IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 622 OF 2024

1. Rajan Bhagwandas Sujanani
Indian Inhabitant, Aged : 73 years,
Occupation : Retired,
Residing at Flat No. 5 Mayfair,
Union Park, Khar(W), Mumbai - 400 052.

2. Kishore Daulatram Vatnani
Indian Inhabitant, Aged : 61 years,
Occupation : Service,
Residing at 502, Sealine, 16 Union Park,
Khar (W), Mumbai- 400 052. … Petitioners
(Org. Accused Nos. 2 and 3)

V/s

1. The State of Maharashtra
(Through the Assistant Commissioner
of Police) D- Special, D.C.B.,
C.I.D., Mumbai.

2. Kamal Jaswantlal Sheth
Adult, Indian Inhabitant
Residing at 49, Swastik Plaza,
V. L. Mehta Road, Juhu,
Mumbai – 400 049. … Respondents

WITH

CRIMINAL WRIT PETITION NO. 2317 OF 2023

Mangesh Tukaram Sawant
Age:- 59 Years, Occ. : Business
Partner of M/s. Sailee Developers,
having office at: A/004, Prathmesh
Horizon, Linking Road, Opp. Don
Bosco School, Borivali West,
Mumbai – 400091. ... Petitioner

V/S

State of Maharashtra.
Through Inspector of Police
(Anti Extortion Cell Crime
Branch CID Mumbai),
Mumbai- 400 001. … Respondents

Mr. Amit Desai, Senior Advocate, a/w Mr. Sadanand Shetty, Ms. Snehal Khairnar, Mr. Yogendra Singh, Ms. Kruti Parekh i/b Ms. Nidhi Chheda for the Petitioner in WP/622/2024.
Mr. Mutahhar Khan, Mr. Sachin Mhatre, Ms. Ishita Kamath i/b Mr. Aamir Qureshi Advocate for Petitioner in WP/2317/2023.
Mr. Ashish I. Satpute, APP for the State.
Mr. Sudeep Pasbola, Senior Advocate, i/b Mr. Abdul Kader Millwala, for the Respondent No. 2.
Mr. Sanjay Taralgatti, PI, DCB, CID, Mumbai.

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

RESERVED ON : 25th NOVEMBER 2025.

PRONOUNCED ON : 9th JUNE 2026

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

1) Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2) The Petitioners, in Writ Petition No.622 of 2024 and Writ Petition No. 2317 of 2023, both filed under Article 226 and 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, have approached this Court, *inter alia* with a prayer that, the chargesheet filed in C.R. No.115 of 2013, now numbered as MCOCA Special Case No.298 of 2023 pending before the Learned Special Judge,

for alleged offences punishable under Sections 387 read with 120-B and 34 of the Indian Penal Code and Sections 3(1), 3(2), and 3(4) of the Maharashtra Control of Organised Crime Act, 1999, along with all consequential proceedings arising therefrom, be quashed and set aside; and further that the prior approval dated 12th September 2022 granted under Section 23(1)(a) of the MCOCA and the sanction dated 21st February 2023 granted under Section 23(2) of the MCOCA in connection with FIR No. 403 of 2013 dated 22nd November 2013 registered with Juhu Police Station and subsequently transferred to the Anti-Extortion Cell, also be quashed and set aside.

3) Heard, Mr. Amit Desai, learned Senior Counsel for the Petitioners in Criminal Writ Petition No. 622 of 2024, Mr. Mutahhar Khan, learned Advocate for the Petitioner in Criminal Writ Petition No. 2317 of 2023. Mr. Ashish Satpute, learned APP for the Respondent-State and Mr. Sudeep Pasbola, learned Senior Counsel for the Respondent No.2 in both the petitions. Perused the entire record.

4) Briefly stated, the relevant facts in both the petitions are as under:-

4.1) In the year 1998, out of a larger land admeasuring 3,30,000 sq feet, the Petitioner No. 1 Mr. Rajan B. Sujanani through Varshraj Realtor Ltd. acquired development rights for approximately 1,30,000 sq. ft. built up area from Mr. Nitin Mehta of Siddhivinayak Developers.

4.2) On 3rd May 2001 and 4th July 2003, M/s Manoranjan Builders and Developers Pvt. Ltd/., Shree Siddhivinayak Developers, Varshraj Realtors Pvt. Ltd., Acme Sthapati and Shri Bhawanbhai Bhanushali entered into Agreements to assign rights of development to Sailee Developers, in respect of land bearing S No.3 (P) and S No. 4(P) corresponding CTS No 5(P) and 6 totally admeasuring 33,664 sq. meters, situated at Adi Sankaracharya Marg, Powai, Village Kopari, Taluka- Kurla, District-Mumbai.

4.3) On 8th August 2007, Sailee Developers entered into a Joint Venture Agreement with on M/s Chandiwala Enterprises for the further development of the said Powai property.

4.4) In or around 2007, disputes arose between Sailee Developers and Varshraj Realtors, when it came to the knowledge of directors/shareholders of Varshraj Realtors that, Sailee Developers, had assigned/transferred all rights in the said property for development to M/s Chandiwala Enterprises.

4.5) On 31st October 2007 Varshraj Realtors Pvt. Ltd, filed a Civil Suit No. 3300 of 2007 against Sailee Developers and others inter alia to restrain them from development, construction and creation of third-party rights in respect of a portion of the said Powai property.

4.6) By Orders dated 20th December 2007, of this Court passed in Notice of Motion No. 4654 of 2007 in Suit No. 3300 of 2007, M/s

Chandiwala Enterprises, undertook to reserve 53,300 sq. feet built up area comprising of residential units and shops so as to secure the claim of M/s.Varshraj Realtors Private Limited.

4.7) In the year 2008, Nitin Mehta proposed to take over and acquire Varshraj Realtors Private Limited, belonging to Mr. Rajan B. Sujanani, Varsha Rajan Sujanani, Mr. Kishore D. Vatnani and Hariram Ramnani. On 25th July 2008, the Petitioners in Writ Petition No. 622 of 2024 entered into an Agreement with Mr. Kamal Sheth (Original Complainant/Respondent No.2) to sell their company viz Varshraj Realtors. Varshraj Realtors held 2 properties, namely (i) Prathmesh Centre, at Bandra and (ii) development rights of 1,30,000 sq ft of land at Powai. The agreement was on “as is where is basis”. The parties were well aware of the civil litigation.

4.8) From 2008 till about August 2011, the Respondent No. 2 paid a total amount of Rs.15.6125 crores and the balance amount was supposed to be paid by transferring certain properties. As the Respondent No. 2, did not possess unencumbered properties, with a clear marketable title, the balance payment remained to be paid.

4.9) It is alleged that, at the end of year 2011 and early 2012, the Petitioners met with Mangesh Sawant of Sailee Developers i.e. Petitioner in Writ Petition No. 2317 of 2023 and agreed to sell Varshraj Realtors Private Limited to Mr. Mangesh Sawant, by excluding Respondent No.2.

4.10) In the year 2011, disputes arose between the parties, who made claims in respect of the Powai land. Arbitration proceedings vide Claim Petition No. 2 of 2011 filed by M/s Sailee Developers and Claim Petition No. 1 of 2011 filed by Varshraj Realtor Pvt. Ltd were initiated.

4.11) On 25th June 2012, Respondent No.2 filed a Civil Suit No.1418 of 2012 before this Court, seeking specific performance of the Memorandum of Understanding dated 25th July 2008. The Defendants therein, contended that the Agreement is a nullity as signature of Petitioner No.1 is forged.

4.12) It is alleged that, on 3rd September 2013 at about 17:15 hrs, Respondent No. 2 received an extortion call from No. +40330476099, wherein the caller identified himself as gangster Ravi Pujari, threatened the Respondent No.2, directed him to settle ongoing dispute with Mr. Kishor Vatnani and Mr. Rajan Sujanani (Petitioners in Writ Petition No. 622 of 2024) and to act as per their directions. Immediately, Respondent No. 2 filed a complaint with the police authorities, stating that the act of extortion was committed by gangster Ravi Pujari was at the behest of Mr. Kishor Vatnani and Mr. Rajan Sujanani. This complaint is the starting point of the present proceedings.

4.13) On 4th September 2013 at 20:08 hrs, a second call was allegedly received from No. +6664748499, followed by multiple international calls, none of which were answered. Respondent No.2,

addressed complaints dated 4th September 2013, 6th September 2013 and 23rd September 2013, to the Police Authorities and also to the Anti-Extortion Cell, Mumbai.

4.14) On 22nd November 2013, FIR No. 403 of 2013 was registered at Juhu Police Station for the offences punishable under Section 387 and 34 of the Indian Penal Code, which was later transferred to the Anti-Extortion Cell. The A.E.C. renumbered the said crime as FIR No. 115 of 2013 and Section 120-B of the Indian Penal Code was added. On 30th November 2013, a transcript panchnama of the alleged conversation between Respondent No. 2 and Ravi Pujari was prepared. In the transcripts, the names of Mr. Kishor Vatnani and Mr. Rajan Sujanani are specifically mentioned.

4.15) On 28th February 2014, the learned Metropolitan Magistrate after hearing the Petitioner No. 1 was pleased to direct the Azad maidan Police Station to register the offence under section 156(3) of Cr.P.C. against Mr. Kamal J. Sheth, for the Forged MOU.

4.16) On 16th July 2014, MECR No.11 of 2014 was registered by Respondent No. 2 against the Petitioners Mr. Rajan Sujanani, Mr. Kishor Vatanani & others at Juhu Police Station for offences under Section 419, 420 and 120-B. A C-Summary Report was filed on 24th April 2017.

4.17) M.E.C.R. No. 1 of 2014 was registered at the behest of Mr. Rajan Sujanani against the Respondent No. 2 for an offence punishable

under sections 467, 468, 471, 420 r/w 120(B) of the IPC. On 14th January 2015, this Court stayed the proceeding in MECR no. 01 of 2014.

4.18) In FIR No. 115/2013, i.e. the crime in question an "A" Summary Report was filed. On 23rd August 2017, Original Complainant/Respondent No. 2 filed a Protest Petition challenging the A-Summary report. Notice was issued to the Respondent No. 2 on 16th December 2015.

4.19) On 21st February 2020, gangster Ravi Pujari was extradited to India from Senegal.

4.20) On 23rd December 2021, the Learned Additional Chief Metropolitan Magistrate 37th Esplanade Court, allowed the Protest Petition and ordered further investigation. Between April and August 2022, statements of several witnesses were recorded under section 161 and 164 of the Criminal Procedure Code, alleging organized crime etc.

4.21) On 12th September 2022, prior approval under Section 23(1)(a) of MCOCA, 1999 was granted by Joint Commissioner of Police.

4.22) On 21st February 2023, sanction under Section 23(2) of MCOCA was accorded by Special Commissioner of Police.

4.23) On 6th March 2023, a chargesheet was filed before the Learned Special Judge 55th Court, Mumbai. Cognizance of the criminal proceedings was taken on 9th March 2023.

4.24) On 29th December 2023, report was filed under Section

20(3) of MCOCA before the Learned Special Judge for proclamation. By Order dated 29th December 2023 proclamation was issued against the Petitioners.

4.25) The aforenoted facts are deciphered from the record.

5) In Writ Petition No. 622 of 2024, Mr. Amit Desai, learned Senior Counsel appearing for the Petitioners, submitted that:-

5.1) Prior Approval dated 12th September 2022, only refers to DCB, CID C.R. No. 115 of 2013 (previously Juhu Police Station C.R. No. 403 of 2013) registered under Sections 387, 120-B and 34 of the Indian Penal Code. That, Prior Approval refers to other criminal proceedings on which the approval was based. That, in the Prior Approval, it is alleged that, the accused utilized the services of the organized crime syndicate headed by Accused No. 1 Ravi Pujari and other members of the organized crime syndicate. That, the accused hatched a criminal conspiracy, in order to deprive the Respondent No.2 of his rightful ownership in Varshraj Realtors Pvt. Ltd. That, the Prior Approval refers to a meeting held in the month of May 2013 at the house of deceased Parshuram Shinde, wherein, the conspiracy was allegedly hatched.

5.2) That, though the Prior Approval refers to the FIR, panchanama, statements of witnesses and that the evidence against the wanted accused, however, it does not refer to or deal with the "A-Summary Report" dated 14th December 2015, which has been sidelined

and ignored. That, the Sanction under Section 23(2) dated 21st February 2023 is based on the same Prior Approval dated 12th September 2022.

5.3) That, in the 'A-Summary Report' there is a reference to gangster Ravi Pujari, however, most importantly in the said extradition request, the CR No. 115 of 2013 is not even listed or referred to. That, in the 'A-Summary Report', the Investigating Authority has specifically concluded that there was no evidence/material available against the Petitioners.

5.4) That, in the prior approval/sanction, there is nothing to show as to when and why the Investigating Authority decided to invoke the provisions of MCOCA. That, the same do not mention the reasons and material based on which those are passed. That, the prior approval/sanction do not reflect nor is there any indication of "application of mind" to the earlier investigation. That, there is no reason given to indicate as to why the A-Summary Report was not taken into consideration. That, none of the said aspects are even considered while passing the Orders.

5.5) That, as regards the statements of witnesses, the same were recorded by the DCB in the year 2014, wherein the witnesses had denied of knowing Accused No. 1 Ravi Pujari. That, some of the said witnesses were originally named as an accused and now subsequently have been shown as a witnesses. That, persons accused in the criminal

prosecution/FIR appear to have been given a pardon merely by providing favorable statements to the investigating authority. That, the only material available with the Investigating Authority, is the statement of accused persons, who has now been made witnesses.

5.6) That, if the the statements of witnesses recorded in the year 2014 are perused, it is specifically stated therein that, the witnesses had no knowledge of who Ravi Pujari was. However, in the subsequent statements of the year 2022, the same person surprisingly become aware of the said gangster, Mr. Ravi Pujari. That, the investigation conducted, after the A-Summary Report, appears to be mala fide on the part of the complainant and the prosecution agencies. That, non-consideration of the A-Summary Report, clearly indicates non-application of mind or demonstrates a clear case of malafide.

5.7) That, while referring to FIR No. 115 of 2013 dated 22nd November 2013, Mr. Desai submitted that the witness Madhusudhan has in his statement dated 10th September 2014, specifically stated that, he had no knowledge of the threats given by the gangster Ravi Pujari. That, he does not know and recognize gangster Ravi Pujari nor does he have any concern with the said Ravi Pujari. That, he has no knowledge as to why the name of Parshuram Shinde was taken in the said crime. That, in contradiction with the statement of 10th September 2014, the same witness in the supplementary statement dated 4th April 2022, has stated

that he knows Satish Dhanani, Mr. Ramnani, and Mr. Kishor Vatnani. That, he was aware of the disputes in respect of the Powai properties. That, on the say of Parshuram Shinde, Mr. Kishor Vatnani and Mr. Rajan Sujanani, gangster Ravi Pujari had threatened the Complainant and directed him to settle the disputes in respect of the Powai property as per the say of Mr. Kishore Vatnani and Mr. Rajan Sujanani.

