



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 476 OF 2020

Shri Anil Umrao Gote
Age: 72 yers, Occ. Agriculture,
Resident of Lane No.4,
Dhule, District Dhule.

.... PETITIONER

V/s.

1. The State of Maharashtra
Through the Secretary,
Home Department,
Mantralaya, Mumbai – 32.
2. The Superintendent of Police
Anti Corruption Bureau,
Above Municipal Vegetable market,
Near HDFC Bank,
Sharnapur road, Nashik,
District Nashik.
3. The Investigating Officer,
State Crime Investigation Department [C] [D],
Dhule, District Dhule..

.... RESPONDENTS

.....
Mr. P.R. Katneshwarkar, Sr. Advocate i/b. Adv. Mahesh V. Ghatge
for the Petitioner
APP for Respondent / State : Mr. A.R. Kale
.....

CORAM : SANDIPKUMAR C. MORE &
Y.G. KHOBRAGADE, JJ.

RESERVED ON : 02.12.2025

PRONOUNCED ON : 16.12.2025

ORDER :- (Per: Y.G. Khobragade, J.)

1. Heard at length the learned senior counsel Mr. Katneshwarkar h/f. Advocate Mr. Mahesh Ghatge, the learned counsel appearing for the Petitioner and Mr. A.R. Kale the learned APP for the Respondent/State.

2. By the present petition under Article 226 of the Constitution of India the Petitioner has put-forth prayer clause-A as under:

“A. The Hon’ble High Court may be pleased to issue a writ, direction or order in the nature of writ and thereby direct that the further investigation in furtherance of leave sought under Section 173 (8) of the Code of Criminal Procedure in respect of Crime bearing M No. 05 of 2010 registered with Dondiacha Police Station and Special Case No. 01 of 2016 pending before the Special Court at Dhule under Sections 403, 406, 407, 420, 465, 467, 468, 471, 477-A, 120-B, 201 read with 34 of Indian Penal Code and Section 3 & 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 be conducted by the present Respondent No. 2 Anti Corruption Bureau or any other Special Investigating Team as may be constituted by this Hon’ble Court under the supervision and guidance of a retired High Court Judge within stipulated period and issue appropriate orders for the said purpose;”

3. The learned senior counsel appearing for the Petitioner canvassed that, on 28.12.2009, the learned JMFC, Dondaicha passed an order in RCC No.192/2009 (Sharad Madanrao Patil V/s. Dadasaheb Raval

Co-op. Bank Ltd. and 44 Ors.) and directed the concerned police station to carry out investigation in said crime. Being aggrieved by said order, the original accused No.39-Kanhaiyya Traders, through Prop. Shiprarani Jaidevsinh Raval & Ors., filed Criminal Writ Petition No.36/2010. However, on 25.07.2012, the Single Bench of this Court declined to grant interim relief. Therefore, further investigation was carried out in pursuance of the order passed by the learned JMFC on 28.12.2009 in RCC N.192/2009 and forensic audit of said Bank was conducted. It is further canvassed that the Respondent No.3-Investigating Agency conducted investigation and filed charge-sheet on 09.06.2016, wherein liberty of further investigation was granted against the accused persons who were not charge-sheeted. However, despite lapse of four and half years there was no further investigation. Since the Petitioner was a Member of Legislative Assembly from Dhule constituency and various depositors approached him for help in respect of said crime, therefore, to protect the rights of depositors, the Petitioner was constrained to file the present writ petition seeking further investigation in Crime No.5/2010, which is registered as Special Case No.1/2016 and pending on the file of the Special Court, Dhule.

4. The learned senior counsel appearing for the Petitioner submits that, Criminal Writ Petition No.36/2010 was instituted before this Court challenging the order of issuance of directions under Section 156(3) of the Cr.P.C., passed by the learned JMFC in RCC No.192/2009, however, said petition was dismissed by this Court on 25.07.2012. Thereafter, a proposal was moved by the then Police Inspector to the Inspector General of Police for transfer of investigation to the State CID on 23.10.2013 but said request was declined and as such during the course of investigation special audit report was obtained by the Investigating Officer, wherein details of irregularities committed by the accused persons and their modus operandi were highlighted. Accordingly, the Special Auditor prepared the special audit report on 17.07.2015. Thereafter, some accused persons were arrested, however, high profile accused persons were not arrested. Thereafter, the then Chief Minister passed an order on 24.08.2015 and investigation of said crime was transferred to the State CID. However, in spite of transfer of investigation to the State CID no further progress was made.

