IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1207 OF 2021

Mr. Subhash Kantilal Pawar
Age: 54 years, Occupation: Service,
R/o. Ram nagar Housing Society,
Matoshree Building, Room No.07,
Gavhane Vasti, Landewadi, Bhosari
Pune -36 … Petitioner.

V/s.

1. The State of Maharashtra

2. ACB (Anti Corruption Bureau)
Pune (Pimpari Chinchwad)

3. Police Commissioner
Pimpri Chinchwad

4. Mr. Ajit Pandurang Keswad.
R/o. Industrial Area, Near to
Water Tank, Kharabwadi, Tal-Khed,
Dist-Pune, State-Maharashtra.

… Respondents

Mr. Dhanraj A. Lodha, Advocate for the Petitioner.
Mr. Vinod Chate, A.P.P. for the State.
Mr. Khanderao Tulshiram Ranjawe, ACB, Pune Unit.

CORAM : A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.

RESERVED ON : 6th OCTOBER, 2025

PRONOUNCED ON : 22nd DECEMBER, 2025.

JUDGMENT [Per : RANJITSINHA RAJA BHONSALE, J] :-

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1) Rule. Rule made returnable forthwith and with the consent of learned Advocates for the respective parties, taken up for final hearing.

2) By way of this Petition filed under Article 226 of the Constitution of India the Petitioner seeks to quash and set aside C.R.No.1256 of 2019 filed with Mhalunge Police Chowki, Chakan, District-Pune under Sections 7, 7-A, 12 of the Prevention of Corruption Act, 1988 and Sections 279, 336 and 338 of the Indian Penal Code.

3) Learned Advocate for the Petitioner, contends that, the present FIR has been filed on 27th September, 2019 by the Respondent No. 4 against Mr. Bhanudas Annasaheb Jadhav, Senior Police Inspector at Mhalunge Police Chowki, Mr Ajay Bhapkar and one unknown person. The crux of the allegations against the accused in the FIR are that, Mr. Bhanudas Annasaheb Jadhav demanded a bribe of Rs. 10 Lakhs from the Respondent No.4 to file a favorable report in FIR No. 1010 of 2019. The FIR No. 1010 of 2019, was filed by Mr. Manish Sham Rangwani against the Respondent No.4 and others for offences punishable under Sections 420,465,467,468,471 read with 34 of the Indian Penal Code.

4) Respondent No.4, instead of paying the bribe, decided to file a complaint with the Anti-Corruption Bureau. After the trap was laid and made successful, the present complaint/FIR was filed against the said Mr. Bhanudas Annasaheb Jadhav, Mr. Ajay Bhapkar and one unknown person. That, the Petitioners name was added in the said crime at a subsequent date i.e after

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nearly five months. That, as Bhanudas Annasaheb Jadhav was supervising the Investigation of C.R.No.1010 of 2019, the Respondent No.4 has falsely implicated the Petitioner in C.R.No.1256 of 2019. That, no specific overt act has been assigned to the Petitioner. That, a bare perusal of the FIR shows that there is no case made out against the Petitioner. That, the allegations are against the other accused and that no role is assigned to the Petitioner.

5) Mr. Vinod Chate, learned APP for the State, in reply submits that, the investigation is completed. The Petitioner has been added as an accused, as during the investigation it was revealed that, the Petitioner was actively involved in the crime and had negotiated the amount of bribe. That, during the investigation, certain transcripts have revealed the verification of demand of bribe. That, on 27th September, 2019, there was communication between the original complainant i.e. Respondent No.4 and the present Petitioner. That, it is evident from the said transcript, that the Petitioner has negotiated the bribe amount on behalf of the main accused Mr.Bhanudas Annasaheb Jadhav. That, based on said investigation, the Petitioner's name was added and he was arrested on 16th January, 2020. That, the voice sample of the Petitioner has been obtained and sent to Chemical Analyzer on 6th February, 2020 for getting an Expert's opinion. That, the Petitioner was working as a Police Hawaldar, and that the main accused i.e. Bhanudas Annasaheb Jadhav has also made a reference to the present Petitioner, in his communication. The same is evident from the transcripts. That, based on the transcript and the

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other record the Investigating Agency added Section 120-B of the Indian Penal Code, so also, the name of the present petitioner as an accused. That, the investigation is under progress and is on the verge of completion. That, the charge-sheet is yet to be filed.

6) We have heard Advocate Mr. Dhanraj A. Lodha for the Petitioner, Mr. Vinod Chate, APP for the State. We have perused the record and Affidavit-in-reply and the papers of the investigation.

7) We find that, there is enough material against the Petitioner in the present crime. We have also perused the transcripts of the conversation between the Respondent No.4 i.e. complainant and the present Petitioner dated 27th September, 2019, which have been provided to us by the Learned APP. A bare perusal of the said transcripts, clearly indicates that the Petitioner was actively involved in following up with the complainant in respect of the bribe amount. The transcripts, indicate that:

7.1) Petitioner negotiated the bribe amount, for and on behalf of Mr.Bhanudas Annasaheb Jadhav, the main accused. The initial demand of Rs.10 Lakhs was negotiated and reduced.