5.8) That, in the year 2014, the Complainant provided a CD recording. That, the Section 65-B certificate, as required under the Evidence Act, was not produced at that time, nor was the prescribed procedure followed. That, perusal of the transcripts would indicate that, the same do not make out a case of extortion and instead, reflect internal civil-commercial disputes between the parties. That, the mobile phones were not seized. That, in view of the aforesaid facts, the question of invoking the provisions of MCOCA on the ground of alleged threats could not have arisen. That, surprisingly, in the year 2022, a Section 65-B certificate dated 1st April 2022, was provided by the Investigating Officer. That, there has been no investigation, regarding the alleged numbers of gangster Ravi Pujari and there is no proof to indicate or establish that the voice in the transcripts or calls belongs to gangster Ravi Pujari. That, the extradition of gangster Ravi Pujari is not based on the present FIR.

5.9) That in the year 2013, when the FIR was filed, there was no investigation whatsoever in respect of gangster Ravi Pujari. That, the

provisions of MCOCA, were not invoked. It was only in the year 2022, after a period of approximately nine years that, the provisions of MCOCA were invoked, without a satisfactory explanation for the delay. That, in matters where "A summary" report is filed, the Investigating Authorities, need to consider the A-Summary Report with more care and caution.

5.10) That, various civil proceedings are pending between the parties, in respect of the development of the land in question. That, the Petitioners had entered into a Joint Venture Agreement with Sailee Developers, whereby Sailee Developers was to develop the property and Varshraj Realtors and Sidhivinayak were to be given fully constructed, developed, lock-and-key property in proportion to 41% of their holdings. Under this arrangement, Varshraj Realtors was to receive 53,300 sq. feet of constructed property.

5.11) That, disputes arose between Sailee Developers and Varshraj Realtors when they came to know that Sailee Developers had assigned and transferred the entire development rights to Chandiwala Enterprises. That, the Petitioner immediately filed Civil Suit No. 3300 of 2007 in respect of the Powai land and Civil Suit No. 3301 of 2007 in respect of the Bandra property. Civil Suit No. 1418 of 2012, filed before this Court for specific performance, is pending. Disputes, in respect of the Powai land, were referred to arbitration.

5.12) That, the disputes if any in question were essentially civil

disputes in respect of Varshraj Realtors. The same are being projected and highlighted as a criminal offence. That, a perusal of the Consent Terms, would indicate that the entire dispute is a civil-commercial dispute, which revolves around the development rights of land at Powai, which belongs to the Petitioner. That, a purely civil and commercial dispute, is being converted and given a colour of a criminal offence, only to arm twist the Petitioners to give in to the demands of the Respondent No.2.

5.13) To sum up the arguments of the Petitioner, it was submitted that:- (i) Provisions of MCOCA have been invoked after an unexplained delay of 9 years, maliciously and with mala fide intent against the Petitioners ; (ii) the A-Summary report and reasons contained therein have not been considered; (iii) the certificate as required under section 65B of the Evidence Act was not provided at the first instance, the same is provided belatedly in the year 2022; (iv) Accused No.1 i.e Gangster Ravi Pujari has not been prosecuted in the present case, nor is the present case part of the extradition proceedings. That, as the main accused is not made party, the proceedings under the MCOCA Act ought to fail. (v) There is no evidence to indicate or show that, the call was from Gangster Ravi Pujari was at all made, as there is no voice identification produce by the Investigating Authority; (vi) no case of extortion is made out as no property is delivered; and that lastly (vii) a pure civil commercial dispute is being attempted to be converted into a criminal prosecution to arm

twist the Petitioners to give in to the unlawful/illegal demands of the Respondent No. 2. Mr. Desai therefore prayed that, the said petition may be allowed.

6) Mr. Mutahhar Khan, learned Advocate for the Petitioner in Criminal Writ Petition No. 2317 of 2023, adopted the submissions made by Senior Counsel Mr. Amit Desai on behalf of the Petitioners in Criminal Writ Petition No. 622 of 2024. He further submitted that :-

6.1) The transactions in respect of which the alleged threats have been made are civil transactions pertaining to a property dispute dating back to the year 2001. By referring to paragraph 4 of the Order dated 23rd December, 2021, passed in the Protest Petition, it was submitted that further investigation was directed on the ground that, though the Investigating Officer, had recorded the statements of the witnesses, he himself had not properly appreciated the said statements.

6.2) As regards the prior approval and sanction, it was reiterated that, the Sanction is accorded without application of mind in as much as the 'A-Summary Report' is not considered. That, the application of mind of the sanctioning Authority ought to be reflected in the sanctioning order which is clearly absent. That, the only material available with the Investigating Authority to proceed in the matter or grant prior approval was the statement of the said witnesses who had in the year 2014 denied of knowing gangster Ravi Pujari.

6.3) That, the Investigating agencies, even in the affidavit in reply dated 28th August 2023, have not explained the contradictory statements of the so called witnesses, who were arraigned as accused in the first instance. That, in the proposal for prosecution in the present case, was still in progress and the same did not form part or basis on which the extradition of gangster Ravi Pujari was done.

6.4) That, perusal of the complaint dated 28th June 2012 refers to the complaint wherein it is stated that Mr. Kishor Vatnani and Mr. Rajan Sujanani have contacts with gangster Ravi Pujari and have dealings with him. That, at the behest of the Ravi Pujari Gang and other unknown persons, life threats were given to the Respondent No.2. That, perusal of the transcripts would indicate that the name of Mr. Mangesh Sawant is not taken or referred to in the transcripts. That, there is no case against the Petitioner.

6.5) That, by an Order dated 6th September 2012 passed in Notice of Motion No. 1481 of 2012 in Suit No. 1418 of 2012 filed by the Complainant Mr. Kamal Sheth, the property was protected and so was the interest of the Complainant. That, as the interest of the Complainant was fully protected there was no question of giving any threats.

6.6) That, perusal of paragraph 4 of Order dated 30th October 2023, passed in Suit No. 446 of 2019, clearly indicates that the parties have settled all disputes and have agreed to withdraw proceedings

against each other and abide by the terms of the settlement. That, the details of the settlement of the disputes between the parties have been mentioned. In view thereof, there was no occasion or need to threaten the Respondent No.2.

6.7) While referring to the transcripts based on which the alleged complaint has been filed, he submitted that the perusal of the transcripts did not indicate or make out the case of extortion. It only refers to certain internal civil disputes between the parties.

6.8) Mr. Khan submitted that, there is no material at all to proceed to even frame charge against the Petitioner Mr. Sawant and therefore the chargesheet against him be quashed and his petition may be allowed.

7) Mr. Sudeep Pasbola, learned Senior Counsel appearing for Original Complainant/Respondent No. 2 submitted that:-

7.1) There is no delay in the filing of the said complaint. The first call of extortion and threat was on 3rd September 2013. That the FIR/complaint dated 22nd November 2013 refers to the complaints dated 4th September 2013, 6th September 2013 and 23rd September 2013, which were immediately filed with the police authorities and investigation was sought.

(i) Complaint dated 4th September 2013, was immediately made and addressed to the Police authorities, complaining of the life threats

received from gangster Ravi Pujari at the behest of Mr. Hari A. Ramnani, Kishor B. Vatnani and Rajan B. Sujanani. That, it is specifically asserted in paragraphs 14 and 20 that, Hari A. Ramnani, Kishor B. Vatnani and Rajan B. Sujanani with the aid of Mr. Ravi Pujari, his associates, Bali, and Madhu Nimya, had threatened him with death on numerous occasions and had extorted huge amounts from him running into crores of rupees.

(ii) In Complaint dated 4th September 2013, there is a specific allegation that on 3rd September 2013, he received a call from gangster Ravi Pujari, who threatened the Complainant with death, abused him and warned him not to pursue his legal remedies against Hari Ramnani, Kishor Vatnani, Varsha Rajan Sujanani, and Rajan B. Sujanani.

(iii) In the Complaint dated 6th September 2013 in para 2, it has been stated that, on 4th September 2013 at around 8.10 p.m. a call was received from Ravi Pujari who threatened the Complainant at the behest of Hari Ramnani, Kishore Vatnani and Rajan Sujanani. That, Respondent No.2 submitted the transcripts of the conversation to the Investigating Authorities.

(iv) In Complaint dated 23rd September 2013, in paragraphs 3 and 4, the Respondent No.2 expressed his displeasure/objection to the fact that, no action or steps were taken despite follow up/repeated complaints. That, the Respondent No.2 was receiving threatening calls from international numbers. That, Respondent No.2 requested that,

action be taken on the complaints dated 28th June 2012, 4th September 2013, and 6th September 2013 and a FIR be lodged against the accused persons named therein.

7.2) That, a perusal of the transcripts of the conversation of the 3rd September 2013, make out a clear and direct threat and extortion case/call being made to the Complainant at the behest of Mr. Kishor Vatnani and Mr. Rajan Sujanani. That, considering the complaints and the transcripts a clear case of extortion is made out. That, in the facts of the present case the judgment in the case of *Hemant Banker Vs. State of Maharashtra MANU/MH/2216/2023* cannot relied upon. That, it is the case of the Respondent No.2 that, monies were in fact paid.

7.3) That, in statement dated 10th September 2014 the witness Madhusudhan has stated that, he does not know Gangster Ravi Pujari and why the Complainant had implicated the said witness. That, a joint reading of the said statement and MOU dated 29th May 2012, would indicate that the parties were known to each other as the MOU executed. That, such statements were given due to the fear and terror of gangster Ravi Pujari.

7.4) That, MOU dated 12th January 2012, would show that the parties had executed the various MOU's amongst themselves. While referring to the statement dated 4th April 2022, recorded after the arrest of Gangster Ravi Pujari, he submitted that, the Respondent No. 2 has

given a proper and sufficient explanation for the delay. That, as the Respondent No. 2 was scared and terrorized of Parshuram Shinde and Gangster Ravi Pujari, he had not informed the Anti-Extortion Cell of the true and correct facts in his statement of 10th September 2014. That, in the year 2021 after Gangster Ravi Pujari was arrested and Parshuram Shinde expired the threat perception of the witness reduced and therefore he has given the supplementary statement wherein he has given all the details in respect of the said offence. That, the delay has been explained in the statement recorded under section 164 of the Code of Criminal Procedure.

7.5) That, the Panchanama dated 30th November 2023 by which the transcripts of the conversation between the Ravi Pujari and the complainant Kamal Sheth have been extracted clearly make out the case of extortion.

7.6) While referring to the statement dated 6th August 2022, it was submitted that, after the Protest petition challenging the 'A-summary Report' was allowed, a proper and through investigation was carried out, pursuant to which the provisions of MCOCA have been rightly invoked and applied. That, the complaint and transcripts clearly make out a prima facie case. That, the ground of delay in invoking the provisions of MCOCA, the challenge to the sanction and argument of non-submission of the 65-B certificate can all be dealt with effectively by the Petitioners

at the stage and time of the trial.

7.7) That, the statement dated 27th May 2014, indicates that before the A-summary Report was filed, some other builders were also threatened. That,vide statements dated 29th July 2022 and 12th December 2022 the proximity of the Kishor Vatanani and Rajan Sujanani with the Ravi Pujari and the gang is clearly made out. That, the statements and the transcripts clearly make out a strong prima facie case for the offence of extortion. That, the provisions of the MCOCA Act are rightly invoked.

7.8) As regards the delay, it was submitted that, the complaint has been made at the earliest point in time. That, Respondent No.2 has followed up with the investigating authorities. That, the reasons for the delay, though belated have been properly and adequately explained and the explanation is reasonable and plausible. That, it was only due to the threats/threat perception that, the witnesses were scared and did not initially depose to the true and correct facts. That, there is enough material in the form of statements and transcripts to make out a case that, threats were given and that the offence of extortion committed.

7.9) That, the aspect of delay in invoking the provision of MCOCA, is for the Investigating Officer, to explain. On a prima facie view, the delay has been properly explained. That, for the fault of the investigating officer or machinery, a criminal prosecution in which, otherwise prima facie case has been made out cannot and ought not to be

thrown out. That, it was possible for the Investigating Officer to file the chargesheet as material was available and there was no reason to conclude that, the allegations are true but not detected. That, for the omissions and or acts of negligence of the Investigating Officer, the Respondent No.2 should not be made to suffer.

7.10) That, the provisions of MCOCA have been rightly invoked as the required ingredients have been made out and adequately fulfilled. That Ravi Pujari, is the head of the organization and the necessary chargesheets have been filed against his syndicate. That, even if the head of the organization cannot be tried, the other accused may be proceeded with.

7.11) That, it is not the case of the Petitioner that, the Complaint is fabricated or false. The complaint is genuine as the complaint/FIR have filed with Investigating Officer of the Police Stations at the first given opportunity and that the delay has been properly explained.

8) Mr. Satpute the learned APP appearing for the Respondent-State, adopted and reiterated the arguments advanced for and on behalf of the Respondent No.2. The learned APP further submitted that:-

8.1) The 'A-Summary Report' has in fact been taken into consideration while passing the Order dated 12th September 2022. That, pursuant to the Protest Petition being allowed, a further investigation was carried out and the provisions of MCOCA, have been rightly invoked.

8.2) On 30th July 2022, the voice sample of the Respondent No.2 was taken in the Memory Card under the Panchanama dated 30th November 2013 in connection with the C.D. containing the conversation between the Gangster Ravi Pujari and the Complainant. That, the Memory Card, was seized under the Panchanama dated 1st August 2022.

8.3) That, on 10th September 2014 the Investigating Officer recorded the statement of the witness wherein he has stated that, he knows the accused Satish Dhanani as he was previously residing in the said vicinity. That, in the year 2011 arrested accused Satish Dhanani requested witness to resolve disputes of one builder who was not giving possession of their flats at Andheri, Dahisar and Borivali. That, the witness knew wanted accused Parshuram Shinde. That, a meeting was organized with Parshuram Shinde, which meeting, was attended by Satish Dhanani, Hari Ramnani, Kishor Vatnani and the Petitioner Mr. Sawant. That, two M.O.U's were executed on 12th January 2012.