5. According to the learned senior counsel appearing for the Petitioner though the Respondent No.3/Investigating Officer sought liberty to continue with the investigation but when the charge-sheet was filed the

prime accused persons were not arrested and they are shown absconding. Therefore, there is no proper and fair investigation and hence prayed for further investigation under the supervision and guidance of a retired High Court Judge within stipulated period.

6. The prosecution filed the affidavit in reply and strongly opposed the prayer of the Petitioner. The learned APP canvassed that the State CID conducted investigation in Crime No.5/2010 and report was submitted before the Special Court / Sessions Court, however, the Special Court passed an order on 15.07.2022 and in the meantime further investigation was carried u/s. 173 (8) of the Cr.P.C. and forensic audit was completed. The charge-sheet is filed against 31 accused on 10.02.2025. Therefore, there is no necessity to again conduct further investigation.

7. The learned APP further canvassed that the Petitioner is neither the Member of the Dadasaheb Raval Co-op. Bank Ltd nor a depositor and account holder. The Petitioner did not suffer any injury individually and the present petition is not in representative capacity on behalf of the depositor. Therefore, the Petitioner has no locus standi to file a present petition seeking further investigation in Crime No.5/2010. Hence, prayed for dismissal of the petition.

8. The learned senior counsel appearing for the Petitioner canvassed that the concept of “locus standi” is foreign to the criminal jurisdiction, however, any person can lodge the FIR under Section 154 of the Cr.P.C. for the cognizable offence and as such the Petitioner is a responsible and prestigious person, therefore, he has locus to file the petition seeking further investigation in the cognizable offences.

9. In support of these submissions the learned senior counsel relied on the following case laws:

i) A.R. Antulay V/s. Ramdas Srinivas Nayak & Anr.; (1984) 2 SCC 500

ii) Ratanlal V/s. Prahlad Jat & Ors.; (2017) 9 SCC 340

iii) Nirmal Singh Kahlon V/s. State of Punjab & Ors.; (2009) 1 SCC 441

iv) Babubhai V/s. State of Gujarat & Ors.; (2010) 12 SCC 254

10. Having regard to the submissions canvassed on behalf of both the sides, we have gone through the record. It is an admitted fact that the original victim/complainant Shri Sharad Madanrao Patil had filed RCC No.192/2009 seeking inquiry under Section 156(3) of the Cr.P.C., in respect of conspiracy hatched on part of the Directors of Dadasaheb Raval Co-op. Bank Ltd., who caused loss to the Bank by granting/sanctioning huge loan amounts without sufficient security which led to bad debt of

Rs.101 Lakhs which has gone up to Rs.157 lakhs. Further, as per the audit report, the property loan of Rs.32.55 Lakhs was disbursed without sufficient security.

11. On 28.08.2012, the learned JMFC passed an order in RCC No.192/2009 and directed further investigation under Section 156(3) of the Cr.P.C.. However, said order was assailed in Criminal Writ Petition No.36/2010 by the accused no.39 and others. On 25.07.2012, this Court passed an order in Cri. W. P. No.36/2010 and refused to stay the order passed under Section 156(3) of the Cr.P.C.. Therefore, investigation was continued. However, further investigation was conducted by State CID in pursuance of order dated 24.08.2015 passed by the then Chief Minister. But in the meantime the Investigating Officer conducted forensic audit through the auditor, wherein, it was revealed about involvement of accused persons while causing loss to the Dadasaheb Raval Co-op. Bank Ltd., hence, charge-sheet was filed against them.

12. Needless to say that, the Petitioner is neither a Member of the Dadasaheb Raval Co-op. Bank Ltd. nor its depositor or account holder. The complainant who has suffered due to mismanagement of funds of the said Bank has already initiated legal proceeding and obtained appropriate

orders from the competent Court. Nonetheless, the investigation agency has already filed charge-sheet against those culprits and who caused loss to the Bank.