7.2) Petitioner conveyed to the Complainant that, if things are finalized, he will prepare the report.

7.3) In the conversation dated 28th September, 2019, between the Complainant and accused Bhanudas Annasaheb Jadhav there is a reference to the Petitioner, which is related to the demand and negotiations, of the bribe

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amount.

7.4) The main accused Mr.Bhanudas Annasaheb Jadhav, in the conversation has referred to the negotiations which took place between the Complainant and the Petitioner in respect of the bribe amount. The main accused has extensively referred to and stated the said conversation, where the bribe amount was negotiated and reduced from 10 lacs to Rs.5 Lakhs. The Complainant, informed the Petitioner, that he was willing to pay Rs.3 Lakhs, as the final amount. The demand amount was finalized at Rs.7 Lakhs. This indicates that the Petitioner was at all times, aware of the negotiations and has taken active part in it.

8) From the bare perusal of the transcripts and conversations, it prima facie appears that, the Petitioner was involved in negotiating bribe amount and/or demand in respect of the bribe amount. Considering the material on record, one cannot conclude that, Petitioner has no role or that he did not participate in the said crime. The investigation has clearly brought forth the role and the involvement of the Petitioner in the said crime.

9) Considering the facts of the present case, a useful reference can be made to the judgment of the Supreme Court in the case of *State of Chhattisgarh and another Vs. Amankumar Singh and Others,* reported in *(2023) 6 Supreme Court Cases 559,* wherein it is observed as under:

> *"**62.** While deciding the challenge to the FIR, the High Court unwittingly, we presume did not bear in mind the note of caution in*

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BhajanLal to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; further that, the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint; and also that, the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

63. *It seems that such note of caution did not have the desired effect in all cases resulting in this Court, in its subsequent decisions, re-emphasizing the need for the High Courts to bear in mind the settled principle of law that whenever its powers are invoked either under Article 226 of the Constitution or section 482 Cr.P.C. for quashing a first information report/complaint, the courts would not be justified in embarking upon an enquiry as to the probability, reliability or genuineness of the allegations made therein (emphasis supplied). We may, in this regard, profitably refer to the decision of this Court while dealing with a case under the P.C. Act in State of Maharashtra Vs. Ishwar Piraji Kalpatri (1996) 1 SCC 542.*

65. *Thus, it being the settled principle of law that when an investigation is yet to start, there should be no scrutiny to what extent the allegations in a first information report are probable, reliable or genuine and also that a first information report can be registered merely on suspicion, the High Court ought to have realised that the FIR which, according to it, was based on "probabilities" ought not to have been interdicted. Viewed through the prism of gravity of allegations, a first information report based on "probability" of a crime having been committed would obviously be of a higher degree as*

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compared to a first information report lodged on a "mere suspicion" that a crime has been committed. The High Court failed to bear in mind these principles and precisely did what it was not supposed to do at this stage. We are, thus, unhesitatingly of the view that the High Court was not justified in its interference on the ground it did.

79. *Finally, following the above, what is of substantial importance is that if criminal prosecution is based upon adequate evidence and the same is otherwise justifiable, it does not become vitiated on account of significant political overtones and mala fide motives. We can say without fear of contradiction, it is not in all cases in our country that an individual, who is accused of acts of omission/commission punishable under the PC Act but has the blessings of the ruling dispensation, is booked by the police and made to face prosecution. If, indeed, in such a case (where a prosecution should have been but has not been launched) the succeeding political dispensation initiates steps for launching prosecution against such an accused but he/she is allowed to go scot-free, despite there being materials against him/her, merely on the ground that the action initiated by the current regime is mala fide in the sense that it is either to settle scores with the earlier regime or to wreak vengeance against the individual, in such an eventuality we are constrained to observe that it is criminal justice that would be the casualty. This is because, it is difficult to form an opinion conclusively at the stage of reading a first information report that the public servant is either in or not in possession of property disproportionate to the known sources of his/her income. It would all depend on what is ultimately unearthed after the investigation is complete. Needless to observe, the first information report in a disproportionate assets case must, as of necessity, prima facie, contain*

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ingredients for the perception that there is fair enough reason to suspect commission of a cognizable offence relating to "criminal misconduct" punishable under the P.C. Act and to embark upon an investigation.