8.4) While referring to the statement dated 22nd November 2013, it was submitted that, in fact there is no delay in lodging of the FIR. As regards the delay, it was submitted that, a satisfactory explanation is available on record in the form of recorded statements. That, it was due to the threats and atmosphere of terror created by gangster Ravi Pujari, the witnesses were not coming forward to give a statement. That, the witnesses were scared and terrified. That, the delay has also been

explained in the statement dated 4th April 2022 to state that after the arrest of gangster Ravi Pujari and the death of Parshuram Shinde, the witness gathered the courage to speak up and give the statements. That the explanation of the delay is reasonable, true and correct.

8.5) The statements, clearly make out an offence of extortion. That, a clear prima facie case has been made out. That, even the ingredients essential for making out the case of MCOCA, are clearly made out. That, there is continuing unlawful activity which carried out and executed individually, singularly or jointly and that activity is either by particular of organized crime or on behalf of syndicate. That, there has been a clear use of threat and intimidation and other unlawful means. That, the activity has been carried out with an object of pecuniary gain. That, the activity is prohibited by the law. That, a clear case under the provisions of MCOCA has been made out by the Respondent-State.

8.6) That, considering the facts and circumstances and the material available on record a prima facie case has been made out. That, no case is made out for exercising the power under Section 482.

9) At this stage we deem it appropriate to refer to the relevant provisions of The Maharashtra Control of Organised Crime Act 1999, (MCOCA/said Act) and the relevant judgments cited by the learned counsel for the respective parties, in support of their respective arguments.

9.1) MCOCA, which came into force on 24th February 1999, is a special legislation enacted to make provisions for prevention and control of and for coping with, criminal activity by organized crime syndicate or gang and for matters connected therewith or incidental thereto. Certain provisions of MCOCA, that would be necessary to be considered are as under:-

9.2) Under the said Act section 2(1)(a) defines the act of abetment.

"Abet"*, with its grammatical variations and cognate expressions, includes-*

(i) the communication or association with any person with the actual knowledge or having reason to believe that such person is engaged in assisting in any manner , an organised crime syndicate;

(ii) the passing on or publication of, without any lawful authority, any information likely to assist the organized crime syndicate and the passing on or publication of or distribution of any document or matter obtained from the organized crime syndicate; and

(iii) the rendering of any assistance, whether financial or otherwise, to the organised crime syndicate.

9.3) Section 2(1) (d) of the said Act defines a continuing unlawful activity" to mean an activity prohibited by law for the time

being in force, which is cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence.

9.4) Section 2(1)(e) of the said Act defines “organised crime” to mean, any continuing unlawful activity, by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate,-

(i) by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency, or

(ii) by cultivating, producing manufacturing, possessing, selling, purchasing, transporting or storing of narcotic drugs or psychotropic substances in commercial quantity, as notified under the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), in contravention of the said Act or rules framed thereunder, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for

himself or any other person;

9.5) Section 2(1) (f) of the said Act defines the term "organised crime syndicate" to mean a group of two or more persons who, acting either singly or collectively, as a syndicate or gang indulge in activities of organised crime;

9.6) The Hon'ble Supreme Court in the case of *Abhishek vs. State of Maharashtra & ors. (SLP. Cri. No. 1157/2022 – Supreme Court)* while referring to paragraph No. 18.2 has observed that:-

> *"**18.2.** The learned counsel for the State has fairly and rightly indicated, with reference to the decision of this Court in the case of Vinod G. Asrani (supra), that the validity of sanction could always be determined by the Trial Court during the course of trial where sanctioning authority could be examined and the appellant will have sufficient opportunity to contest the same, including that of cross-examining the sanctioning authority. In fact, the High Court has also taken care in its impugned order to make it clear that the observations were only prima facie and nothing in the order would influence or prejudice the trial or pre-empt any legitimate defence of the appellant. In Vinod G. Asrani (supra), this Court has observed and held as under:-*
>
> > *"**9**....The scheme under Section 23 of MCOCA is similar and Section 23(1)(a) provides a safeguard that no investigation into an offence under MCOCA should be commenced without the approval of the authorities concerned. Once such approval is obtained, an investigation is commenced. Those who are subsequently found to be involved in the commission of the organised crime can very well be proceeded against once sanction is obtained against them under Section 23(2) of MCOCA.*
> >
> > ***10.** As to whether any offence has at all been made out against the petitioner for prosecution under MCOCA, the High Court*

has rightly pointed out that the accused will have sufficient opportunity to contest the same before the Special Court."

9.7) The Hon'ble Supreme Court in the case of *Kavitha Lankesh vs. State of Karnataka & Ors. Reported in 2021 SCC OnLine SC 956* has observed that:-

*"**25.** ……*

85. A reading of para 31 in *Ranjitsing Brahmajeetsing Sharma case* [*Ranjitsing Brahmajeetsing Sharma* v. *State of Maharashtra*, (2005) 5 SCC 294 : 2005 SCC (Cri) 1057] shows that in order to invoke MCOCA even if a person may or may not have any direct role to play as regards the commission of an organised crime, if a nexus either with an accused who is a member of an "organised crime syndicate" or with the offence in the nature of an "organised crime" is established that would attract the invocation of Section 3(2) of the MCOCA. *Therefore, even if one may not have any direct role to play relating to the commission of an "organised crime", but when the nexus of such person with an accused who is a member of the "organised crime syndicate" or such nexus is related to the offence in the nature of "organised crime" is established by showing his involvement with the accused or the offence in the nature of such "organised crime", that by itself would attract the provisions of MCOCA.* The said statement of law by this Court, therefore, makes the position clear as to in what circumstances MCOCA can be applied in respect of a person depending upon his involvement in an organised crime in the manner set out in the said paragraph.

26. *…. As aforesaid, while considering the proposal for grant of prior approval under Section 24(1)(a) of the 2000 Act, what is essential is the satisfaction of the competent authority that the material placed before him does reveal presence of credible information regarding commission of an offence of organised crime by the organised crime syndicate and, therefore, allow invocation of Section 3 of the 2000 Act. As a consequence of which, investigation of that crime can be taken forward by the investigating agency and charge-sheet can be filed before the court*

concerned and upon grant of sanction by the competent authority under Section 24(2), the competent court can take cognizance of the case.

27. *At the stage of granting prior approval under Section 24(1)(a) of the 2000 Act, therefore, the competent authority is not required to wade through the material placed by the investigating agency before him along with the proposal for grant of prior approval to ascertain the specific role of each accused. The competent authority has to focus essentially on the factum whether the information/material reveals the commission of a crime which is an organised crime committed by the organised crime syndicate. In that, the prior approval is qua offence and not the offender as such. As long as the incidents referred to in earlier crimes are committed by a group of persons and one common individual was involved in all the incidents, the offence under the 2000 Act can be invoked. This Court in Prasad Shrikant Purohit [Prasad Shrikant Purohit v. State of Maharashtra, (2015) 7 SCC 440 : (2015) 3 SCC (Cri) 138] in SCC paras 61 and 98 expounded that at the stage of taking cognizance, the competent court takes cognizance of the offence and not the offender. This analogy applies even at the stage of grant of prior approval for invocation of provisions of the 2000 Act. The prior sanction under Section 24(2), however, may require enquiry into the specific role of the offender in the commission of organised crime, namely, he himself singly or jointly or as a member of the organised crime syndicate indulged in commission of the stated offences so as to attract the punishment provided under Section 3(1) of the 2000 Act. However, if the role of the offender is merely that of a facilitator or of an abettor as referred to in Sections 3(2), 3(3), 3(4) or 3(5), the requirement of named person being involved in more than two charge-sheets registered against him in the past is not relevant. Regardless of that, he can be proceeded under the 2000 Act, if the material collected by the investigating agency reveals that he had nexus with the accused who is a member of the organised crime syndicate or such nexus is related to the offence in the nature of organised crime. Thus, he need not be a person who had direct role in the commission of an organised crime as such."*

9.8) This Court in the case of *Govind Sakharam Ubhe vs. State of Maharashtra (Criminal Appeal No. 18/2009 – Bombay High Court)* while referring to para no. 37.

> *"**37.** But even otherwise, if all provisions are read together we reach the same conclusion. Section 2(1)(d) which defines continuing unlawful activity' sets down a period of 10 years within which more than one charge- sheet have to be filed. The members of the crime syndicate operate either singly or jointly in commission of organized crime. They operate in different modules. A person may be a part of the module which jointly undertakes an organized crime or he may singly as a member of the organized crime syndicate or on behalf of such syndicate undertake an organized crime. In both the situations, the MCOCA can be applied. It is the membership of organized crime syndicate which makes a person liable under the MCOCA. This is evident from section 3(4) of the MCOCA which states that any person who is a member of an organized crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum of fine of Rs.5 lakhs. The charge under the MCOCA ropes in a person who as a member of the organized crime syndicate commits organized crime i.e. acts of extortion by giving threats, etc. to gain economic advantage or supremacy, as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organized crime syndicate. Therefore, if within a period of preceding ten years, one charge-sheet has been filed in respect of organized crime committed by the members of a particular crime syndicate, the said charge-sheet can be taken against a member of the said crime syndicate for the purpose of application of the MCOCA against him even if he is involved in one case. The organized crime committed by him will be a part of the continuing unlawful activity of the organized crime syndicate. What is important is the nexus or the link of the person with organized crime syndicate. The link with the organized crime syndicate' is the crux of the term 'continuing unlawful activity. If this link is not*

established, that person cannot be roped in."

9.9) This Court in the case of *Anil Sadashiv Naduskar vs. State of Maharashtra (Criminal Appeal No. 536/2007 - Bombay High Court)* while referring to para nos. 13, 18, 19, 24 and 25 observed that:-

> ***"13.*** *The settled law by a catena of decisions of the Apex Court is to the effect that it is desirable that every order whether the approval or sanction it should speak for itself, i.e. ex-facie it should disclose consideration of the materials placed before it and application of mind thereto. However, failure to reproduce or refer those recitals in the resolution or order itself would not render the order of approval or sanction to be invalid unless the prosecution fails to establish by leading evidence that all the materials necessary for the grant of approval or sanction were placed before the concerned authority for due application of mind by such authority before the grant of approval and or sanction. It apparently discloses that question of validity of approval or sanction cannot be decided unless the prosecution is afforded opportunity to lead evidence in that regard. Undoubtedly, an accused desiring to raise objection regarding the defects in such approval or sanction, or grant, he can raise such objection; however, for conclusive decision on the said point the accused has to wait till the trial is complete and on that ground he cannot insist for discharge unless the objection relates to inherent lack of jurisdiction to the concerned authority to grant sanction or approval and such issue can be decided on undisputed facts. The law being well settled to the effect that the prosecution in a case where sanction or the approval order does not ex-facie show consideration of all the materials and/or application of mind, is entitled to establish the same by leading necessary evidence regarding production of materials before the concerned authority, the question of discharge of accused merely on the basis of such objection being raised cannot arise. The decision on the point of defect, if any, in the order of approval or sanction will have to be at the conclusion of the trial.*
>
> ***18.*** *In the case in hand it is not in dispute that such approval was in writing granted on 28th August 2004. Whether it was on proper application of mind on the basis of the materials placed before the concerned authority or not and whether all the required materials*

were actually placed before the concerned authority or not, are the points to be decided at the conclusion of the trial so that the prosecution gets sufficient opportunity to establish all the facts necessary to prove the valid approval and sanction for the prosecution.

19. *As regards the sanction dated 7th January 2005, according to the appellant it does not disclose consideration of materials qua each of the accused in relation to the alleged offence for which the sanction has been granted. The contention is devoid of substance as the law on the point is well settled to the effect that in case the sanction document on the face of it does not disclose consideration of all the materials by the concerned authority, nothing prevents the prosecution from establishing the said fact by leading appropriate evidence in that regard.*

24. *The contention that the order of approval or order of sanction should disclose consideration of material qua each of the accused sought to be prosecuted is devoid of substance. That is not the import of section 23 of mcoc act. section 23(1)(a) as well as section 23(2) with reference to approval and sanction speaks of commission of offence and cognizance of the offence. In fact the law on this aspect is also well settled and reiterate by the Apex Court in Dilawar Singh's case (supra) itself. It was held therein that, court takes cognizance of offence and not of an offender when a Magistrate takes cognizance of an offence, under Section 190 Cr.P.C. Undoubtedly, it was also held that it was necessary for the Sanctioning Authority to take note of the persons against whom the sanction is sought to be granted. However, those were the requirement under Section 19 of the Prevention of Corruption Act. The said section specifically requires sanction with reference to a particular person. That is not the case under section 23 either in relation to the approval or in relation to the sanction. As already seen above section 23(1) (a) of MCOC Act speaks of approval for recording of information about commission of offence of organized crime under MCOC Act, whereas sanction is for initiating proceeding for the offence under MCOC Act. The sanction order or the approval order on the face of it need not speak of the individual role of each of the accused. Being so, contention that the order of approval or sanction should reveal consideration of the overt acts or otherwise of each of the accused while granting approval or sanction is totally devoid of substance. Of course, the involvement in organized crime of each of the persons sought to be prosecuted should necessarily be considered by the concerned authority before*

the grant of approval or sanction, but need not be specifically stated in the order and the consideration thereof can be established in the course of trial.

