2025:BHC-AUG:3908-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2187 OF 2021

Rajkumar Saisingh Padvi,
Age 37 yrs., Occ. Police Inspector,
Anti Corruption Bureau, Beed.
(At present Assistant Police Inspector,
Office of Director General of Police,
Mumbai.)
R/o Officers' Club, Azad Maidan,
Mumbai.
Permanent r/o G.R.B. Keskar,
Near Sudhakar Nagar, Behind
Kamalnayan Bajaj Hospital,
Satara Parisar, Aurangabad,
Tq. & Dist. Aurangabad.

… **Applicant**

… **Versus** …

1 The State of Maharashtra
Through the Officer In-charge,
City Police Station, Beed,
Tq. & Dist. Beed.

2 The Superintendent of Police,
Anti Corruption Bureau,
Aurangabad.

3 Jamaluddin @ Jammu s/o Noon Mohd. Shaikh,
Age 50 yrs., Occ. Business (Proprietor of Hotel),
R/o Aurangabad.
At present r/o Beed Road, Behind Modern Dhaba,
Shahagad, Tq. Ambad, Dist. Jalna.

… **Respondents**

…

Mr. R.S. Deshmukh, Senior Counsel i/b Mr. D.R. Deshmukh, Advocate for applicant

Mrs. R.P. Gour, APP for respondent Nos.1 and 2

Mr. P.M. Nagargoje, Advocate h/f Mrs. M.V. Narwade, Advocate for respondent No.3

...

AND

CRIMINAL APPLICATION NO.2188 OF 2021

Pradeep Deelip Veer,
Age 33 yrs., Occ. Police Constable
(Writer), office of Anti Corruption
Bureau, Beed,
(At present under suspension),
R/o Prakash Ambedkar Nagar,
Barshi Naka, Beed,
Tq. & Dist. Beed.

… **Applicant**

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1 The State of Maharashtra
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At present r/o Beed Road, Behind Modern Dhaba,
Shahagad, Tq. Ambad, Dist. Jalna.

… **Respondents**

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Mr. R.S. Deshmukh, Senior Counsel i/b Mr. D.R. Deshmukh, Advocate for applicant

Mrs. R.P. Gour, APP for respondent Nos.1 and 2

Mr. P.M. Nagargoje, Advocate h/f Mrs. M.V. Narwade, Advocate for respondent No.3

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CORAM : SMT. VIBHA KANKANWADI & ROHIT W. JOSHI, JJ.

RESERVED ON : 09th DECEMBER, 2024

PRONOUNCED ON : 10th FEBRUARY, 2025

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Both these applications were initially filed for quashing of First Information Report vide Crime No.119/2021 dated 14.06.2021 registered with City Police Station, Beed, Tq. & Dist. Beed and later on by way of amendment for quashing of charge sheet i.e. proceedings in Special Case No.184/2024 pending before learned Special Judge, under the Prevention of Corruption Act, Beed.

2 It is not in dispute that both applicants are serving in Police Department. Applicant Rajkumar Padvi is presently working as Assistant

Police Inspector, however, at the time the First Information Report was lodged against him he was Police Inspector, Anti Corruption Bureau, Beed. Applicant Pradeep Veer is working as Police Constable (Writer) in the office of Anti Corruption Bureau, Beed. Respondent No.3 has lodged said First Information Report against both of them for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988.

3 Heard learned Senior Counsel Mr. R.S. Deshmukh instructed by learned Advocate Mr. D.R. Deshmukh for applicant, learned APP Mrs. R.P. Gour for respondent Nos.1 & 2 and learned Advocate Mr. P.M. Nagargoje holding for learned Advocate Mrs. M.V. Narwade for respondent No.3, in both matters.

