LAXMIKANT GOPAL CHANDAN
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.1065 OF 2026

Mr. PRAMOD NIVRUTTI GHUGE
Age – 45 years, Occ – Service,
(Authorised representative of
Rebel Food Pvt. Ltd.),
Having its Corporate Office at
2nd Floor, Der Deutsche Park,
Bhandup (W), Mumbai 400078. … PETITIONER

Versus.

State of Maharashtra
(Through Mahim Police Station) …RESPONDENT

Mr Siddhesh Bhole, Ms. Nehal Desale, Mr. Abhishek Bandre Advocate for the Petitioner.
Mrs Rajashree V. Newton, Additional Public Prosecutor for Respondent State.
PSI A. A. Deshpande, Mahim Police Station, present.

CORAM: ASHWIN D. BHOBE, J.

Reserved on : 8th MAY 2026
Pronounced on: 22nd JUNE 2026

JUDGMENT:

1. Heard Mr. Siddhesh Bhole for the Petitioner and Mrs. Rajashree Newton, learned Additional Public Prosecutor for the Respondent – State.

2. Rule. Rule is made returnable forthwith and by consent of parties, heard finally.

3. This Petition, under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS 2023"), is filed by the Petitioner to quash the FIR bearing Crime No. I – 0282/2025 dated 13.06.2025 ("impugned FIR"), registered with Mahim Police Station, Mumbai, for offences punishable under Sections 105, 125(a), 125(b), 288, 289 and 324(5) of the Bharatiya Nyaya Sanhita, 2023 ("BNS 2023") and the charge-sheet arising from the impugned FIR, which is now registered as Sessions Case No. 1345 of 2025, pending on the file of the 10th Sessions Judge, Mumbai ("Sessions Court").

4. The facts relevant to the adjudication of the present Petition are that on 13.06.2025, between 16.00 and 18.00, the air-conditioner installed inside "Cloud Kitchen", owned by M/s Rebel Foods Pvt Ltd., located at Plot No. 38, Veer Savarkar Marg, Mahim, Mumbai, was not working due to a gas leak in the air-conditioner. The owners of Rebel Foods Pvt. Ltd. engaged Ashok Naik, proprietor of "M/S Crystal Aircon", for the repair of the air-conditioner. Ashok Naik, deployed his workers, namely Noor Alam Ahmed Ali Sheikh, Pravin Kumar Pujari, Mukesh B. Gupta and Shivmohan Pal, for the repair of the air-conditioner, without any safety equipment. While the repair work on the air-conditioner was in progress, the compressor exploded, causing the death of the worker Noor Alam Ahmed Ali Sheikh and the other workers

sustained numerous injuries.

5. The impugned FIR was registered on the complaint lodged by Police Constable Vikas A. Mali. Ashok Naik (Proprietor of M/s Crystal Aircon) is Accused no. 1, whereas the Petitioner, the General Manager of Rebel Foods Pvt. Ltd., has been arrayed as Accused no. 2 in the impugned FIR.

6. Mr. Sidhesh Bhole, learned Advocate for the Petitioner, submits that Rebel Foods Pvt. Ltd., under a contract, entrusted the air-conditioning repair and maintenance work to Accused No. 1. He submits that the allegation against the Petitioner, namely, his implication in the present crime, is that as the General Manager, he awarded the contract for air-conditioner repair work to Accused No. 1. He submits that the entire work of the air-conditioner was the responsibility of the Accused no.1. He submits that Accused No. 1 was responsible and liable for the acts of commission and omission during the said work. He submits that the ingredients for the commission of an offence under Section 105 of the BNS, 2023 are absent in respect of the Petitioner. He submits that the allegations of commission of offences under the sections charged in the impugned FIR are against Accused No. 1. He therefore submits that no criminal liability can be fastened on the Petitioner for the acts of Accused No. 1, if any.

7. Mrs. Rajashree Newton, learned Additional Public Prosecutor for the Respondent-State, submits that the ingredients of Section 105 of the BNS, 2023, are made out against the

Petitioner. She submits that although the allegations against the Petitioner are that he engaged the services of Accused no. 1, the Petitioner cannot shirk his responsibility to ensure that the air-conditioner repair work undertaken by Accused no. 1 was carried out with due care and caution.

8. Rival contentions now come up for consideration.

9. The records in this Petition show that Accused No. 1, an independent entity with exclusive control over its employees and a specialist in air-conditioning repair and maintenance, was entrusted with such work. The role assigned to the Petitioner in the present crime was to outsource the air-conditioning work to Accused No. 1, on behalf of Rebel Foods Pvt. Ltd as the General Manager. No allegations have been made against the Petitioner that the Petitioner was required to supervise the air-conditioning repair and maintenance work, nor is there any material showing that the Petitioner had any technical knowledge or expertise to supervise such repair work, which forms part of the contract given to Accused No.1.