13. No doubt in case of **A.R. Antulay** cited (supra), the Hon'ble Supreme Court held as under:

“6. It is a well recognised principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. The scheme of the Code of Criminal Procedure envisages two parallel and independent agencies for taking criminal offences to court. Even for the most serious offence of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law. Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision, Numerous statutory provisions, can be referred to in support of this legal position such as (i) Section 187-A of Sea Customs Act, 1878 (ii) Section 97 of Gold Control Act, 1968 (iii) Section 6 of Import and Export Control Act, 1947 (iv) Section 271 and Section 279 of the Income Tax Act, 1961 (v) Section 61 of the Foreign Exchange Regulation Act, 1973, (vi) Section 621 of the Companies Act, 1956 and (vii) Section 77 of the Electricity Supply Act. This list is only illustrative and not exhaustive. While Section 190 of the Code of Criminal Procedure permits anyone to approach the Magistrate with a complaint, it does not prescribe any qualification the complainant is required to fulfil to be eligible to file a complaint. But where an eligibility criterion for a complainant is contemplated specific provisions have been made such as to be found in Sections 195 to 199 of the CrPC. These specific provisions clearly indicate that in the absence of any such statutory provision, a locus standi of a complainant is a concept foreign to criminal jurisprudence. In other words, the principle that anyone can set or put the criminal law in motion remains intact unless contra-indicated by a statutory

provision. This general principle of nearly universal application is founded on a policy that an offence ie, an act or omission made punishable by any law for the time being in force (Sec Section 2(s), CrPC] is not merely an offence committed in relation to the person who suffers harm but is also an offence against society. The society for its orderly and peaceful development is interested in the punishment of the offender. Therefore, prosecution for serious offences is undertaken in the name of the State representing the people which would exclude any element of private vendetta or vengeance. If such is the public policy underlying penal statutes, who brings an act or omission made punishable by law to the notice of the authority competent to deal with it, is immaterial and irrelevant unless the statute indicates to the contrary. Punishment of the offender in the interest of the society being one of the objects behind penal statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it into a strait-jacket formula of locus standi unknown to criminal jurisprudence, save and except specific statutory exception. To hold that such an exception exists that a private complaint for offences of corruption committed by public servant is not maintainable, the court would require an unambiguous statutory provision and a tangled web of argument for drawing a far fetched implication, cannot be a substitute for an express statutory provision. In the matter of initiation of proceeding before a Special Judge under Section 8(1), the Legislature while conferring power to take cognizance had three opportunities to unambiguously state its mind whether the cognizance can be taken on a private complaint or not. The first one was an opportunity to provide in Section 8(1) itself by merely stating that the Special Judge may take cognizance of an offence on a police report submitted to it by an investigating officer conducting investigation as contemplated by Section 5-A. While providing for investigation by designated police officers of superior rank, the Legislature did not fetter the power of Special Judge to take cognizance in a manner otherwise than on police report. The second opportunity was when by Section 8(3) a status of a deemed public prosecutor was conferred on a private complainant if he chooses to conduct the prosecution. The Legislature being aware of a provision like the one contained in Section 225 of the CrPC, could have as well provided that in every trial before a Special Judge the prosecution shall be conducted by a Public Prosecutor, though that itself would not have been decisive of the matter. And the third opportunity was when the Legislature while

prescribing the procedure prescribed for warrant cases to be followed by Special Judge did not exclude by a specific provision that the only procedure which the Special Judge can follow is the one prescribed for trial of warrant cases on a police report. The disinclination of the Legislature to so provide points to the contrary and no canon of construction permits the court to go in search of a hidden or implied limitation on the power of the Special Judge to take cognizance unfettered by such requirement of its being done on a police report alone. In our opinion, it is no answer to this fairly well-established legal position that for the last 32 years no case has come to the notice of the court in which cognizance was taken by a Special Judge on a private complaint for offences punishable under the 1947 Act. If something that did not happen in the past is to be the sole reliable guide so as to deny any such thing happening in the future, law would be rendered static and slowly wither away."