25. *It was also sought to be argued that the rule that the application of mind can be established by leading evidence would not apply in case of written approval or written sanction. As already held above the law on the point that the prosecution is entitled to establish the fact of application of mind by the concerned authority by leading evidence is well settled, and it makes no difference whether order is a written and or order. It was also sought to be argued that question of invoking or applying the provisions of MCOC Act cannot arise without approval and sanction order discloses involvement of the appellant in an organized crime within the meaning of said expression under the said Act in as much as that the activities of the appellant are not disclosed to have been carried out with the object of gaining pecuniary benefits or economic gains. It is the contention on behalf of the appellant that though the sanction order refers to such activities, there is no reference to that effect in the order of approval. Again this is a matter for evidence. The order of the approval on the face of it may not disclose involvement of the appellant in the activities being carried with the object of gaining pecuniary benefits or economic gain. Whether organized crime is restricted to the activities carried out with the object of gaining pecuniary benefits or economic gains or whether it would apply even to the activities which are carried with the object of gaining other advantages for himself or for any person and whether the expression "such any other advantage" would include activities carried out with the object other than the economic gain or pecuniary benefit, all these factors will have to be decided on the basis of the evidence to be led by the prosecution. To what extent activities were either to the advantage of the appellant himself or any other person is a matter of evidence, to be decided, based on the materials to be placed on record in the course of evidence and it is too early to make any judicial pronouncement in that regard."*

9.10) This Court in the case of *Mahesh Gajanan Tapase vs. State of Maharashtra & ors.(2020 SCC Online Bom 1505 – Bombay High Court)* while referring to para no. 16 observed that:-

> *"16. All this material has been rightly considered by the authority while passing the order under Section 23 of MCOCA for granting prior approval. Perusal of the order of grant of prior approval demonstrates that the material placed before it was considered and there is application of mind in appreciating the said material. The question of validity of prior approval and sanction cannot be decided unless the Respondent/Prosecution is given an opportunity to lead evidence in that regard. Perusal of the order granting prior approval, as observed hereinabove, speaks of total number of offences committed in last 10 years by the accused persons."*

9.11) In the case of *Sagar Balasaheb Gaikwad vs. State of Maharashtra (2021) SCC Online Bom 447,* this Court while referring to and following the law as laid down by this Court in case of *Anil Sadashiv Nanduskar (Supra) and Govind S Ubhe (Supra)* in paragraphs 7 to 9, in paragraph 10 observed that:-

> *"10. In the case of Farman Imran Shah @ Karu v. State of Maharashtra (supra) another Division Bench of this Court while relying upon the aforementioned Judgment in the case of Anil Sadashiv Nanduskar v. State of Maharashtra (supra) held that the prosecution has to be offered an opportunity to lead evidence with regard to subjective satisfaction recorded by the Competent Authority while issuing the sanction order."*

9.12) The Hon'ble Supreme Court in the case of *State of Haryana & ors vs. Bhajan Lal & ors* 1992 Supp (1) Supreme Court Cases 335 has in para no. 108 observed that:-

> *"108. ……. If the allegations are bereft of truth and made maliciously, we are sure, the investigation will say so. At this stage, when there are only allegations and recriminations but no evidence, this court cannot anticipate the result of the investigation and render a finding on the question of mala fides on the materials at present available. Therefore, we are unable to see any force in the contention that the complaint should be thrown overboard on*

the mere unsubstantiated plea of mala fides. Even assuming that Dharam Pal has laid the complaint only on account of his personal animosity, that, by itself, will not be a ground to discard the complaint containing serious allegations which have to be tested and weighed after the evidence is collected. In this connection, the following view expressed by Bhagwati, C.J. in Sheonandan Paswan v. State of Bihar [(1987) 1 SCC 288, 318 : 1987 SCC (Cri) 82] may be referred to : (SCC p. 318, para 16)

> *"It is a well established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does not become vitiated on account of mala fides or political vendetta of the first informant or the complainant."*

Beyond the above, we do not wish to add anything more."

9.13) The Hon'ble Supreme Court in the case of *State of Madhya Pradesh vs. Shilpa Jain & ors. (Criminal Appeal No. 1565-1567 of 2024 – Supreme Court)* while referring para nos. 8, 10 and 11 observed that:-

*"**8**. The sequitur to the aforesaid discussion is that the High Court proceeded on an erroneous assumption i.e., that the State of Madhya Pradesh failed to prove its title qua the Suit Property.*

***10**. Additionally, we are conscious of the interplay between civil disputes and criminal proceedings, in this regard we find it appropriate to refer to a decision of this Court in Mohd. Ibrahim v. State of Bihar, (2009) 8 SCC 751, wherein this Court observed as under:*

> *"8. This Court has time and again drawn attention to the growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal courts should ensure that proceedings before it are not used for settling scores or to pressurise parties to settle civil disputes. U (See G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] and Indian Oil Corpn. v. NEPC India Ltd. [(2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188]) Let us examine the matter keeping*

the said principles in mind."

***11**. Having considered the materials on record, we are of the considered opinion that neither does the present case satisfy any of the parameters laid down by this Court in Bhajan Lal (Supra) warranting the exercise of jurisdiction under Section 482 of the CrPC vis-à-vis the quashing of an FIR; and nor can the allegation(s) levelled against the accused person(s) be classified as 'purely civil in nature' or merely 'cloaked as a criminal offence'. Undoubtedly, the genesis of the present dispute emanates from civil proceedings qua the possession of the Suit Property, however, the dispute in its current avatar i.e. as is discernible from the allegation levelled against the Respondents in the FIR, has certainly undergone a metamorphosis into a criminal dispute which ought not to have been scuttled at the threshold, and in fact ought to have been considered on its own merits, in accordance with law.*

9.14) The Hon'ble Supreme Court in the case of *State of Karnataka Vs. M. Devendrappa reported in (2002) 3 SCC* 89 observed that:-.

***"7.** In R.P. Kapur v. State of Punjab[1] this Court summarized some categories of cases where inherent power can and should be exercised to quash the proceedings.*

(i) where it manifestly appears that there is a legal bar against the institution or continuance e.g. want of sanction;

(ii) where the allegations in the first information report or complaint taken at its face value and accepted in their entirety do not constitute the offence alleged;

(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

***8.** In dealing with the last case, it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is clearly inconsistent with the accusations made, and a case where there is legal evidence which, on appreciation, may or may not support the accusations. When exercising jurisdiction under Section 482 of the Code, the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on a reasonable appreciation of it accusation would not be sustained. That is the function of the trial Judge. Judicial process should not be an instrument of oppression, or, needless harassment. Court should be circumspect and judicious in exercising discretion and should take*

all relevant facts and circumstances into consideration before issuing process, lest it would be an instrument in the hands of a private complainant to unleash vendetta to harass any person needlessly. At the same time the section is not an instrument handed over to an accused to short-circuit a prosecution and bring about its sudden death. The scope of exercise of power under Section 482 of the Code and the categories of cases where the High Court may exercise its power under it relating to cognizable offences to prevent abuse of process of any court or otherwise to secure the ends of justice were set out in some detail by this Court in State of Haryana v. Bhajan Lal[2]. A note of caution was, however, added that the power should be exercised sparingly and that too in rarest of rare cases. The illustrative categories indicated by this Court are as follows: (SCC pp. 378-79, para 102)

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted

with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

9. *As noted above, the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. (See: Janata Dal v. H.S. Chowdhary[3], and Raghubir Saran (Dr) v. State of Bihar.) It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers under Section 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that event there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the*

investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings…"

9.15) The Hon'ble Supreme Court, in the case of *Abhishek Singh Vs. Ajay Kumar And Ors., (SLP (Cri.) No. 480/2025)* observed that:-

*"**9.** …..The task of the High Court, when called upon to adjudicate an application seeking to quash the proceedings, is to see whether, prima facie, an offence is made out or not. It is not to examine whether the charges may hold up in the Court. In doing so, the area of action is circumscribed. In Rajeev Kourav v. Baisahab, it was held:*

*"**8.** It is no more res integra that exercise of power under Section 482 CrPC to quash a criminal proceeding is only when an allegation made in the FIR or the charge-sheet constitutes the ingredients of the offence/offences alleged. Interference by the High Court under Section 482 CrPC is to prevent the abuse of process of any court or otherwise to secure the ends of justice. It is settled law that the evidence produced by the accused in his defence cannot be looked into by the court, except in very exceptional circumstances, at the initial stage of the criminal proceedings. It is trite law that the High Court cannot embark upon the appreciation of evidence while considering the petition filed under Section 482 CrPC for quashing criminal proceedings. It is clear from the law laid down by this Court that if a prima facie case is made out disclosing the ingredients of the offence alleged against the accused, the Court cannot quash a criminal proceeding."*

9.16) In the case of *Rajendra Bihari Lal and Another Vs. State of Uttar Pradesh and Others reported in (2025) SCC OnLine SC 2265, while following the principles it had laid down in the case of Bhajan Lal (Supra) in paragraph 83 observed* that :-

*"**83.** What should be the approach of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance was*

delineated by this Court in Mohammad Wajid v. State of U.P, 2023 SCC OnLine SC 951, wherein one of us, J.B. Pardiwala, J., speaking for the Bench held that the courts owe a duty to look into other attending circumstances emerging from the record of the case, and if need be, read between the lines. We may refer to the following observations for the benefit of exposition:

"36. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.

37. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc. then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not.

38. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."

(Emphasis supplied)

9.17) The Hon'ble Supreme Court in the case of *Hemant Banker V/s State of Maharashtra, reported in MANU/MH/2216/2023 has observed that:-*

> *"**12.** Now, if we take a look at the impugned order passed under Section 23(1)(a) of the MCOC Act dated 22nd September 2021, we would find that the offences punishable under Sections 387and 120(B), read with Section 34 of IPC, registered against the applicants, weighed with the authority while granting its approval for proceeding against these applicants under the provisions of MCOC Act. The fact of registration of FIR against the applicant Hemant Banker for an offence punishable under Section 387 having been taken into account by the authority granting approval under Section 23(1) (a) of the MCOC Act was noted by the Apex Court and, therefore, it observed that it was necessary to bestow serious consideration in regard to the one based on Section 387 of IPC. This background of facts would make it necessary for us to consider first as to whether or not the allegations as made and the material as available, taken at face value without adding anything to the same and without subtracting anything from the same, are sufficient to constitute the offence punishable under Section 387 of IPC and also offence punishable under Section 120(B) of IPC against the applicants. This is the principle of law which governs exercise of power of this court under Section 482 of the Code of Criminal Procedure. This principle of law is now well embedded in our criminal jurisprudence. .....*
>
> ***14.** ..... The term "Extortion" is defined in Section 383 and it reads thus:-*
>
> *"383. Extortion Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".*
>
> ***15.** This definition indicates following ingredients of the offence of extortion, which must be present for constituting it.*
>
> *(i) Intentionally putting any person in fear of injury to that person or any other person;*

(ii) Inducing of the person so put in fear dishonestly;
(iii) Delivery to any person any property or valuable security by the person put in fear and subjected to dishonest inducement.

If any of these ingredients is absent, the offence of extortion would not be complete, a held in the case of Dhananjay alias Dhananjay Kumar Singh Vs. State of Bihar and An MANU/SC/7061/2007: (2007) 14 SCC 768. In an earlier case of R.S. Nayak Vs. A. R. Antulay and Anr. MANU/SC/0198/1986: (1986) 2 SCC 716, similar view was taken by the Apex Court.

16. *In the case of Isaac Isanga Musumba and Ors. Vs. State of Maharashtra and Ors. MANU/SC/0725/2013: (2014) 15 SCC 357, the Apex Court has held that, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and the FIR for the offence under Section 384 cannot be registered by the police. Relevant observations of the Apex Court, appearing in paragraph 3 of the judgment, are reproduced thus :-*

"3. We have read the FIR, which has been annexed to the writ petition as Annexure P-7 and we find therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice and Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs.110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. If that be so, we fail to see as to how an offence of extortion as defined in Section 383 IPC is made out."

20. *…..On a careful perusal of the FIR, we find that there is not a single allegation made against either of these applicants that they or any one of them intentionally put the complainant or any other person in fear of death or of grievous hurt and thereby dishonestly induced the complainant or any other person to make investment in the business of the complainant in January, 2018."*

9.18) The Hon'ble Supreme Court in the case of *M/s. Balaji Traders vs. The State of U.P. & anr (SLP. Cri. No.3159/2025)* while referring to para nos. 13, 14, 15, 16.:-

"13. *But a perusal of Section 387 IPC reveals its essential*

ingredients, to be:

(a) Accused must have put a person in fear of death or grievous hurt;

(b) Such an act must have been done in order to commit extortion;

The expression 'in order to' has been defined in the following ways:

"in order to": for the purpose of[13]

"in order to": with the purpose of doing[14]

'in order to commit extortion' clearly reveals that it is in the process of committing the offence of extortion.

14. *Thus, it can be said in terms of Sections 386 (an aggravated form of 384 IPC) and 387 IPC that the former is an act in itself, whereas the latter is the process; it is a stage before committing an offence of extortion. The Legislature was mindful enough to criminalize the process by making it a distinct offence. Therefore, the commission of an offence of extortion is not sine qua non for an offence under this Section. It is safe to deduce that for prosecution under Section 387 IPC, the delivery of property is not necessary.*

15. *In* ***Radha Ballabh v. State of U.P.***[15]*, this Court, while dealing with a case wherein ransom was demanded for releasing the child, observed that it could not be punishable under Section 386 IPC as no ransom was extorted. Therefore, the conviction was correctly made under Section 387 IPC. Similarly, in* ***Gursharan Singh v. State of Punjab***[16]*, the Court upheld the conviction under Section 387 IPC where money extorted was not paid.*

16. *Further, in Somasundaram v. State*[17] *a three-Judge Bench of this Court upheld the conviction under Section 387 IPC, along with other provisions, on the facts, where the deceased was tied with an iron chain and rope to a cot and threatened to part with crores of rupees or else execute the document in their favour. On his failure to do so, the deceased was killed. Thus, even though there was no delivery of property, the conviction was upheld by observing that Section 387 IPC is a heightened, more serious form of the offence of extortion in which the victim is put in fear of death or grievous hurt."*

9.19) The Hon'ble Supreme Court in the case of *Punit Beriwala vs. State of NCT of Delhi & Ors. (Criminal Appeal No. 1834/2025- Supreme*

Court) while referring Para nos. 36, 37 and 40 observed that:-

> *"**36.** Further, accepting the reasoning given by the learned Single Judge in the impugned order that 'there had been a delay in registration of the FIR and because of such delay, the allegations made by the Appellant are unbelievable' and the submissions of learned senior counsel for Respondent Nos.2 and 3 that no complaint/FIR should be entertained 'at this distance of time', would mean in effect in accepting the argument that delay is a sufficient ground for quashing of the present FIR/complaint.*
>
> ***37.** It is settled law that delay in registration of the FIR for offences punishable with imprisonment of more than three years cannot be the basis of interdicting a criminal investigation. The delay will assume importance only when the complainant fails to give a plausible explanation and whether the explanation is plausible or not, has to be decided by the Trial Court only after recording the evidence. In this context, the Supreme Court in **Skoda Auto Volkswagen (India) Private Limited v. State of Uttar Pradesh and Others (2021) 5 SCC 795** has held, "The mere delay on the part of the third respondent complainant in lodging the complaint, cannot by itself be a ground to quash the FIR. The law is too well settled on this aspect to warrant any reference to precedents……*
>
> ***40.** Even otherwise, as the learned senior counsel for the Appellant has rightly pointed out, in terms of Section 468 Cr.P.C., there is no period of limitation for offences which are punishable with imprisonment of more than three years."*

9.20) In the case of *State of Bihar And Anr. Vs. P. P. Sharma, IAS and Anr, reported in 1992 Supp (1) SCC 222* held that:-

> *"**49.** The focal point from the above background is whether the charge-sheets are vitiated by the alleged mala fides on the part of either of the complainant R.K. Singh or the Investigating Officer G.M. Sharma. In Judicial Review of Administrative Action S.A. de Smith, (3rd edn. at p. 293 [Ed.: 4th Edn., p. 335]) stated that:*
>
> > *"The concept of bad faith … in relation to the exercise of statutory powers … comprise dishonesty (or fraud) and malice. A power is exercised fraudulently if its repository intends to achieve an object other than that for which he believes the*

power to have been conferred. His intention may be to promote another public interest or private interests. A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise …. The administrative discretion means power of being administratively discreet. It implies authority to do an act or to decide a matter a discretion."