4 Learned Senior Counsel instructed by learned Advocate appearing for applicant in both matters has taken us through First Information Report, documents those are filed by applicant Rajkumar Padvi and the material collected during investigation i.e. material in the charge sheet. He submits that applicant Rajkumar Padvi comes from Adiwasi area and he has taken education and then joined as Police Constable during the recruitment process in 2004. Thereafter, he came to be selected for the post of Police Sub Inspector by Maharashtra Public Service Commission. Taking

into consideration his hard work, he was deployed in the Anti Corruption Bureau at Beed. He has acted as an Investigating Officer in many matters and has successfully conducted the raids. He has been awarded with the prize also. He had laid the trap against one Dadasaheb Andhale, who was Talathi. Later on charge sheet has been filed against said Dadasaheb Andhale. Applicant Rajkumar Padvi came to know that said Dadasaheb Andhale is making conspiracy with other persons to harass applicant Rajkumar and was making complaints against him, defaming him, therefore, said applicant had given written complaints against said Dadasaheb Andhale to his superiors. Such complaint was made by him since 16.10.2020, however, no action was taken against said Dadasaheb Andhale. It was specifically stated that Dadasaheb Andhale was trying to contact applicant Rajkumar Padvi and though his number has been blocked; yet, he was trying to contact him from different numbers. As the applicant was not contacting or meeting Mr. Andhale, Mr. Andhale was making false complaints to the superior. Mr. Andhale was trying to bribe applicant Rajkumar. Ultimately applicant Rajkumar preferred for his transfer and accordingly, he was transferred by order dated 15.04.2021 to Anti Corruption Bureau, Aurangabad. He took charge on 16.04.2021. Time and again, still the applicant was bringing it to the notice of his superior as to how said Dadasaheb Andhale was harassing him. Even a written complaint was given with City Chowk Police Station, Aurangabad on 05.05.2021; yet, the Police Officer in the Police Station wrote on the application itself that by taking guidance from District Government Pleader the further action would be taken, however, no action appears to have been taken; yet, on the next day i.e. on 06.05.2021 Police Inspector, City Chowk Police Station, disclosed that the said incidences in the complaint were within a jurisdiction of D.S.P., Beed and, therefore, his complaint/First Information Report has been transferred to D.S.P., Beed. In the said background the present First Information Report is required to be considered. Respondent No.3 who is a hotel owner but states that his brother Shaikh Samad Shaikh Noor Mohammad is a Sectional Engineer at Georai and trap was arranged and then First Information Report vide Crime No.139/2021 was registered against him on 05.04.2021. Respondent No.3 informs that applicant Rajkumar gave intimation about the arrest of brother Shaikh Samad and then it is stated that applicant Rajkumar told him that he would help him in the matter of his brother if he makes arrangement for money. In the First Information Report it is then stated that on the say of brother respondent No.2 met Talathi Dadasaheb Andhale, who had made available a voice recorder for recording the conversation. Respondent No.3 then went to the office of applicants around 11.30 a.m. on 06.04.2021. Prior to that Mr. Andhale had given him tape recorder of Sony company and 8 GB memory card in the same for recording and it was put On, which was concealed and then it is stated that through the applicant Pradeep Veer demand of Rs.2,00,000/- was initially made but informant told that he would give Rs.20,000/-, which was then stated to be made as Rs.50,000/- and the conversation has been recorded. The said conversation was then given to Anti Corruption Bureau and First Information Report was lodged. First Information Report would show that even at the time of lodging of said First Information Report Talathi Dadasaheb Andhale was present. Respondent No.3 says that he can understand Marathi but cannot read and write properly. Therefore, Dadasaheb Andhale had read it over to him. Thus, there is active involvement of said Dadasaheb Andhale against whom applicant Rajkumar had taken action. The said First Information Report was nothing but the act of *mala fides* and to defame and harass both the applicants. There is absolutely no evidence against applicant. No doubt, the charge sheet now discloses that initially the transcription of recorder was given hash value, was taken by one Cyber Crime expert on 12.04.2021 and then Dadasaheb Andhale had produced a voice recorder and memory card, which was seized under panchnama dated 12.05.2021 and the transcript has been prepared and thereafter First Information Report came to be lodged on 14.06.2021. When a person accused in another crime has taken such active part, then Anti Corruption Bureau, especially the Superintendent of Police and superior officers ought to have considered and preliminary inquiry ought to have made before registration of offence as to whether the proposed First Information Report is outcome of any *mala fides* or not. Whatever so called evidence was collected by respondent No.2 with the help of said Dadasaheb Andhale has been taken as true and First Information Report has been lodged.

