12, 13.</u></b>	

### Illegal obstruction and encroachment road and footpath

2.	Bombay HC PIL 141 of 2023 Qaneez E Fatemah Sukhrani v/s PMC order dt. 3.4.25 BY CJ Bombay HC <b><u>Para 1 &amp; 2:</u></b> road and footpath neglected, safe passage for pedestrians on footpath <b><u>para 5:</u></b> installation of <b><u>fuse Boxes by electric company cannot be allowed</u></b> 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 <b><u>Page 1 para A:</u></b> Illegal / unauthorized construction affects fundamental rights: <b>Benefit of getting sanctioned revised plan cannot be given to builder. Construction made liable to be demolished.</b>	

	<b>Para Notes A &amp; B. para 3, 6 8, 9</b>	
4.	<p>Bombay high Court Contempt petition 90 of 2024 in W.P. 2601 of 2018.</p> <p><b><u>Para 16:</u></b> it is <b><u>solemn duty of BMC</u></b>, who according to us falls within ambit of <b><u>Article 12 of the Constitution of India</u></b>, to take all necessary action against illegal structures, once it is pointed out, and even though they themselves are not interested in removing it. <b>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.</b></p> <p>Prevention</p> <p><b><u>para 17:</u></b> 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><b><u>Para 18:</u></b> <b>the officers cannot be silent spectator to illegalities committed by certain person, constructing structures without lawful permission on that behalf.</b></p> <p><b>We cannot have two sets of laws one for law abiders and one for non-abiders.</b></p>	
5.	Bombay HC WP 14989 of 2025	

	<p><b><u>Tioli CHS v/s BMC</u></b> Justice G.S.Kulkarni and Arif Doctor</p> <p>Order dt. 7.7.25</p> <p><b><u>Para 8:</u></b> encroachment on road and footpath, accident of pedestrians, high time for accountability.</p> <p><b><u>Para 9:</u></b> 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 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><b><u>Para 10:</u></b> open encroachment on footpath cannot take place without tacit support of ward officers</p> <p><b><u>Para 11:</u></b> public denied of footpath constructed from tax payer's monies.</p>	
6.	<p>Bombay HC PIL 116 of 2024</p> <p><b>Rajesh Kumar Shukla vs state of Maharashtra</b></p> <p>Justice Naresh Patil and G S Kulkarni</p>	

	<p><b>Para 5:</b> 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>	
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### **Role of Court / corruption**

7.	<p><b><u>Madras HC W.P. 25846 and 30046 of 2018</u></b> P. Saravanan v/s District Collectors and others</p> <p><b><u>Page 3 para 4:</u></b> corruption from birth to Death becomes way of Life.</p> <p><b><u>Page 10 par 5:</u></b>Judiciary is not exempted from Corruption. Corruption in the Judiciary are also wide spread and admitted by the great Jurists and Hon. Judges.</p> <p><b><u>Page 8 para 3:</u></b> 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><b><u>Page 9 para 1:</u></b> providing a non-corrupt administration by State / Union is also integral part of</p>	
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	<p>the constitutional mandates.</p> <p><b><u>Page 9 para 2:</u></b> 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><b><u>Page 11 para 2:</u></b></p> <p><b><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></b></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><b>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.</b></p>	
8.	<p><b><u>Gujarat High Court: Dr. Rajesh Chandulal Shah</u></b> v/s State of Gujarat Criminal</p> <p>Misc application 9278 of 2018 . order dt. 12.6.2018</p> <p><b><u>Page 8 para 15:</u></b> if even a fraction of what was voxpupuli about the magnitude of corruption to be</p>	

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

	<p>crime-doers and have to be tracked down by the same process of inquiry and investigation.</p> <p><b><u>Page 11 Para 61:</u> 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.</b></p>	
9.	<p>SLP 2671 / 2021 Ram Sagar v/s CBI</p> <p><b><u>Para 7</u></b></p> <p><b>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</b></p>	
10.	<p><b><u>Vinod kumar pandey v/s vijay Agarwal and others ( SLP ( C ) 7900 of 2019 )</u></b></p> <p><b><u>Para 25:</u> no verification of correctness</b></p> <p><b><u>Para 32:</u> prima facie cognizable offence disclosed register FIR</b></p> <p><b><u>Para 33:</u> no action on grounds police cannot investigate CBI officers</b></p> <p><b><u>Para 34:</u> Constitution bench conclusion prima facie offence disclosed. No reasons to interfere</b></p> <p><b><u>Para 35:</u> registration of FIR against officers shall not cause prejudice, they have option to disclose in</b></p>	

	<p>investigation no cognizable offence committed.</p> <p><b><u>Para 36:</u></b> not prudent exercise to scuttle investigation after HC has opined prim facie offence disclosed.</p> <p><b><u>Para 37:</u></b> 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><b>It is high time that those who investigate should also be investigated to keep alive the faith of public at large in system.</b></p> <p><b><u>Para 41:</u></b> the police officers who failed to register FIR are 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 The real accused have not filed any appeal.</p>	
<p><b>11.</b></p>	<p>Bombay HC WP 2017 of 2025</p> <p>Maneesha CHS vs BMC order dt. 13.10.25</p> <p>Fish market on footpath</p> <p><b><u>Para 7:</u></b> Municipal commissioner Responsible</p>	

**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 Kamlakar Ratnakar Shenoy)

Senior citizen aged 67 years.

Mob: 9870987359,

Email: [shenoykr2001@yahoo.co.in](mailto:shenoykr2001@yahoo.co.in)

...Complainant

Versus

Mr. Bhushan Gagrani,

Municipal Commissioner, BMC &amp; others

...Accused

**Index**

<b>Sr. No</b>	<b>Document</b>	<b>Exhibit</b>	<b>Page</b>
1	Application		
2	BMC circular dt. 14.12.99	A	
3	Photos of encroachment ( separate file )	B	
4	DMC letter dt. 18.7.23 to demolish the illegal structures on rod and footpath	C	
5	JT CP letter dt. 15.12.23 to take NOC before starting work	D	

6	BMC road and traffic dept letter 12.3.24 to B ward  File noting dt. 12.8.24 role of Bhushan Gagrani, Ashwini Joshi, Uddhav Chandanshive  GR 3.5.2018 name and designation of the signatory shall ne readable and clear.  Role of IAS officers MC, Addl MC and JT MC vigilance	E  E1  E2  E3	
7	Traffic police letter 1.2.24 objection for beautification	E4	
8	Application u/s 173(1)BNSS to MRA police station  2.3.24, 15.3.24, 19.3.24	F colly	
9	JJ Marg letter dt. 6.3.24 seeking show cause notice to B ward	G	
10	JJ Marg letter dt. 26.3.24 that the application is closed	H	
11	Applicationdt.1.4.24 under 173(4) to DCP zone -1	I	
12	Newspaper cutting	J colly	
13	Resolution of Petition Group Foundation	K	
14	Citation Index	L	
15	Affidavit		
16	Vakalatnama		
17	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  
64<sup>th</sup> 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 Bhagyesha Kurane Advocates-High Court, Mumbai, to act, appear and plead on our behalf in the above matter. In witness where of 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,  
64<sup>TH</sup> COURT, KILLA MUMBAI  
CASE NO.        / MISC /2025

KAMLAKAR RATNAKAR SHENOY

... Complainant

V/S

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

... Accused

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**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**  
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Dated this        day of Nov, 2025

KISHOR SHINDE

Advocate for Complainant

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