10. To attract Section 105 of the BNS, 2023, the doer must have knowledge that the act performed is likely to cause death or to cause such bodily injury as is likely to cause death but without any intention to cause death.

11. The Hon'ble Supreme Court, in the case of *Yuvraj Laxmilal*

Kanther and Anr. v/s. State of Maharashtra[1], in paragraph 12, has held as follows:-

> "*12. We have noted above that the appellants have been charged for committing offence under Section 304 Part II IPC read with Section 34 IPC. Since Section 34 IPC covers common intention, the substantive charge against the appellants is under Section 304 Part II IPC which reads as under:*
>
> > *Punishment for culpable homicide not amounting to murder - Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both, if the act is done with the knowledge that it is likely to cause death; but without any intention to cause death or to cause such bodily injury as is likely to cause death.*
>
> *12.1. The ingredients constituting an offence under Section 304 Part II IPC are as follows:*
>
> (i) *he must commit culpable homicide not amounting to murder;*
> (ii) *the act must be done with the knowledge that it is likely to cause death;*
> (iii) *but such act is done without any intention to cause death or to cause such bodily injury as is likely to cause death.*
>
> *12.2. Therefore, the first important expression is 'culpable homicide not amounting to murder'. Culpable homicide is defined in Section 299 IPC. It says that whoever causes death by doing an act with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.*

1 2025 SCC OnLine SC 520

12.3. All culpable homicides are murders except in the cases excepted under Section 300 IPC. Thus, except the cases specifically exempted under Section 300 IPC, all other acts within the meaning of Section 299 IPC would amount to committing the offence of culpable homicide. However, what is important to note is that for committing the offence of culpable homicide, a positive act must be done by the doer with the intention that such act would cause death or cause such bodily injury as is likely to cause death or he having the knowledge that by such an act, death may be caused. What, therefore, is significant is that the doer of the act must have the intention of causing death or the intention of causing such bodily injury as is likely to cause death or has the knowledge that by doing such an act he is likely to cause death. Therefore, to commit the offence of culpable homicide, intention or knowledge is of crucial importance.

12.4. Coming back to Section 304 Part II IPC, we find that the said section would be attracted if anyone commits culpable homicide not amounting to murder if the act is done with the knowledge that it is likely to cause death but without any intention to cause death or to cause such bodily injury as is likely to cause death. Therefore, the requirement of Section 304 Part II IPC is that the doer must have the knowledge that the act performed is likely to cause death or to cause such bodily injury as is likely to cause death but without any intention to cause death. Thus, the basic ingredient of Section 304 Part II IPC is presence of knowledge and absence of intention. The doer must have the knowledge that the act performed by him would likely cause death etc but there should not be any intention to cause death."

12. In the case of *Pavneet Singh Sethi & Ors. v/s. The State of Maharashtra & Ors.*[2], in paragraph 10, this Court has held as follows:-

"***10.*** *Thus, it is clear that commission of the offence, of culpable homicide under Section 304(II) IPC require some positive act on the part of the accused as distinguished from*

2 2017 SCC OnLine Bom 9108

> *silence, inaction or mere lapses. The allegations of not carrying out the repair of the road cannot, thus, make out a case of culpable homicide not amounting to murder punishable under Section 304(II) IPC. Such statements of positive act are conspicuously absent in the FIR filed in the present case. Conversely, the cause of accident is clearly attributed in the FIR itself to the rash and negligent driving of the truck, in a fast speed.*"

13. As observed by the Hon'ble Supreme Court, the essential ingredient of Section 105 of BNS 2023 is the presence of knowledge and the absence of intention. Petitioner is a signatory to the contract executed with Accused No.1. No case is made out to attract the offence under Section 105 of BNS 2023 against Petitioner.

14. Similarly, neither the impugned FIR nor the material collected pursuant to its registration, taken at face value, make out the ingredients of 125(a), 125(b), 288, 289 and 324(5) of the Bharatiya Nyaya Sanhita, 2023, against the Petitioner.

15. For the reasons recorded hereinabove, this is a fit case to exercise powers under Section 528 in view of the guidelines laid down by the Hon'ble Supreme Court in *State of Haryana and Ors. v/s. Bhajan Lal and Ors.*[3], to prevent the abuse of justice.

16. This Petition is therefore allowed in terms of prayer clause (B). Rule is made absolute in the aforesaid terms. Consequently, the impugned FIR and the charge-sheet arising therefrom are quashed and set aside qua the Petitioner.

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3 1992 Supp (1) SCC 335

17. Criminal Writ Petition No.1065 of 2026 is disposed of. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)