5 Learned Senior Counsel relies on the decision in **P. Sirajuddin etc. vs. The State of Madras etc.** [1971 Cri.L.J. 523], wherein it is held that preliminary inquiry is necessary before lodging First Information Report when the public servant is to be charged for serious misdemeanour.

5.1 He also relies on the circular issued by Joint Commissioner of Police/Special Inspector General of Police, Anti Corruption Bureau, Maharashtra State dated 28.06.2004. By way of this circular taking into consideration the decision in **P. Sirajuddin** (supra) and **State of U.P. vs. Bhagwnt Kishore Joshi** [AIR 1964 SC 221] the verification was made mandatory. It was observed that -

> "8. In view of the above observations of the Supreme Court, proper investigation of the complaint received by the Bureau against public servant/s is not bad in Law. It is, therefore, directed whenever a complaint regarding demand of bribe is received, proper verification shall be done before laying a trap."

In the present case the Investigating Officer has not taken step for the trap and offence is registered only under Section 7 of the Prevention of Corruption Act for applicant Rajkumar Padvi and for Pradeep Veer it is under Section 12 of the Prevention of Corruption Act.

6 Learned Senior Counsel submits that both applications came to be filed in 2021, however, time and again, the time was sought by State on the pretext that case is pending before competent authority for granting sanction. This Court has even observed many times that competent authority would take decision within a reasonable time. Order dated 10.09.2024 is pointed out wherein after taking note of earlier statements on behalf of State this Court observed that if the authority takes decision in respect of sanction on or before 04.10.2024, the learned APP to produce it on record. If in case of failure on the part of competent authority to take such decision, this Court will presume that competent authority has refused or in absence of such sanction, matter would proceed and there will not be any further adjournment on the ground of sanction. Thereafter, on 09.10.2024 the learned APP informed that the order passed by this Court on 10.09.2024 was communicated to competent authority i.e. Director General of Police, Maharashtra State, Mumbai, but the authority has not yet taken the decision. Learned APP submitted that she had also specifically communicated the part

(which is reproduced above) that if the decision is not taken then the Court would proceed. Still learned APP prayed for one more chance to be given. This Court has then repeated the observations and observed that, “we cannot keep the matter lingering, however, we want to know in view of the fact which we are coming across in many matters that the competent authorities are taking too much time to give decision on the point of sanction to prosecute a Government servant, especially in respect of employees who are involved in offences under the Prevention of Corruption Act.” Though the Act does not prescribe time limit, that does not mean that the competent authority can drag the action of taking decision on the point of sanction for indefinite period. It was then observed that in many cases including the present one the applicants have resumed their duties or they are continued on duties which are their official duties and they are also getting the salaries. This Court had then given time to the competent authority i.e. Ms. Rashmi Shukla, Director General of Police, Maharashtra State, Mumbai to file an affidavit explaining why it is taking so much of time for her to take a decision in respect of point of sanction to prosecute the applicant. Thereafter, there was a speaking to minutes when it was pointed out that the matter is pending before Additional Director of Police (Establishment) Mr. Sukhvinder Singh in view of order dated 14.10.2024. Thereafter, on 21.10.2024 learned APP placed on record the sanction order dated 18.10.2024 passed by the Director

General of Police Ms. Rashmi Shukla and affidavit was filed of Mr. Sukhvinder Singh, Additional Director General of Police (Establishment). Learned Senior Counsel by pointing out all these facts submits that the State Government has now decided anyhow to prosecute the applicants and at the time of granting sanction also the State has misled this Court. Therefore, this is a fit case where the powers under Section 482 of the Code of Criminal Procedure are required to be invoked when the action against applicants is with *mala fide* intention.

