

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 555 OF 2021

Dewanand Dattrao Bhoje,
Aged 46 years, Occu : Service,
R/o Flat No.1, Mangalam Apartment,
Ramnagar, Near Puna Automobile,
Amravati

} .. **PETITIONER**

Versus

1. The State of Maharashtra through
Additional Chief Secretary, Ministry of
Home, Mantralaya, Mumbai
2. Director General of Police,
Maharashtra State, Kolaba Mumbai
3. Smt. Rashmi Shukla,
Aged 58 years, Occu : (IPS)
The then Commissioner of State
Intelligent Department, presently working
as Additional Director General of Central
Industrial Security Force (CISF),
Shamirpeth Road, Post Hatimpeth,
Hyderabad, Dist. Hyderabad, Telangana-
500078
4. Dr. Hari Balaji N.
Aged 34 years, Occu : IPS
Superintendent of Police, Amravati Rural,
Amravati
5. Shri Jagdish Deshmukh
Aged 48 years, Occu : Steno Typist,
Attached to the office of Superintendent
of Police, Amravati
6. Rupesh Patil
Aged 28 years, Occu : Police Constable
attached to the office of Superintendent
of Police, Amravati

} .. **RESPONDENTS**

- 7 Kishor Shende
Aged 55 years, Occu : Office
Superintendent Attached to the office of
Superintendent of Police, Amravati
- 8 Sonmay Munde
Aged 32 years, Occu : Service
Working at Additional Superintendent of
Police Gadchiroli
- 9 Police Station Officer,
Police Station Gadge Nagar, Amravati

Mr. Anil A. Dhawas, Advocate for petitioner

Mr. V.A. Thakre, A.P.P for respondents / State

CORAM: VM. DESHPANDE, &
AMIT B. BORKAR, JJ.

DATE : SEPTEMBER 22, 2021

JUDGMENT : (Per : Amit B. Borkar, J.)

Heard. **Rule.** Rule made returnable forthwith.

2. By this Writ Petition under Article 226 of the Constitution of India, the petitioner, who is working as Stenographer in the Commissioner of Police, Amravati is seeking directions against the respondent No.9 – Police Station Officer, Police Station Gadge Nagar, Amravati to register crime and conduct enquiry of the complaint dated 18/06/2021 as respondents No.3 and 4 have violated right of privacy of the

petitioner.

3. The petitioner on 18/06/2021, filed a complaint with respondent No. 9 – Police Station alleging that six officers, including the Superintendent of Police, Amravati (rural), the then Commissioner, State Intelligence Department, Mumbai, Steno Typist of Amravati (Gramin) police, Police Constable of Amravati Rural police and Office Superintendent of office of Superintendent of Police by collusion with each other and by misusing their office, violated right of privacy of the petitioner ; violated provisions of the Indian Telegraph Act and defamed the petitioner. It is alleged that the persons stated in the said application have made false report to the State Government against the petitioner and have acted against the interest of nation by intercepting call records of the petitioner by tapping his cell phone for their private purpose. Therefore, it is prayed that the offences need to be registered against the persons named in the said application.

4. During the course of hearing of the present Petition,

this Court noticed that the documents annexed to the Petition from page Nos.41 to 53 are top secret documents. The petitioner had applied for those documents under the provisions of the Right to Information Act, but, the application of the petitioner was rejected. Therefore, the petitioner was directed by order dated 01/09/2021 that he shall disclose the source of those documents.

5. It needs to be noted that the petitioner has annexed copy of report dated 26/08/2020 submitted by the Director General of Police, Amravati State to the Additional Chief Secretary (Home), Maharashtra State, wherein an immediate comprehensive enquiry was requested to be ordered by the State CID (Crime), Pune to identify concerned individuals and to take necessary legal action against them. It is specifically stated in the said communication that secrecy of the said report be ensured in order to prevent unnecessary scrutiny, which may bring disrepute to the Government.

6. Page 49 of the Petition contains a report by the Chief Secretary submitted to the Chief Minister of Maharashtra .

Report on page 50 of the Petition reflects that the then Commissioner of Intelligence had submitted a report to the Director General of Police dated 25/08/2020. Clause IV of the said report specifically states that the then Commissioner of Intelligence had obtained permission under Section 52 of the Indian Telegraph Act before tapping phone of individuals.

7. The learned Advocate for the petitioner on 09/09/2021 submitted that the petitioner has personal knowledge that no such permission was granted under Section 52 of the Indian Telegraph Act though page 50 of the Petition discloses that the permission to intercept calls was granted as per Section 52 of the Indian Telegraph Act. This Court therefore, directed the petitioner to disclose on affidavit his sources from where he got the information relating to permission under Section 52 of the Indian Telegraph Act. The petitioner in pursuance of the said order, filed an affidavit dated 09/09/2021 wherein the petitioner in paragraph No.5 of the said affidavit stated that from the documents available on record the petitioner has reason to believe that “there was no

permission in respect of interception of call of the petitioner".

It is further stated by the petitioner in paragraph No.5 that the discussion / rumors in the vicinity of the police circle led the petitioner to conclude that there was no permission for interception of the calls. It is further stated that the petitioner has not been specifically told by any individual or public servant or any person working in the State Intelligence Department regarding permission for interception of calls from the petitioners. The statements in paragraph No. 5 discloses that the source of statement made in the court is discussion / rumors in the vicinity of police circle and the facts alleged in the petition regarding lack of permission have not been told by any individual, public servant or any person working in State Intelligence Department shows that the approach of the petitioner is causal in nature. The petitioner is seeking investigation into the role of responsible officers in the State of Maharashtra. The order of investigation by this Court into role respondent officers will have serious repercussions on the career of the higher officers in the Police Department. The investigation into the role of respondents cannot be directed on

the basis of casual statements and the statements based on rumors in the police circle.

8. The Hon'ble Apex Court in the case **People's Union for Civil Liberties (PUCL) vs Union Of India (Uoi) and another (1997) 1 SCC 301** has laid down the procedure to be adopted by the Central and State Government before interception of calls. In our opinion, internal communication by the Chief Secretary indicates that there was permission obtained by the then Commissioner of Intelligence. We do not find any merit in the petition. The petition is therefore dismissed.

9. Rule is discharged.

JUDGE

JUDGE

MP Deshpande