The administrative authority is free to act in its discretion if he deems necessary or if he or it is satisfied of the immediacy of official action on his or its part. His responsibility lies only to the superiors and the Government. The power to act in discretion is not power to act ad-arbitrarium. It is not a despotic power, nor hedged with arbitrariness, nor legal irresponsibility to exercise discretionary power in excess of the statutory ground disregarding the prescribed conditions for ulterior motive. If done it brings the authority concerned in conflict with law. When the power is exercised mala fide it undoubtedly gets vitiated by colourable exercise of power.

50. *Mala fides means want of good faith, personal bias, grudge, oblique or improper motive or ulterior purpose. The administrative action must be said to be done in good faith, if it is in fact done honestly, whether it is done negligently or not. An act done honestly is deemed to have been done in good faith. An administrative authority must, therefore, act in a bona fide manner and should never act for an improper motive or ulterior purposes or contrary to the requirements of the statute, or the basis of the circumstances contemplated by law, or improperly exercised discretion to achieve some ulterior purpose. The determination of a plea of mala fide involves two questions, namely (i) whether there is a personal bias or an oblique motive, and (ii) whether the administrative action is contrary to the objects, requirements and conditions of a valid exercise of administrative power.*

58. *It is undoubted that no one should unnecessarily be harassed or face an ordeal of criminal trial unless sufficient materials are collected during the investigation disclosing the crime committed. The Investigating Officer is not to act on a preconceived idea of guilt of the accused. The Investigating Officer is expected to gather the entire material, so that the truth or falsehood of the accusation may be found by the court at the trial. The Investigating Officer is expected to investigate justly and fairly, but the evidence collected at the investigation is not be-all and end-all. At the stage of trial the opportunity is wide open to the accused to cross-examine the*

witnesses and if he deems necessary to adduce the defence evidence and to test the veracity of the evidence collected during the investigation."

9.21) In the case of *Zahira Habibulla H. Sheikh and Anr. Vs. State of Gujarat and Ors. Reported in (2004) 4 SCC 158* has observed that :-

*"**61.** In the case of a defective investigation the court has to be circumspect in evaluating the evidence and may have to adopt an active and analytical role to ensure that truth is found by having recourse to Section 311 or at a later stage also resorting to Section 391 instead of throwing hands in the air in despair. It would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. (See Karnel Singh v. State of M.P. [(1995) 5 SCC 518 : 1995 SCC (Cri) 977])*

***62.** In Paras Yadav v. State of Bihar [(1999) 2 SCC 126 : 1999 SCC (Cri) 104 (para 8)] it was held that if the lapse or omission is committed by the investigating agency designedly or because of negligence, the prosecution evidence is required to be examined dehors such omissions to find out whether the said evidence is reliable or not. The contaminated conduct of officials should not stand in the way of courts getting at the truth by having recourse to Sections 311, 391 of the Code and Section 165 of the Evidence Act at the appropriate and relevant stages and evaluating the entire evidence; otherwise the designed mischief would be perpetuated with a premium to the offenders and justice would not only be denied to the complainant party but also made an ultimate casualty.*

***63.** As was observed in Ram Bihari Yadav v. State of Bihar [(1998) 4 SCC 517 : 1998 SCC (Cri) 1085] if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law-enforcing agency but also in the administration of justice in the hands of courts. The view was again reiterated in Amar Singh v. Balwinder Singh [(2003) 2 SCC 518 : 2003 SCC (Cri) 641] ."*

9.22) The Hon'ble Supreme Court in the case of *C.S. Prasad v. C.*

Satyakumar, reported in 2026 SCC OnLine SC 50, observed that:-

> *"**26.** In the impugned order, the High Court has quashed the proceedings primarily on the ground that the validity of the settlement deeds has been upheld in the proceedings before the Civil Court. We are of the view that this approach adopted by the High Court is not correct. It is a settled principle of criminal jurisprudence that civil liability and criminal liability may arise from the same set of facts and that the pendency or conclusion of civil proceedings does not bar prosecution where the ingredients of a criminal offence are disclosed. In Kathyayini v. Sidharth P.S. Reddy[7], this Court had made it crystal clear that "pendency of civil proceedings on the same subject matter, involving the same parties is no justification to quash the criminal proceedings if a prima facie case exists against the accused persons."*
>
> ***27.** Adjudication in civil matters and criminal prosecution proceed on different principles. The decree passed by the Civil Court neither records findings on criminal intent nor on the existence of offences such as forgery, cheating, or use of forged documents. Therefore, civil adjudication cannot always be treated as determinative of criminal culpability at the stage of quashment. Moreover, in the case at hand, the civil proceedings have not attained finality.*
>
> ***28.** Adjudication of forgery, cheating or use of forged documents in relation to a settlement deed will always carry a civil element. Therefore, there cannot be any general proposition that whenever dispute involves a civil element, a criminal proceeding cannot go on. Criminal liability must be examined independently. Respondent Nos. 1 to 3 were entitled to acquittal only upon failure of proof in the trial and not at the threshold jurisdiction under Section 482 of the Cr. P.C. To permit quashing on the sole ground of a civil suit would encourage unscrupulous litigants to defeat criminal prosecution by instituting civil proceedings."*

10) We have perused the entire record. From a perusal of the record, the following facts emerge:-

(i) That, there were disputes and litigations filed and pending in respect of development/commercial development of

land between the parties.

(ii) That, the Respondent No. 2, on 28th June 2012, filed a complaint with the Jt. Commissioner of Police/Crime Mumbai alleging that threats were given by Mr. Kishor Vatnani and Mr. Rajan Sujanani. That, on 3rd September 2013 and 4th September 2013, the Respondent No. 2 received the extortion calls, wherein, the caller identified himself as gangster Ravi Pujari and after threatening the Respondent No.2 with dire consequences of death, directed him to settle the ongoing disputes with Mr. Kishore Vatnani and Mr. Rajan Sujanani.

(iii) That, multiple international calls were received by the Respondent No. 2, which he, due to fear, possibly did not answer.

(iv) That, on 22nd November 2013 FIR bearing No. 203 of 2013 was registered with the Juhu Police Station, under Section 387 and 34 of the Indian Penal Code (later transferred to Anti Extortion Cell as FIR No. 115 of 2023). That, between June and September 2014 statements of witnesses who claimed that they did not know Ravi Pujari or Parshuram Shinde. The witness denied facts.

(v) On 16th December 2015, in respect of FIR No. 115 of 2023, A-summary report was filed. On 23rd August 2017, the Respondent No. 2 filed a protest petition against the A-summary.

(vi) On 21st February 2020 Gangster Ravi Pujari was extradited to India from Senigal.

vii) On 23rd December 2021, learned Additional Chief Metropolitan Magistrate, 37rd Esplanade Court allowed the Protest petition and ordered further investigation.

(viii) During the further investigation, between April to August 2022, statements of several witnesses were recorded. Based inter alia on the witness statements, investigation, complaints and transcripts on 12th September 2022 prior approval under Section 23(1)(a) of MCOCA, 1999 was granted by the Joint Commissioner of Police. On 21st February 2023, sanction under Section 23(2) of the MCOCA was accorded by Special Commissioner of Police.

11) We have also perused the statement of the witness, wherein it is stated that in the year 2007-2008, Mr. Kishor Vatnani had called the said witness at his office/house at Parasi Panchayat Road, Senior Estate,Near Sona Udyog, Andheri (East) for a meeting which was attended by Mr. Hari Ramanani, Mr. Kishor Vatnani, Mr. Satish Dhanani and Mr. Rajan Sujanani. At the said meeting, Mr. Kishor Vatnani and others again discussed the settlement issues in respect of the land at Powai. Mr. Kishor Vatnani informed the witness that one Pramod, person of Ravi Pujari will meet at Samata Nagar in front of Police Chowki, and that he would be wearing blue color shirt. Mr. Kishor Vatnani further told

the witness to pay money to the said person. That, Hari Ramanani gave the said witness a green color packet. That, the said witness was informed by Mr. Kishor Vatnani that, when the money is handed over to the said Pramod he should inform him that the money has been given by Mr. Satish Dhanani. The witness, is said to have visited the designated place and person wearing blue color shirt came near him. It is stated by the witness that the said person identified himself as Pramod, and the packet was handed over as directed by Mr. Kishore Vatnanai and he was informed that Mr. Satish Dhanani had given the said packet. This statement also indicates the link and nexus between the Petitioners in Writ Petition No. 622 of 2024 and gangster Ravi Pujari.

12) Perusal of the statement dated 3rd September 2013 of Respondent No.2, indicates that, due to the said disputes, Respondent No.2 was following up with Mr. Rajan Sujanani. That, when Respondent No.2 requested for transferring the company on his name, Mr. Rajan Sujanani refused to do so and informed him that the said disputes can be sorted out with the help of criminal elements. That, Mr. Rajan Sujanani was the person through whom a conference call was made to the Respondent No.2 and threats were given by Gangster Ravi Pujari at the behest of Mr. Rajan Sujanani and Mr. Kishor Vatnani.

13) In the complaint dated 4th September 2013, Respondent No.2 has specifically stated that Mr. Hari A. Ramnani, Mr. Kishor D. Vatnani

and Mr. Rajan B. Sujanani with the aid of Mr. Ravi Pujari and his associates and Bali and Madhu Nimya had threatened him with life on numerous occasions and huge amount running into crores of rupees have been extorted by them. The Respondent No.2 has further stated that, on 3rd September 2013, he again received call from number 40330476099 at around 5.15 p.m. to 5.30 p.m. On his number 812789999. The person on the other end identified himself to be Ravi Pujari and started to abuse and threatened him. The person threatened him with life and also threatened not to pursue his legal remedies against Mr. Hari A. Ramnani, Mr. Kishort D. Vatnani, Mrs. Varsha Rajan Sujanani and Mr. Rajan B. Sujanani. The person further threatened that, he has the details of all his car numbers and home address and would eliminate him and his family. The incident has put him in a state of immense fear of his life and his near and dear one. He has further stated that, he had complained against Mr. Hari A. Ramnani, Mr. Kishor D. Vatnani, Mrs. Varsha Rajan Sujanani, Mr. Rajan B. Sujanani, Bali, Madhu Nimya, Mr. Ravi Pujari and other unknown person for giving him threats to life, extorting money from him and criminal intimidation.

14) We have noted that, Respondent No.2 in his complaint dated 4th September 2013 has specifically stated that, the statement of one witness (Mr. Nitin Mehta) was recorded by Anti Extortion Cell, wherein the said witness has stated that, Mr. Hari A. Ramanani, Mr. Kishor D.

Vatnani and Mr. Rajan B. Sujanani had taken help of underworld gangster Ravi Pujari to extort the sum of Rs. 55 lacs from their previous partners and the same was done in his presence.

15) Perusal of the statement dated 22nd November 2013, specifically refers to the phone calls received by the Respondent No.2 on 3rd September 2013 and 4th September 2013, in respect of the land at Powai. A specific reference was made, to the dispute of Respondent No.2 which was on going with Mr. Rajan Sujanani and Mr. Kishor Vatnani and that threats and directions were given to immediately settled the disputes with Mr. Rajan Sujanani and Mr. Kishor Vatnani. Further, during the alleged call made on 4th September 2013, a reference was made to the call of 3rd September 2013 and enquires were made with Respondent No.2 as to whether any discussion had taken place with Mr. Rajan Sujanani and Mr. Kishor Vatnani in respect of the said settlement. On 4th September 2013, during the call, again the reference was made to settling the said land dispute otherwise the complainant was threatened with dire consequences. The statement dated 22nd November 2013 refers to the transaction which Respondent No.2 had with Mr. Rajan Sujanani and Mr. Kishore Vatanani. That, in the year 2008 the Complainant through his acquaintance Mr. Nitin Mehta had decided to take over the company known as Varsharaj Realtors. Mr. Hari Ramnani, Mr. Kishor Vatnani, Mr. Rajan Sujanani and Ms. Varsha Sujanani were directors and

shareholders of Varsharaj Realtors. That, the said Varsharaj Realtors had the development rights of certain properties situated at Powai and Bandra which belongs to Mr. Rajan Sujanani and Ms. Varsha Sujanani. Despite of being aware of the facts and the disputes the Respondent No. 2 had decided to buy the property on a “as is where is basis”. After the payments were made to Varsharaj Realtors, Respondent No.2 was to be made the authorized person on behalf of Varsharaj Realtors. In the year 2011-2012, the said Mr. Hari Ramnani, Mr. Kishor Vatnani, Mr. Madhusudhan, Mr. Parshuram Shinde conspired without the knowledge of the Respondent No.2 to hand over the properties to Petitioner Mangesh Sawant of Sailee Developers. That, the Respondent No.2’s inquires with Mr. Rajan Sujanani, in respect of the said take over, did not receive any reply/response. The Respondent No.2, therefore on realizing the conduct of the accused, filed a Civil Suit bearing No. 1418 of 2012 which is pending. That, in this background Respondent No.2 received threats from the Gangster Ravi Pujari at the behest of Mr. Rajan Sujanani and Mr. Kishor Vatnani.

16) Perusal of statement dated 27th May 2014, of the other witness (Mr. Nitin Mehta), would indicate that, in the year 2005 and 2006, there were some disputes between Mr. Rajan Sujanani and his partners, which the witness got to know of when he had visited the office. That, Mr. Kishor Vatnani gave the witness Rs.5,00,000/- and told

him to deliver the said money at Malad Dindoshi near Sai Baba Temple to some unknown person. As per the instructions, the witness delivered the said amount of Rs 5,00,000/- That, after delivering the amount he got knowledge of the fact that, the said amount was given by Mr. Rajan Sujanani to gangster Ravi Pujari due to the threatening calls. The payment of Rs. 5,00,000/- was part of the payment of Rs. 50,00,000/- That, the said Rs. 5,00,000/- given to accomplice by the name of Pramod who is a acquittance of a Ravi Pujari. That, the said money was given by Kishor Vatnani and thereafter Kishor Vatnani and Rajan Sujanani paid the balance amount to Ravi Pujari through the Hawala Mode. The statement of this witness (Nitin Mehta) was recorded before the invocation of MCOCA. After the invocation of MCOCA, this witness has given statement dated 6th August 2022. The said statement has referred to the threatening calls and transactions. It is specifically stated that in December 2014 a call was received from an unknown mobile number +910016308599. That the person who had called identified himself as Ravi Pujari. That, the said person directed that the money which is to be paid to Kishor Vatnani and Rajan Sujanani should be paid failing which the said witness would be killed. On the next date, the said witness again received a call from mobile number+910015161859 and once again the person calling identified himself as Ravi Pujari and enquired as to why the said witness could not meet Kishor Vatnani and Rajan Sujanani and settled the

dispute. He was threatened with life, if the disputes were not settled.