14. In case of **Ratanlal** cited (supra), considering the case of **A.R. Antulay** it is held as under:

"9. However, criminal trial is conducted largely by following the procedure laid down in CrPC. Locus standi of the complaint is a concept foreign to criminal jurisprudence. Anyone can set the criminal law in motion except where the statute enacting or creating an offence indicates to the contrary. This general principle is founded on a policy that an offence, that is an act or omission made punishable by any law for the time being in force, is not merely an offence committed in relation to the person who suffers harm but is also an offence against the society. Therefore, in respect of such offences which are treated against the society, it becomes the duty of the State to punish the offender, In A.R. Antulay v. Ramdas Srinivas Nayak, a Constitution Bench of this Court has considered this aspect as under: (SCC pp. 508-09, para 6)

"6.... In other words, the principle that anyone can set or put the criminal law in motion remains intact unless contradicted by a statutory provision. This general principle of nearly universal application is founded on a policy that an offence i.e. an act or omission made punishable by any law for the time being in force [see Section 2(n) CrPC] is not merely

an offence committed in relation to the person who suffers harm but is also an offence against society. The society for its orderly and peaceful development is interested in the punishment of the offender. Therefore, prosecution for serious offences is undertaken in the name of the State representing the people which would exclude any element of private vendetta or vengeance. If such is the public policy underlying penal statutes, who brings an act or omission made punishable by law to the notice of the authority competent to deal with it, is immaterial and irrelevant unless the statute indicates to the contrary. Punishment of the offender in the interest of the society being one of the objects behind penal statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it into a straitjacket formula of locus standi unknown to criminal jurisprudence, save and except specific statutory exception."

10. *In Manohar Lal v. Vinesh Anand, this Court has held that the doctrine of locus standi is totally foreign to criminal jurisprudence. To punish an offender in the event of commission of an offence is to subserve a social need. Society cannot afford to have a criminal escape his liability since that would bring about a state of social pollution which is neither desired nor warranted and this is irrespective of the concept of locus."*

15. In **Nirmal Singh Kahlon** cited (supra), the Hon'ble Supreme Court held as under:

"28. An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation. When serious allegations were made against a former Minister of the State, save and except the cases of political revenge amounting to malice, it is for the State to entrust one or the other agency for the purpose of investigating into the

matter. The State for achieving the said c object at any point of time may consider handing over of investigation to any other agency including a Central agency which has acquired specialisation in such cases.”

16. In **Babubhai's** case cited (supra) it has been held that, the investigation must be free from objectionable features or infirmities which may be legitimately lead to a grievance on the part of the accused that investigation was unfair and carried out with an ulterior motive. It is also the duty of the investigating officer to conduct the investigation avoiding any kind of mischief and harassment to any of the accused. The investigating officer should be fair and conscious so as to rule out any possibility of fabrication of evidence and his impartial conduct must dispel any suspicion as to its genuineness. The investigation officer “is not merely to bolster up a prosecution case with such evidence as may enable the court to record a conviction but to bring out the real unvarnished truth”.

17. In order to test the *bona fide* and locus of the Petitioner, we have gone through the case of **Vinoy Kumar V/s. State of U.P. and Ors.; (2001) 4 SCC 734**, in the cited case the Petitioner an advocate and representing the accused persons had filed a writ petition before the High Court praying for quashing of an order passed by the learned District and Sessions Judge by which the criminal case was transferred to the

Additional District and Sessions Judge / Special Court. Under these circumstances, the Hon'ble Supreme Court observed as under:

“2. Generally speaking, a person shall have no locus standi to file a writ petition if he is not personally affected by the impugned order or his fundamental rights have neither been directly or substantially invaded nor is there any imminent danger of such rights being invaded or his acquired interests have been violated ignoring the applicable rules. The relief under Article 226 of the Constitution is based on the existence of a right in favour of the person invoking the jurisdiction. The exception to the general rule is only in cases where the writ applied for is a writ of habeas corpus or quo warranto or filed in public interest. It is a matter of prudence, that the court confines the exercise of writ jurisdiction to cases where legal wrong or legal injuries are caused to a particular person or his fundamental rights are violated, and not to entertain cases of individual wrong or injury at the instance of third party where there is an effective legal aid organisation which can take care of such cases. Even in cases filed in public interest, the court can exercise the writ jurisdiction at the instance of a third party only when it is shown that the legal wrong or legal injury or illegal burden is threatened and such person or determined class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief.