80. *Having regard to what we have observed above in paras 47 to 50 (supra) and to maintain probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the High Courts maintain a hands-off approach and not quash a first information report pertaining to "corruption" cases, specially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to quashing of first information reports pertaining to offences punishable under general penal statutes ex proprio vigore may not be applicable to a PC Act offence. Majorly, the proper course for the High Courts to follow, in cases under the PC Act, would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved party to pursue the remedy made available by law at an appropriate stage. If at all interference in any case is considered necessary, the same should rest on the very special features of the case.*

81. *Although what would constitute the special features has necessarily to depend on the peculiar facts of each case, interference could be made in exceptional cases where the records reveal absolutely no material to support even a reasonable suspicion of a public servant having intentionally enriched himself illicitly during the period of his service and nothing other than mala fide is the basis for subjecting such servant to an investigation.*

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> ***82.*** *We quite appreciate that there could be cases of innocent public servants being entangled in investigations arising out of motivated complaints and the consequent mental agony, emotional pain and social stigma that they would have to encounter in the process, but this small price has to be paid if there is to be a society governed by the rule of law. While we do not intend to fetter the High Courts from intervening in appropriate cases, it is only just and proper to remind the courts to be careful, circumspect and cautious in quashing first information reports resting on mala fide of the nature alleged herein."*

10) This court in the matter of *Pranav Kulkarni Vs. State of Maharashtra in Criminal Writ Petition No. 5109 of 2018* in its order dated 14th February 2024, in para 3 and 5 has observed as under.

> **"** 3) It is a settled position of law and as has been decided in catena of decisions by the Hon'ble Supreme Court that, ordinarily the Court will not entertain the Petition under Article 226/227 of the Constitution of India, where the Petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court, it is well recognized principle which gained judicial recognition that, the High Court should direct party to avail himself of such remedies, one or the other before he resorts to the constitutional remedy.
>
> 3.1) Reliance is placed on the following decisions :
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> i) *Thansingh Nathmal Vs.The Superintendent of Taxes, Dhubri & Ors., reported in AIR 1964 SC 1419.*

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ii) *A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors reported in (2000) 7 SCC 695.*

iii) *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329.*

iv) *Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423.*

v) *Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr., reported in (2019(419 ITR 440 (SC).*

vi) *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors., reported in (2019) 9 SCC 538.*

vii) *Magadh Sugar & Energy Ltd. Vs. State of Bihar & Ors., reported in 2021 SCC Online SC 801.*

5) According to us, filing an application for discharge before the trial Court is not an onerous remedy and in fact an equally efficacious remedy. The Petitioners cannot be permitted to raise a specious plea calling upon this Court to adjudicate his innocence in a Petition under Article 226 of the Constitution of India. It is against the settled principles of law. At the same time, the Petitioners cannot be permitted to make the statutory provisions of the Code of Criminal Procedure otious, by directly approaching this Court under Article 226 of the Constitution of India. **"**

11) We have noted that, the name of the Petitioner has been added five months after the FIR has been registered. The name has been added based on the investigation undertaken and the transcripts of recording of conversation which have been gathered during the investigation. Though the

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name of the Petitioner is missing and there is no role attributed to the Petitioner in the FIR, the investigation carried out in respect of the said FIR has made out a prima facie case against the Petitioner. It is well settled that, the FIR only sets the criminal law into motion and that an FIR can be lodged by anybody and if required against unknown persons. A FIR is not an encyclopedia of the alleged crime but only a point of initiation for a long drawn meticulous process of investigation.

12) A perusal of Section 154 of the Code of Criminal Procedure, 1973 clearly enunciates, that an FIR only gives information of a cognizable offence. The process of investigation and the procedure thereof is provided for under of the Code of Criminal Procedure which ultimately culminates into a final report under section 173 of the Code of Criminal Procedure. Only because the name of a particular accused is not mentioned in the FIR or that a specific role is not attributed to the accused, the same cannot immediately become a ground to seek quashing of the FIR. The FIR as stated earlier only sets the Criminal law in motion. Only the available information or the information within the knowledge of the informant will be given in the first instance. The object and purpose of the investigation and enquiry is to ascertain or verify the true and correct facts. We cannot loose sight of the fact that an FIR could be precisely and meticulously drafted or could be even lacking in certain particulars due to inept drafting. In such circumstances, the accused cannot take advantage of the same. It is the investigation and

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investigating process that brings out facts and allegations against the accused. In the present case, the investigation has revealed a prima facie case that, the Petitioner was involved and negotiating in the demand of the bribe amount. This, in our opinion, is enough to reject the present Petition for quashing.

13) We have also noted that, this investigation is in respect of serious offence under Prevention of Corruption Act and in such offences or in offences of serious nature, it is only the investigation and/or enquiry that will bring out the correct and true facts. The material collected during the investigation will give a clear picture. More importantly, it is the evidence led in court on the basis of such investigation, that would be decisive in determining the allegations against the accused. The information given in disclosing commission of cognizable offence only sets the law in motion or sets in motion the investigating machinery with a view to collect and collate all necessary evidence which is available and thereafter take action in accordance with law. One must not lose sight of the fact that, at the time when an FIR is lodged, the entire process and exercise of investigation, is yet to start.

14) Considering the facts of the present case, we are of the opinion that there is no case made out for exercising powers under Section 482 of the Criminal Procedure Code, to quash the criminal proceedings. As stated hereinabove, the Petitioner, can of course avail before the Courts the alternative remedies available in law. We find that, there is no exceptional circumstance made out by the Petitioner, to call for any interference by this

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Court.

15) In view thereof, the Petition is dismissed.

16) Rule is accordingly discharged.

(RANJITSINHA RAJA BHONSALE, J.) (A.S. GADKARI, J.)

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