17) We have noted that, in the statement dated 1st April 2022, the Respondent No.2 has, specifically given details of the calls and the threats, so also referred to documents which have been submitted to the Investigating Authorities. There is a detailed list which runs into about 80 items, listed serially. We have also noted the fact that, Panchanama dated 30th November 2013 had been drawn up, wherein the conversation of the threat call, has been reduced in the transcripts. As noted earlier, a perusal of the transcripts of the said conversation, clearly makes out a prima facie case and there is specific reference of the fact that gangster Ravi Pujari on behalf of Mr. Rajan Sujanani and Mr. Kishor Vatnani, gave threats and directions to the Respondent No.2 to settle all disputes with Mr. Rajan Sujanani and Mr. Kishor Vatnani.

18) We have also perused the statement of the witness, recorded on 4th April 2022 i.e. after the invocation of MCOCA and also the statement dated 10th September 2014, recorded prior to the invocation of the provision of MCOCA. In the statement dated 10th September 2014, of witness (Madhusudhan) prior to the filing of the A-summary report, he had specifically denied knowledge of the threats given by the gangster Ravi Pujari. The witness has specifically stated that, he does not know the reason, why the Respondent No.2 had involved Parshuram Shinde and the said witness in the said complaint. That, he does not know gangster

Ravi Pujari and has had no relation with him. The witness, in his statement dated 4th April 2022, has specifically stated that, due to the fear of Parshuram Shinde and gangster Ravi Pujari, he did not disclose the details in his statement dated 10th September 2014 which he had now disclosed on 4th April 2022. The witness has, specifically stated that, after year 2021 when Gangster Ravi Pujari was arrested and after the death of Parshuram Shinde his fear reduced or nullified and therefore he gave his supplementary statement explaining the transaction, the threat and the delay for making the statement. We also find it necessary to refer to the statement of the witness recorded under Section 164 of the Code of Criminal Procedure. The said statement has been recorded on 27th June 2022. In the said statement, the witness has stated that, Satish Dhanani sought help from him, in his business transactions for recovery of possession of certain flats. This witness (Madhusudhan) introduced Satish Dhanani to Parshuram Shinde. That a meeting was held with builder Mr. Mangesh Sawant, Mr. Satish Dhanani, Mr. Hari Ramanani, Mr. Kishor Vatnani and the said builder. That, after the said meeting Mr. Satish Dhanani got possession of two flats and the possessions of two flats were kept pending. That, Satish Dhanani had informed the witness that, he was facing difficulties in the project at Powai. That, the said project belongs to Mr. Mangesh Sawant. That, the said project was given for development to Kishor Ramanani, Hari Ramanani and Varsharaj

Realtors. That, Parshuram Shinde had called Mr. Mangesh Sawant and informed him that, he shall give him 56 crores but the property should be returned. That, there were disputes in respect of the said land and therefore Kishor Vatnani had stated that, he had good relation with gangster Ravi Pujari. That, Parshuram Shinde has also stated that he had good relations with Ravi Pujari and they decided to call Ravi Pujari. That, Kishor Vatnani called Ravi Pujari in front of the said witness and spoke with him for 2 to 3 minutes. After which the phone was handed over to Parshuram Shinde. That, the witness informed Parshuram Shinde that, the underworld should not be involved in the transaction, at that time Mangesh Sawant, Kishor Vatnani, Satish Dhanani and Hariram Ramanani were present. That, in the next meeting Kishor Vatanani handed over bundle of money to Parshuram Shinde and stated that they had succeeded and Ravi Pujari had tought the concerned person a lesson. In our view, the explanation provided appears to be reasonable and probable. The link or nexus of some of the accused is made out. Considering, the said material we are of the opinion that, in the facts and circumstances of the present case, it would not be advisable to exercise the inherent powers of this Court under section 482 of the Code of Criminal Procedure qua the Petitioners in Writ Petition No. 622 of 2024.

19) We also note that the statement dated 4th April 2022 clearly refers to the fact that, the witness knows Mr. Satish Dhanani, as he is

friend. That, in the year 2011 through Mr. Satish Dhanani, the witness had meet Mr. Dhanani's relative i.e. Mr. Hari Ramanani and Mr. Kishor Vatnani. That, owners of Varsharaj Realtors had a dispute in respect of property at Powai and Bandra with Mr. Mangesh Sawant. That, Mr. Parshuram Shinde was trying to negotiate the settlement in the said dispute. That, in January 2012, Mr. Parshuram Shinde (now deceased) had called the said witness to his house when Mr. Mangesh Sawant was present. That, Parshuram Shinde was trying to settle the dispute between Mangesh Sawant and Hari Ramanani and Kishor Vatnani. That, on 12th January 2012, Memorandum of Understanding was executed between the parties and it was decided that, Mangesh Sawant would pay Rs. 56 Crores and transfer the property in his names. That, Mangesh Sawant had agreed to pay the said amount to Mr. Kishor Vatnani and his associates. At that time, Mr. Kishor Vatnani had suggested that he will pressurize Mr. Mangesh Sawant, through anti-social elements or use underworld connections to pressurize him. That, Mr. Kishor Vatnani had suggested that, the pressure could be exerted through gangster Ravi Pujari. That, Mr. Kishor Vatnani said that he is in contact with Ravi Pujari and infact made a phone call to Ravi Pujari from his number. Mr. Parshuram Shinde also spoke to Ravi Pujari. That, the said witness, had objected to seeking any interference from underworld elements. Mr. Parshuram Shinde was insisting on using the said underworld contacts.

We have noticed that, the said witness has explained that, he gave his statement dated 4th April 2022, wherein he has stated the aforesaid facts, because gangster Ravi Pujari was arrested in the year 2021 and Parshuram Shinde had expired by then. We note that, even this witness, had not given the correct and complete facts in his first statement due to the fear and terror of gangster Ravi Pujari and late Parshuram Shinde. Further, the statement would also reveal that there was a dispute between Mangesh Sawant, Hari Ramanani and Kishor Vatnani. In view thereof, the suspicion of the Respondent against Mangesh Sawant prima facie appears to be doubtful and unfounded.

20) We have noted that, a perusal of the complaints would indicate that the allegations of extortion, since the beginning, are primarily against the Mr. Rajan Sujanani and Mr. Kishor Vatnani i.e. the Petitioners in Writ Petition No. 622 of 2024. It is the specific allegation of Respondent No.2 that, gangster Ravi Pujari used a conference facility from or on the phone/number of Mr. Rajan Sujanani and gave the threatening calls. That, it was at the behest of Mr. Rajan Sujanani, Mr. Kishor Vatnani and Mr. Hari Ramanani that, the calls were made. That, the Respondent No. 2 has given the transcription of the calls wherein the threats, and extortion is clearly made out by gangster Ravi Pujari and at the behest and instance of Mr. Rajan Sujanani and Mr. Kishor Vatnani. That, C.D. containing the conversation was given as early as 22nd

November 2013 and the Panchanama thereof was made on 30th November 2013. Perusal of the transcripts would indicate that, the threats given by gangster Ravi Pujari were directly pertaining and related to the Powai property and directions were given to follow the instructions of Mr. Rajan Sujanani and Mr. Kishor Vatnani and to do acts to settle the matter. This fact also clearly makes out the case. We have noted that, the statement dated 22nd November 2013, make a reference to Mangesh Sawant on the basis of suspicion only.

21) It be noted that, it is the membership of organized crime syndicate or the link to the syndicate which makes a person liable under the MCOCA. The charge under the MCOCA ropes in a person who as a member of the organized crime syndicate commits organized crime i.e. in this case acts of extortion by giving threats, etc. to gain economic advantage as a member of the crime syndicate singly or jointly. Charge is in respect of unlawful activities of the organized crime syndicate. What is important is the nexus or the link of the person with the syndicate. The link with the organized crime syndicate' is the crucial and the crux of the term ‘continuing unlawful activity’. If this link is not established, that person cannot be roped in. If the link is established, then a crime committed by him, will be a part of the continuing unlawful activity of the organized crime syndicate.

22) We have noted that, the transcripts of the conversation dated

3rd and 4th September was handed over to the Investigating Authorities. Perusal of the transcripts of conversation dated 3rd September 2013, would clearly indicate the threats and more importantly the fact that the same were given at the behest of Mr. Rajan Sujanani and Kishor Vatnani. Perusal of the 'A-summary report', would indicate that, there is a specific finding in the 'A-summary report' that, the threatening calls were received from gangster Ravi Pujari but, according to the report, the Investigating Authorities could not get any decisive evidence of proof to link the said calls with the accused. On a protest petition being filed, further investigation was ordered and statements were recorded, which in our opinion clearly make out a case against Mr. Kishore Vatnani and Mr. Rajan Sujanani. We have noted that in the transcripts there is a specific reference to Kishore Vatnani and Rajan Sujanani. Even the transcripts of 4th September 2013 also refer to the call and conversation of 3rd September 2013.

23) We have noted the argument of the Petitioners, that there is a delay of nine years in invoking the provisions of the Maharashtra Control of Organised Crime Act, 1999. At the first blush, the argument appears to be attractive and creates an illusion of making out a very compelling case for the Petitioners. However, on a careful examination of the dates when the alleged calls are made, the first complaint filed, coupled with the explanation offered by the witnesses for the delay, we

are of the prima facie opinion that the delay, if any, has been explained in a reasonable and plausible manner and atleast to such an extent that, it would prevent this court from exercising powers under section 482 of the Criminal Procedure Code, solely on the ground of delay. We have noted that, the cause of action arose when the alleged extortion call was made on 3rd September 2013. The Complaint was immediately filed and there was a constant follow up by the Respondent No.2. The Respondent No.2, immediately and without any delay filed complaints dated 4th September 2013, 6th September 2013 and 23rd September 2013, with the police authorities including the Anti-Extortion Cell, Mumbai. On 22nd November 2013, FIR No. 403 of 2013 was registered at Juhu Police Station under Section 387 and 34 of the Indian Penal Code, which was later transferred to the Anti-Extortion Cell as FIR No. 115 of 2013. Section 120B of the Indian Penal Code was added. The record indicates that on 30th November 2013, a transcript panchnama of the alleged conversation between Respondent No. 2 and Ravi Pujari was prepared. In the transcripts, the names of Mr. Kishor Vatnani and Mr. Rajan Sujanani are specifically mentioned. On 16th November 2015, in FIR 115/2013, an 'A-Summary Report' was filed. On 23rd August 2017, Respondent No. 2 filed a Protest Petition challenging the A-Summary report. On 21st February 2020, Gangster Ravi Pujari was extradited to India from Sengal. On 23rd December 2021, the Learned Additional Chief Metropolitan Magistrate

37th Esplanade Court, allowed the Protest Petition and ordered further investigation. Between April and August 2022, statements of several witnesses were recorded, including under section 161 and 164 of the Criminal Procedure Code, alleging organized crime. On 12th September 2022, prior approval under Section 23(1)(a) of MCOCA, 1999 was granted by Joint Commissioner of Police. On 21st February 2023, sanction under Section 23(2) of MCOCA was accorded by Special Commissioner of Police. On 6th March 2023, a charge-sheet was filed before the Learned Special Judge 55th Court, Mumbai. Cognizance of the criminal proceedings was taken on 9th March 2023. In our opinion considering the aforesaid chronology of dates and events, the Respondent No. 2, cannot be blamed or faulted of the delay, if any. The Respondent No.2 has acted swiftly, with diligence and as a prudent and responsible person. We are of the opinion that, for the acts of negligence or commission or omission of the investigating authorities, Respondent No. 2 cannot be blamed and the criminal prosecution cannot be made to suffer by a rejection. Further, it may be noted that, it will always be open for the Petitioners to raise the ground of delay at the trial, if so advised. In serious and grievous offences like the present one the ground of delay cannot come to the rescue of the Petitioners. Otherwise, a prima facie case and prosecution therein cannot be interfered with the ground of delay or negligence on the part of the Investigating Authorities.

24) We find that, the explanation for the delay, offered by the witnesses is that, due to the terror and fright, of gangster Ravi Pujari and Parshuram Shinde, the witnesses had not mentioned any details in the statements recorded, before the 'A Summary' was filed. The witnesses have specifically stated that, after the arrest of gangster Ravi Pujari and after the death of Parshuram Shinde, the said witness had the courage to give the statement. We are of the opinion that, the explanation for delay is reasonable, plausible and reflects the conduct of a common and ordinary person.

25) Perusal of the FIR filed by the Respondent No.2 would indicate that, the complaint was immediately filed on 3rd September 2013. As stated earlier the complaint proceeds on the basis that, Respondent No.2 had a suspicion that gangster Ravi Pujari threatened him on behalf of Mr. Rajan Sujanani, Mr. Kishor Vatnani and others. That, gangster Ravi Pujari, vide conference call made using the phone of Mr. Rajan Sujanani connected and threatened Respondent No.2. The specific complaint is that, the phone call was made by using the phone of Mr. Rajan Sujanani. That, the caller i.e gangster Ravi Pujari specifically referred to the names of Mr. Rajan Sujanani and Mr. Kishor Vatnani and threatened Respondent No.2 to settle the ongoing disputes with Mr. Rajan Sujanani and Mr. Kishor Vatnani.

26) As regards the allegation of malafides and/or malicious

prosecution we find no circumstances or material on record which would indicate the same or substantiating the said arguments/contentions. The ground of malafides is based primarily on the ground of delay in invoking the provision of MCOCA. According to us, on considering the initial complaint, the witness statements as recorded and the transcripts, we find that there is prima facie material on record to make out at least a prima facie case against Mr. Rajan Sujanani, Mr. Kishor Vatanani, Hari Ramnani, Ravi Pujari and his associates, Bali and Madhu Nimya. From the record, we have not found any material in support of the allegation of malafides or malicious prosecution. We note that, the perception of malafides or malicious prosecution, in the minds of the Petitioners is seemingly based on the ground of delay and the fact that an "A summary report" was filed. In our view, both the said aspects have been effectively and comprehensively dealt with by the prosecuting agencies. We find that, there is no evidence or material, much less any cogent material which is pointed out or brought before the court so as to establish the said malafide. We are of the opinion that mere delay, cannot vitiate a criminal proceeding least to say a proceeding under MCOCA. In our opinion, the malafides, if any, are required to be apparent on the face of the record, which in the present case are not available.