3. In the instant case the petitioner had not filed the petition in public interest and did not disclose the circumstances which prevented the affected persons from approaching the court. In the discharge of his professional obligations, the petitioner Advocate is not obliged to file the writ petition on behalf of his clients. No circumstance was mentioned in the petition which allegedly incapacitated the affected persons from filing the writ petition. Section 30 of the Advocates Act only entitles an advocate to practise the profession of law and not to substitute himself for his client. The filing of the writ petition in his own name, being not a part of the professional obligation of the advocate, the High Court was justified in dismissing the writ petition holding that the petitioner had no locus standi.”

18. In **Janata Dal V/s. H.S. Chowdhary; (1992) 4 SCC 305**, the Hon'ble Supreme Court defined the expression "litigation" means a legal action including all proceedings therein, initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression 'PIL' means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. The definition of PIL emerged from historical context in which the commonality of the various forms of legal representation involving the basic and fundamental rights of a significant segment of the public demanding vindication of its rights has been recognized in various parts of the world. The concept of PIL which has been and is being fostered by judicial activism has become an increasingly important one setting up valuable and respectable records, especially in the arena of constitutional and legal treatment for 'the unrepresented and under-represented'.

19. In the case in hand as observed above, the complainant who has suffered legal injury had already filed a private complaint RCC No.192/2009 and succeeded further investigation under Section 156(3) of the Cr.P.C. in respect of alleged misappropriation of funds of the

Dadasaheb Raval Co-op. Bank Ltd. Further, the investigation is already conducted through the State CID and a forensic audit has been conducted and charge-sheet is filed against the accused persons.

20. Indeed, the Ori. Complainant had filed Criminal Writ Petition No.1000/2014 and this Court directed for completion of investigation within a period of four months. On face of record it appears that, at earlier point of time, Dr. Hemant Bhaskarrao Deshmukh & Ors., who were aggrieved persons filed Cri. W. P. No.1051/2019 and prayed to hand over the investigation of Crime No.5/2010 to the Special Investigation Team (SIT), however, said petition was withdrawn on 19.09.2019.

21. The Petitioner, who is a third party and did not suffer personal injury or any financial loss, therefore, he has no locus standi to file the petition seeking further investigation in the crime in which the charge-sheet is already filed. Needless to say that, on 30.06.2020 and 16.07.2020, this Court passed the following orders:

30.06.2020

“1. Notice for final disposal at this stage. The learned APP waives notice for all the three respondents. The learned counsel for petitioner is to satisfy this Court about the tenability of the present proceeding and also about his locus standi. Keep the matter on 7.7.2020.”

16.07.2020

“1. Petitioner needs to deposit an amount of Rs. 1.00.000/-in this Court in view of the previous order made by this Court. He needs to deposit the amount to show the bonafides.

2. Only after deposit of aforesaid amount, circulation be given to him.”

22. Since this Court has arrived at a conclusion that the Petitioner is a third party and he did not suffer personal injury or any financial loss, hence, he has no locus standi to file petition seeking further investigation in Crime No.5/2010. However, the Petitioner has filed present petition by using this Court as a tool to create pressure on the investigation machinery and accused persons and has killed the valuable time of this Court, therefore, an amount of Rs. One Lakh (Rs. 1 Lac) deposited by the Petitioner on 06.08.2020 under order dated 16.07.2020 as observed above is hereby forfeited. The Registrar (Judicial) of this Court is hereby directed to transfer Rs. 50,000/- in the account of Mata Anusaya Shaskiya Mahila Rajyagruha, Shivaji Nagar, Nanded - 431 602 and Rs. 50,000/- in the account of Bhavani Vidhyarthi Kalyan Pratishthan, Arvi, State Bank of India, Shirur (Kasar) Branch. IFSC Code: SBIN0005995, A/c No. 33446000963 for welfare of the destitutes. The petition is dismissed.

[Y.G. KHOBRAGADE, J.]

[SANDIPKUMAR C. MORE, J.]