

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 537 OF 2009.

M/s B.C. Biyani Projects Pvt. Ltd.,
Through its Director
Manoj Bansilal Biyani
Age: 36 Years, Occu: Business,
R/o. Bhusawal, Dist. Jalgaon.

....Petitioner.

Versus

1. The State of Maharashtra
Through Secretary,
Home Department, Mantralaya,
Mumbai.
2. Mr. R.R. Patil,
Ex-Home Minister and Member of
Legislative Assembly, Maharashtra,
Vidhan Bhavan Mumbai.
3. The Superintendent of Police
Crime Investigation Department,
Nashik.
4. Mr. B.R. Chavan,
Police Inspector (CID)
Jalgaon.
5. UCO Bank,
(Government of India Undertaking)
Branch at Bhusawal,
Through its Branch Manager.
6. Santosh Chhabildas Chaudhari,
Member of Legislative Assembly,
Age: 46 Years, Occu: Business
R/o Bhusawal, Dist-Jalgaon.

....Respondents.

Mr. P.M. Shah, Senior Counsel i/b Mr. N.B. Surywanshi, Advocate for
petitioner.

Mr. S.J. Salgare, APP for respondent Nos. 1 to 3/State.

Mr. G.V. Wani, Advocate for respondent No. 6.

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.
DATED : JULY 21, 2017.**

JUDGMENT : [PER T.V. NALAWADE, J.]

. The petition is filed to challenge the order made by respondent No. 2, the then Home Minister of Maharashtra State, by which C.I.D. inquiry was ordered by him on the basis of complaint made by respondent No. 6, who was M.L.A. at the relevant time. Both the sides are heard.

2) The submissions made and the record show that on 18.11.2008 respondent No. 6 gave representation to the Home Minister, who was also Deputy Chief Minister of the State and he requested to make inquiry in to the irregularities which were indicating fraud in respect of loan transactions between UCO Bank, Bhusawal and the petitioner. Specific allegation was made that by creating false record of property, loan of huge amount was taken from bank. Allegation was made that the property which was shown to be mortgaged was not having the value shown in the record and this property was already mortgaged with the co-operative societies and banks and so, that property could not have been accepted as security for giving loan. Allegation was also made that the authority

created to give report with regard to the financial condition and value of the property was bye-passed and particular advocate was appointed to create the record of recommendation and so, the inquiry needs to be made through C.I.D. On the same day, the Home Minister made an order and directed Additional D.G.P. (C.I.D.) to make inquiry. On that basis, order was sent to Superintendent of Police, L.C.B. Nashik to P.I., L.C.B. Jalgaon and he was directed to make inquiry in to the allegations. Present petition came to be filed on 26.6.2009 and on 29.8.2009, this Court granted stay to the C.I.D. inquiry which was being conducted by respondent No. 4.

3) In reply affidavit, respondents have contended that only inquiry was ordered to ascertain the truth and as there is power with the police and the Government to make inquiry, the petitioner ought to have waited till some action was taken by competent authority after receipt of inquiry report. It is contended that after making inquiry, the Inquiry Officer will submit his report along with papers of inquiry and only after that it can be ascertained as to whether there is any truth in to the aforesaid allegations.

4) Admittedly, no crime is registered on the basis of representation which was made by respondent No. 6. There is power with police to make inquiry before registration of crime and before

taking further action. At this stage, if the order itself and the inquiry which is already started is quashed and set aside, it will not be possible to ascertain as to whether there is truth in to the allegations. So, due to this circumstance and as there is power with the respondents to make such inquiry, the order of inquiry cannot be quashed and set aside.

5) The learned Senior Counsel for petitioner submitted that there is business rivalry between the petitioner and respondent No. 6. He drew the attention of this Court to some correspondence made by respondent No. 6 in that regard. There may be force in the submission that petitioner and respondent No. 6 are business rivals, but that does not mean that the allegations made by respondent No. 6 cannot be inquired in to. This Court holds that there are no merits in the present proceeding and it is premature to take cognizance of such matter. In the result, the petition stands dismissed. Rule is discharged. Interim relief is vacated.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/