27) A criminal proceedings may be quashed, if it is found that the same are initiated with a malafide intent, particularly with ulterior

motives, or a personal vendetta against the accused. In this regard the principle of law as laid down by the Hon'ble Supreme Court in the case of State of Haryana vs. Bhajan Lal (Supra) and in the case of *Mohammad Wajid V/s State of U.P., reported in 2023 SCC OnLine SC 951* would be a guiding force which stipulates that proceedings manifestly attended with malafide may be quashed. We are of the opinion that, if the allegations in the FIR disclose a prima facie offence against the accused, mere claims of malafide are insufficient to quash the proceedings. This Court, in its inherent jurisdiction under section 482 of the Code of Criminal Procedure ought not to interfere based solely on allegations of malafide if the complaint, when accepted on face value, constitutes an offence. When the allegations of malafides are raised, it is the duty of the Court to take a guarded approach, analyze the material with caution and due care.

28) We are of the opinion that, an otherwise maintainable and sustainable criminal prosecution, cannot be rejected or thrown out only on the grounds of malafides. We would be reminded and bound to follow the observations of the Hon'ble Supreme Court in the case of *Sheonandan Paswan v. State of Bihar* (supra) that "It is a well established proposition of law that a criminal prosecution, if otherwise justifiable and based upon adequate evidence does not become vitiated on account of mala fides or political vendetta of the first informant or the complainant."

29) The allegations of mala fides against the Complainant or the

investigating authority would be of no consequence and cannot by themselves be the basis for quashing the proceedings. What is to be seen is whether, a prima facie case or offence is made out or not. One must keep in mind that the interference by the Court under Section 482 CrPC is called for to prevent the abuse of process of any court or otherwise to secure the ends of justice.

30) We are mindful of the fact that, while exercising jurisdiction under Section 482 Cr.P.C, the Court cannot act as if it is a trial court or conduct what is called a “mini trial”. The Court has to only see if a prima facie case is made out or not. The exercise of undertaking a detailed appreciation of evidence is not envisaged nor appreciated under section 482 of the CrPC. While, exercising the inherent powers under section 482 of the CrPC, the Court has apply its judicial discretion, judiciously, is required to take due care and caution, be circumspect in exercising discretion and at the same time all material and relevant facts and circumstances of the matter are required to be considered.

31) The exercise of power under Section 482 of the Code is to prevent abuse of process of any court or otherwise to secure the ends of justice. The powers of the High Court under Section 482 of the Code are wide and the very plenitude of the power requires great caution in its exercise. The Court must not exercise the inherent power to stifle a legitimate prosecution and at the same time malicious, vexatious,

frivolous or patently unsustainable and untenable prosecutions should not be allowed to continue.

32) We are aware that, the exercise of the inherent powers to quash the proceedings ought to invoke and called in aid only in cases where the complaint does not disclose any prima facie offence or is frivolous, vexatious or oppressive or when the allegations set out in the complaint even if taken at face value and accepted in their entirety do not constitute the offence. The complaint and allegations contained therein are to be read as a whole and if it appears that the ingredients of the offence or offences are not disclosed or that there is material to show that the complaint is mala fide, frivolous or vexatious, in that event the Court would be justified in interfering and quashing the proceedings.

33) In our opinion the concept of malafides in relation to the exercise of statutory powers comprises dishonesty (or fraud) and malice. A power is exercised in a malafide manner if its repository intends to achieve an object other than that for which he believes the power to have been conferred. The intention may be to possibly promote a personal or private interests of self or at the behest of some other person. A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise. Mala fides in the present case possibly mean oblique or improper motive or ulterior purpose. An action done in course of delay, but negligently or not

otherwise may not be an act of malafides. A plea of mala fide involves two parts/issues, namely (i) whether there is a personal bias or an oblique motive, and (ii) whether the administrative action is contrary to the objects, requirements and conditions of a valid exercise of administrative power. An defective investigation cannot be formed as a malafide action. The court has to be circumspect in evaluating the evidence and may have to adopt an active and analytical role to ensure that truth is found by having recourse to Section 311 or at a later stage also resorting to Section 391 instead of throwing hands in the air in despair. It would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. (*See Karnel Singh v. State of M.P. ,(1995) 5 SCC 518*).

34) In *Paras Yadav v. State of Bihar [(1999) 2 SCC 126]* it was held that if the lapse or omission is committed by the investigating agency designedly or because of negligence, the prosecution evidence is required to be examined dehors such omissions to find out whether the said evidence is reliable or not. The contaminated conduct of officials should not stand in the way of courts getting at the truth by having recourse to Sections 311, 391 of the Code and Section 165 of the Evidence Act at the appropriate and relevant stages and evaluating the entire evidence; otherwise the designed mischief would be perpetuated

with a premium to the offenders and justice would not only be denied to the complainant party but also made an ultimate casualty.

35) As was observed in *Ram Bihari Yadav v. State of Bihar [(1998) 4 SCC 517]* if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law-enforcing agency but also in the administration of justice in the hands of courts. The view was again reiterated in *Amar Singh v. Balwinder Singh [(2003) 2 SCC 518] .*

36) We are of the view that, delay in registration of the FIR for offences punishable with an imprisonment of more than three years cannot be the basis of interdicting a criminal investigation. In our view, delay would assume some relevance, and may be in some cases importance, only when it is shown that the original informant has failed to give a reasonable or plausible explanation for the delay. Further, more importantly, whether the explanation is reasonable or plausible or not, is a question and aspect which is to be decided by the Trial Court, at the trial after recording the evidence in respect thereof. In the present case, the facts, circumstances and the dates and events coupled with the explanation given by witnesses, clearly explain on a prima facie basis the delay. The Accused will, also be at liberty to raise the said ground of delay at and during the trial, which the trial Court shall be duty bound to

decide without being in any manner influenced by the observations in made herein.

37) Perusal of the Order dated 12th September 2022 granting prior approval under Section 23(1)(a) of the Maharashtra Control of Organized Crime Act 1999 would indicate that, the case paper of D.C.B., C.I.D. C.R. No. 115 of 2003 (Juhu Police Station, C.R. No. 403 of 2013) under Section 387, 120-B and 34 of the IPC has been referred to in the said Order. That, based on the investigating papers such as the FIR, panchanama, statement of witnesses, transcripts and evidence, a case is clearly made out. As per the record, the allegation of Respondent No.2 in the complaint is that, the wanted accused persons in the case i.e. Accused No. 2 (Kishor D. Vatnani), Accused No. 3 (Rajan Sujanani), Accused No. 4 (Mangesh Sawant), and deceased accused Hari Ramnani and Parshuram Shinde and others have knowingly played a role in hatching a conspiracy and utilizing the services of organized crime syndicate of wanted accused No. 1 Ravi Pujari, thereby becoming active members of organized crime syndicate headed by wanted accused No. 1, Ravi Pujari. The object was to deprive the Respondent No.2 of his rightful ownership of Varsharaj Realtors Pvt. Ltd. The Order specifically refers to the meeting held in May 2013, at the house of deceased Parshuram Shinde, where in the presence of witness, (Madhusudhan Balkrishna) the conspiracy was hatched and it was decided to use the service of organized crime

syndicate headed by Ravi Pujari. The Order specifically records that, gangster Ravi Pujari threatened the Respondent No.2 with dire consequences and directed/threatened him to settle the dispute with Accused No. 2 Mr. Kishor D. Vatnani and Accused No. 3 Mr. Rajan B. Sujanani. Considering the said facts, in our opinion, it is clear that, the instant crime had been registered with the object to gain pecuniary benefit for the members of the organized crime syndicate by intimidation. The Prior Approval dated 12th September 2022 is based on material and available evidence. In our view, the allegation of Respondent No.2 has consistently being made against Mr. Kishore Vatnani, Mr. Rajan Sujanani, Hari Ramanani, Bali, Madhu Nimya, Ravi Pujari and his associates. We are of the prima facie view that, the prosecution has material and evidence on record, which demonstrates the involvement of Mr. Kishore Vatnani and Mr. Rajan Sujanani, Hari Ramanani, Bali, Madhu Nimya, Ravi Pujari and his associates. We are of the view, that on a prima facie basis, the case of extortion is clearly made out against the said aforenoted persons. Mr. Kishore Vatnani and Mr. Rajan Sujanani, clearly have a motive against the Respondent No.2 as there was dispute in respect of the development agreements, properties Varshraj Realtors and there were protective Orders passed in favour of Respondent No.2. In our view, the protective orders passed in favour of Respondent No.2, provide a motive and reason for Mr. Kishore Vatnani and Mr. Rajan Sujanani, to indulge in

such criminal activities. Prima facie, the Sanction, in our view indicates proper application of mind.

38) Perusal of the Prior Approval dated 12th September 2022 passed under Section 23(1) (a) of MCOCA would further indicate that, wanted accused No. 1 Ravi Pujari is the leader of organized crime syndicate which indulge in continuous unlawful activity and that during the proceedings period of 10 years, more than one chargesheet pertaining to cognizable offences having punishment of imprisonment of 3 years or more have been filed against wanted accused gangster Ravi Pujari. That, cognizance of the same has been taken by the concerned Competent Court. That, the present crime was committed to terrorize Respondent No.2 and other businessman in the society for gaining pecuniary benefits for continuing the nefarious and illegal activities of the organized crime syndicate. In our view the prior approval and sanction as required under section 23 of the Maharashtra Control of Organized Crime Act 1999 has been correctly granted against Mr. Kishore Vatnani, Mr. Rajan Sujanani, Hari Ramnani, Bali, Madhu Nimya, Ravi Pujari and his associates and the same is based on material and evidence collected during the investigation. As regards the sanction being granted against accused Mangesh Sawant. We are of the considered opinion that the same is misplaced and found on unsustainable suspicion. The main dispute, issue and grievance was between Respondent No.2 on one hand and Mr.

Kishore Vatnani and Mr. Rajan Sujanani on the other. We have noted that, since the time the threat calls were made the suspicion and allegations are mainly against Mr. Kishor Vatanani, Mr. Rajan Sujanani, Hari Ramanani, Bali, Madhu Nimya, Ravi Pujari and his associates. Perusal of the transcript, does not seem to indicate or implicate the other accused with the extortion calls. As per the allegations made in the complaint, the extortion calls to have been made at all times by gangster Ravi Pujari at the behest of Mr. Kishore Vatnani and Mr. Rajan Sujanani.

39) Perusal of the FIR bearing No. 403 of 2013 dated 22nd November 2013, and the statements recorded, after rejecting the 'A Summary report', clearly make out a prima facie case, so also indicate that the provisions of MCOCA have been correctly invoked. We have noted, the supplementary statement dated 17th September 2014 gives the details of the calls received from 3rd September 2014 to 9th September 2014. In the said details, there is also mentioned which of the phone calls were not received and were missed calls and which of the phone calls the conversation took place. This, according to us is a prima facie indicates the genuineness of the complaint.

40) We are of the opinion that, the Authority at the time of issuing the prior approval or sanction, ought to have available with it on record credible information and material to link the accused to the crime or the syndicate and further that the authority is satisfied with the said

information and material. We are therefore of the considered opinion that, the question of validity of prior approval and sanction cannot be decided unless the investigating authority is given an opportunity to lead evidence and demonstrate that the Orders are properly passed. The validity of prior approval and sanction, both can be considered and decided during the trial by the Trial Court. At the trial, the Petitioners will get an effective opportunity to challenge the approval and sanction order, as the sanctioning authority would be examined. The Petitioners will have an opportunity to question the same including through cross examination of the authority.

41) We note here that, our observations as regards the validity of approval and sanction, are made on a prima facie consideration of the Orders and material as is available. We make it clear that, the trial Court shall not be influenced by the said observations and will decide the issue independently, without in any manner being influenced by the observations made herein.

42) Considering the law as cited hereinabove, it is clear that in order to invoke the provision of MCOCA, the link of the accused with the syndicate or the crime has to be present and prima facie available. An accused, may not be directly involved nor an overt act ascribed to him, but as long as the “link” or “nexus” is shown with the “organised crime syndicate” or with the offence in an “organised crime” the provision of

MCOCA would be attracted and invocation justified. In the present case, as observed earlier, even the name of Petitioner Mangesh Sawant, is not mentioned in the complaint or the statements nor is any motive or intent attributed to him. Infact, some statements, would indicate that, Mangesh Sawant himself had disputes with Mr. Kishore Vatnani and Mr. Rajan Sujanani and that, Mangesh Sawant was threatened. Considering the peculiar facts and circumstances of the case, it appears to us that the name of Mangesh Sawant is taken on mere suspicion. The availability, on record, of credible information and material to link the accused to the crime or the syndicate, is clearly absent. In view thereof, the question of the authority, being satisfied with the said information and material as regards the accused does not arise. It is well settled law that, suspicion, however strong cannot take the place of proof.

43) Perusal of the record would indicate that, there is prima facie information and material available on record to show the involvement of Mr. Kishore Vatnani, Mr. Rajan Sujanani, Mr. Hari Ramnani, Ravi Pujari and his associates and Bali and Madhu Nimya. We find that, there is no material on record to rope in or implicate Mangesh Sawant or to invoke the provisions of MCOCA against Mangesh Sawant. As mentioned earlier, his name is not taken by the Respondent No. 2 in relation to the threat/extortion calls nor is it mentioned or appears in the transcripts.

44) Though it may be advisable that an approval or sanction,

speaks for itself, i.e. disclose consideration of the materials placed before it and the exercise of application of mind. We are of the opinion that, a mere failure to reproduce or to refer to some or all the material in detail, in the said order, by itself may not be a ground to doubt the application of mind or term the order as invalid, unless it is demonstrated that the crux of contents or material or information is not referred or considered by the Authority. The prosecution, at the trial may establish by leading evidence that all of such the materials which was necessary for the grant of approval or sanction was placed before the authority for consideration, and that, the same was considered as a whole and in totality, the process of application of mind, by the authority, was to the whole and all of such material, before the grant of approval and or sanction.

45) We are of the opinion that, if an approval or sanction Order, does not ex-facie reveal the consideration of all the material, the same may be established by leading evidence. The decision on the defective invalidity of the approval or sanction order, if any, will have to be at the conclusion of the trial.

46) Perusal of the prior approval and sanction clearly demonstrates that credible information and material was placed before the Authority and the Authority has applied its mind as far as the Petitioners in Writ Petition No 622 of 2024 are considered.

47) Perusal of the record would indicate that, there are certain

pending civil proceedings and arbitrations in respect of the lands and based on development agreements/contracts. We have noted that, the present criminal proceedings pertain to a criminal conspiracy hatched with a common intention to commit the act of extortion so as to ensure that the disputes are settled as per the say and wish of Mr. Kishore Vatnani and Mr. Rajan Sujanani. We have noted that, the pending civil litigations are filed much before the alleged threat calls which are made only on and after 3rd September 2013. As far as the present criminal proceedings are concerned, the cause of action for FIR No. 115 of 2023 (earlier FIR No 403 of 2013) has arisen in the year 2013, which is an independent cause of action and criminal offence. Though, in a sense related or interconnected to the subject matter of the civil litigation, the present criminal act and offence complained of, is based on, the alleged extortion/threat calls made on and from 3rd September 2013 which is distinct and different cause of action. The Complainant has consistently alleged that, accused No. 1 Ravi Pujari, in conspiracy with and at the say and behest of Mr. Kishore Vatnani and Mr. Rajan Sujanani threatened the Respondent No.2 and committed an offence of extortion firstly on 3rd September 2023 and thereafter repeatedly for and on behalf of Mr. Kishore Vatnani and Mr. Rajan Sujanani. We have noted that, the case of the Respondent No. 2, since day one, has consistently being that the extortion calls were made by gangster Ravi Pujari and his organized

crime syndicate at the directions of and at the behest of Mr. Kishore Vatnani and Mr. Rajan Sujanani.

48) Considering the nature of the allegations, the facts and circumstances of the present case, we are of the considered view that, it cannot be said or even inferred that, only because there are protective orders passed in civil proceedings or that the civil proceedings are pending, that a criminal proceeding cannot be initiated or that an offence of extortion under section 387 of the Indian Penal Code, as in the present case cannot be made out or that the case is false and filed with malafide intention. We are reminded of the observations of the Hon'ble Supreme Court in the case of *C.S. Prasad v. C. Satyakumar, (Supra)* wherein it is observed that, it is a settled principle of criminal jurisprudence that civil liability and criminal liability may arise from the same set of facts and that the pendency or conclusion of civil proceedings does not bar prosecution where the ingredients of a criminal offence are disclosed.

49) We are of the considered view that, in the present case only because the interest of the Respondent No.2 is protected or civil litigation is pending, it cannot be inferred or presumed that, a criminal offence cannot be committed or made out. We are of the view that, the same set of facts, in a given situation, can give rise to both a civil proceeding and an independent criminal prosecution. In our view, what is required to be seen is the criminal act, the intent, motive and the criminality involved in

the acts and conduct and not only the fact that a prior civil litigation is filed and pending. The facts of each case have to be considered, analyzed and independently examined to ascertain if the ingredients of the offences which are alleged, are available and an offence/case is made out on a prima facie basis. In the present case, considering the FIR, the statements as recorded and the transcripts, in our opinion a prima facie case is clearly made out against Mr. Kishore Vatnani, Mr. Rajan Sujanani, Bali, Hari Ramnani, Madhu Nimya, Ravi Pujari and his associates. We say this, because from the first complaint dated 3rd September 2013, the allegation at all times has been that the call by gangster Ravi Pujari was made in conspiracy with and at the behest of Mr. Kishore Vatnani and Mr. Rajan Sujanani. Our said prima facie observation is further supported and corroborated by the transcripts, wherein there is a specific reference to the names of Mr. Kishore Vatnani and Mr. Rajan Sujanani.

50) As regards the contention that the 'A-summary report' has not been considered, it be noted that pursuant to a protest petition being filed, further investigation was ordered, after which the provisions of MCOCA have been invoked. We have noted that, the protest petition filed by the Respondent No.2 was allowed and further investigation was directed. We have also noted that, it is not in dispute that the order allowing further investigation has now take a finality. We are of the opinion that once, an A summary report is rejected and fresh further

investigations is carried out, the relevance of the 'A summary report' may not be relevant or would be relevant to a certain extent. One must keep in mind that, the 'A Summary report' has been set aside considering the facts that investigation was not properly appreciated and/or considered. In any event, once the 'A summary report' is set aside and fresh further investigation is allowed, the 'A summary report' may lose relevance. Even otherwise, the order of prior sanction refers to the FIR in question. The witnesses have now given statements, which prima facie make out a case against Mr. Rajan Sujanani and Mr. Kishor Vatnani. In any event, the said statements can only be tested at the time of the trial and not in a petition filed for quashing under section 482 of the Criminal Procedure Code.

51) As regards the arguments that the offence of extortion is not made out as no property is delivered, we are of the opinion that the said argument is made only to be rejected. We say this for the following reasons. The offence of extortion is defined under section 383 of the IPC to mean an intentional act, by which a person put in fear of any injury to that person or any other person is dishonestly induced to deliver to any person any property or valuable security or anything that is signed or sealed which may be converted to valuable security. Section 386 deals with Extortion by putting a person in fear of death or grievous hurt. Section 387 of the IPC, which has been invoked in the present case, deals the offence of putting a person in fear of death or of grievous hurt, in

order to commit extortion. For the offence of extortion to be made out, section 383 requires that, the following ingredients must be present:-

(i) Intentionally putting any person in fear of injury to that person or any other person;

(ii) Inducing of the person so put in fear dishonestly;

(iii) Delivery to any person any property or valuable security by the person put in fear and subjected to dishonest inducement.

52) The Hon'ble Supreme Court in the case of *Dhananjay alias Dhananjay Kumar Singh Vs. State of Bihar reported in (2007) 14 SCC 768* has observed that, if any of these ingredients is absent, the offence of extortion would not be complete.

53) In the present case, we are concerned with Section 387 of IPC, which requires the following essential ingredients, namely:

(a) Accused must have put a person in fear of death or grievous hurt;
(b) Such an act must have been done in order to commit extortion;

One needs to consider the meaning which may be assigned to the expression 'in order to' which is described and defined in the following ways i.e "in order to"; "for the purpose of"; "in order to" or "with the purpose of doing" or 'in order to commit extortion' clearly reveals that it is in the process of committing the offence of extortion.

What is envisaged under section 386 is an act in itself, and whereas under section 387 what is envisaged is the process or a stage before committing an offence of extortion. By section 387 of the IPC, the Legislature, has thought is appropriate and necessary to criminalize and make an offence even the process of extortion by making it a

separate, distinct and independent offence. It can thus safely be concluded that for the invocation of section 387 of the IPC or to prosecute a person under Section 387 IPC, the delivery of property is not at all necessary.

54) As regards the contention of the Petitioners that, the certificate under Section 65-B of the Evidence Act, was belatedly submitted in the year 2022, we are of the considered view that such an argument cannot be accepted at this stage. It is well settled by the Hon'ble Supreme Court in the case of State of Karnataka Vs. T. Naseer @ Nasir @ Thandiyantavida arising out of SLP (Crl.) No. 6548 of 2022, that non-production of a certificate under Section 65-B of the Evidence Act (Section 63(4) of the Bharatiya Sakshya Adhiniyam) is a curable defect. The Hon'ble Supreme Court has categorically observed that, the certificate under Section 65-B of the Evidence Act can be produced at any stage, so long as the trial has not concluded. It has further been observed that the requisite certificate may be directed to be produced before the Court at any stage so as to enable the electronic record to be admitted and relied upon in evidence. The relevant paragraphs of the judgement read as under :-

> *"**10**. In State of Karnataka v. M.R. Hiremath, 2019(7) SCC 515, this Court after referring to the earlier judgment in Anwar'a case (supra) held that the non-production of the Certificate under Section 65B of the Act is a curable defect. Relevant paragraph '16' thereof is extracted below:*
>
> > *"16. The same view has been reiterated by a twoJudge Bench of this Court in Union of India v. Ravindra V. Desai, (2018) 16 SCC*

273. The Court emphasised that non-production of a certificate under Section 65-B on an earlier occasion is a curable defect. The Court 10 relied upon the earlier decision in Sonu v. State of Haryana, (2017) 8 SCC 570 in which it was held:

'32. … The crucial test, as affirmed by this Court, is whether the defect could have been cured at the stage of marking the document. Applying this test to the present case, if an objection was taken to the CDRs being marked without a certificate, the court could have given the prosecution an opportunity to rectify the deficiency.'

(Emphasis added)

***11**. Coming to the issue as to the stage of production of the certificate under Section 65-B of the Act is concerned, this Court in Arjun Panditrao Khotkar's case (supra) held that the certificate under 65-B of the Act can be produced at any stage if the trial is not over. Relevant paragraphs are extracted below:*

*"**56**. Therefore, in terms of general procedure, the prosecution is obligated to supply all documents upon which reliance may be placed to an accused before commencement of the trial. Thus, the exercise of power by the courts in criminal trials in permitting evidence to be filed at a later stage should not result in serious or irreversible prejudice to the accused. A balancing exercise in respect of the rights of parties has to be carried out by the court, in examining any application by 11 the prosecution under Sections 91 or 311 CrPC or Section 165 of the Evidence Act. Depending on the facts of each case, and the court exercising discretion after seeing that the accused is not prejudiced by want of a fair trial, the court may in appropriate cases allow the prosecution to produce such certificate at a later point in time. If it is the accused who desires to produce the requisite certificate as part of his defence, this again will depend upon the justice of the case — discretion to be exercised by the court in accordance with law.*

***59**. Subject to the caveat laid down in paras 52 and 56 above, the law laid down by these two High Courts has our concurrence. So long as the hearing in a trial is not yet over, the requisite certificate can be directed to be produced by the*

learned Judge at any stage, so that information contained in electronic record form can then be admitted and relied upon in evidence."

(Emphasis added)

12. *The courts below had gone on a wrong premise to opine that there was delay of six years in producing the certificate whereas there was none. The matter was still pending when the application to 12 resummon M. Krishna (PW-189) and produce the certificate under Section 65-B of the Act was filed under Section 311 of the Cr.P.C.*

…..

15. *Fair trial in a criminal case does not mean that it should be fair to one of the parties. Rather, the object is that no guilty should go scot-free and no innocent should be punished. A certificate under Section 65-B of the Act, which is sought to be produced by the prosecution is not an evidence which has been created now. It is meeting the requirement of law to prove a report on record. By permitting the prosecution to produce the certificate under Section 65B of the Act at this stage will not result in any irreversible prejudice to the accused. The accused will have full opportunity to rebut the evidence led by the prosecution. This is the purpose for which Section 311 of the Cr.P.C. is there. The object of the Code is to arrive at truth. However, 14 the power under Section 311 of the Cr.P.C. can be exercised to subserve the cause of justice and public interest. In the case in hand, this exercise of power is required to uphold the truth, as no prejudice as such is going to be caused to the accused."*

Considering the aforenoted observations by the Hon'ble Supreme Court there can be no fault found with the fact that the certificate under section 65-B of the Evidence Act was submitted in the year 2022.

55) We are of the view that, from a perusal of the statements of

the various witnesses, the complaint and transcripts it can be safely inferred on a prima facie basis that the Petitioners in Writ Petition No. 622 of 2024 along with other accused, indulged in the unlawful activities with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage and committed an act of extortion. We have also noted the argument of the learned APP, that one of the co-accused namely Mr. Satish Dhanani had filed a Writ Petition bearing No.1948/2023 seeking quashing of FIR. However, the said Writ Petition was withdrawn, as the Petitioner chose to avail the alternate remedy which was available to the said Petitioner.

56) Further, in the present case, we are informed that, the chargesheet is filed and cognizance of offence is taken by the Special Court. In view thereof, we are of the considered opinion that the arguments of the Petitioners regarding the point if delay in invoking the provisions of MCOCA, the challenge to the prior sanction and the point if the transcripts be considered without a 65B certificates as required under the law are all questions which can be effectively raised, considered and argued at and during the trial of the case.

57) In view of the aforesaid discussions, we are of the opinion that, the facts of the present case and the material on record do not warrant the exercise of the powers for quashing of a criminal proceedings under section 482 of the Code of Criminal Procedure (now 528 of the

BNSS) as against the Petitioners Mr. Rajan Sujanani and Mr. Kishor Vatnani in Writ Petition No. 622 of 2024.

58) As regards the Petitioner Mr. Mangesh Sawant in Writ Petition No 2317 of 2023, we are of the opinion that, the name of said Petitioner does not find place in the threat calls and consequently the transcripts. Even on a perusal of the complaints, it is clear that the case of extortion was since the inception alleged and made out only against the Mr. Rajan Sujanani, Mr. Kishor Vatnani, Hari Ramnani, Ravi Pujari and his associates, Bali and Madhu Nimya. There is no reference to Petitioner in Writ Petition No. 2317 of 2023. A perusal of the complaints, witness statements, transcripts make it abundantly clear that, a prima facie case and offences have been made out against Mr. Rajan Sujanani, Mr. Kishor Vatnani, Hari Ramnani, Ravi Pujari and his associates, Bali and Madhu Nimya. As noted herein before the names of Mr. Rajan Sujanani, Mr. Kishor Vatnani, Varsha Sujanani and Hari Ramnani have been mentioned in the first statement/complaint. As such, there is a direct allegation and the offences as against them are clearly made out. In such facts and circumstances, the inherent jurisdiction of this Court, cannot be invoked and is not warranted.

59) In view of the aforesaid facts and circumstances, the following Order is passed :-

(i) Writ Petition No 622 of 2024 is dismissed.

(ii) Writ Petition No 2317 of 2023 is allowed. The proceedings i.e. chargesheet filed in C.R. No. 115 of 2013, culminated into MCOCA Special Case No. 298 of 2023 pending before the learned Special Judge, along with all consequential proceedings arising therefrom, is quashed and set aside as against Mr. Mangesh Sawant i.e the Petitioner herein.

(iii) The prior approval dated 12th September 2022 granted under Section 23(1) of the MCOCA and the sanction dated 21st February 2023 granted under Section 23(2) of the MCOCA as against Mr. Mangesh Sawant, Petitioner in Writ Petition No. 2317 of 2023 in connection with FIR No. 403 of 2013 dated 22nd November 2013 registered with Juhu Police Station are quashed and set aside.

(iv) The Writ Petitions are disposed off in the afore-stated terms.

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

60) At this stage, learned senior counsel appearing for the Petitioners in Writ Petition No. 622 of 2024 prayed that the interim relief granted in favour of the Petitioners be continued for a period of four weeks from today to enable the Petitioners to test the correctness of this Judgment before the Hon'ble Supreme Court.

61) Learned counsel for the Respondent No. 2 opposed the said prayer.

62) In view of the facts mentioned in the Petition and the findings recorded in the foregoing paragraphs of this Judgment, we are not inclined to grant the said request. Accordingly, the prayer for continuation of the interim relief is rejected.

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