7 Learned APP submitted that there is evidence against applicants. The conversation was recorded and transcript has been produced. That was sufficient for the registration of offence. As regards the point of sanction is concerned, she fairly submitted that she cannot go against the record, but then she says that the affidavit of Additional Director General of Police Mr. Sukhvinder Singh be considered, wherein he has stated that by letter dated 24.01.2023 office of Director General of Police, Anti Corruption Bureau, Mumbai had communicated to the Superintendent of Police, Anti Corruption Bureau, Chhatrapati Sambhajinagar to obtain the report of Forensic Science Laboratory at the earliest. It was given on 23.02.2024. The promotion order of the applicant was signed by Inspector General of Police (Establishment). The Director General, Anti Corruption Bureau had then sent the letter dated

04.07.2024 for the first time to his office i.e. Additional Director General (Establishment). As the applicant was posted on the establishment of ADG, CID, the said proposal was submitted to the said authority at Pune on 20.09.2024 for according sanction. Thereafter, ADG, CID returned the proposal to Director General, Anti Corruption Bureau and the said proposal was again re-submitted to Director General, Maharashtra State on 01.10.2024. Ultimately, in view of the notings on the file by Additional Director General of Police (Establishment) Mr. Sukhvinder Singh stating that at the time of incident applicant was officiating Police Inspector in Anti Corruption Bureau drawing salary and having powers of a Police Inspector. The appropriate decision in the proposal may be taken by Director General of Police and that is how it again went to Ms. Rashmi Shukla, the Director General of Police. There is no question of misleading the Court. Whether any *mala fides* are their in according sanction or in prosecuting the applicants would be considered only upon trial and, therefore, applications are required to be dismissed.

8 Learned Advocate for respondent No.3 has once again taken us through the same facts and submitted that taking help of Dadasaheb Andhale cannot be doubted with *mala fides*. He has only made available the instruments which were essential for recording the demand. The hash value

has been taken, so there is no question of any tampering. The voice samples of both applicants have been taken though initially applicant Rajkumar had refused. But, now, the FSL report is also against applicants. Therefore, there was sufficient material before competent authority to accord sanction. Learned Advocate relies on the decision of this Court in **Soma Bhila Borse vs. Bhima Sambhajirao Narke and others** in Criminal Writ Petition No.1648 of 2018 decided on 09.04.2019, wherein also the point of absence of verification panchnama in respect of demand was raised, but this Court turned down that point and directed that the crime should be registered.

9 As regards powers under Section 482 of the Code of Criminal Procedure are concerned, we would like to rely on the latest decision of the Hon'ble Supreme Court in **Salib @ Shalu @ Salim vs. State of Uttar Pradesh and others** [(2023) 11 SCR 58), wherein it has been held that -

> "Whenever an accused seeks quashing of the First Information Report or the criminal proceedings essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, in such circumstances, the Court owes a duty to look into the First Information Report with care and a little more closely. It would not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of the alleged offence are disclosed or not. 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. Court 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."

Therefore, we are taking into consideration the entire material on record.

10 As the entire allegations and the material has been placed in the above paragraphs, we do not want to repeat the same, however, it can be seen that to the documents which have been placed by applicant Rajkumar on record that he was making complaints regarding behaviour of said Dadasaheb Andhale against him, there is no counter reply on behalf of State. It is on record that in the raid conducted against Dadasaheb Andhale, applicant Rajkumar was leading the trap and the first complaint he had made in respect of behaviour of Dadasaheb Andhale was on 16.10.2020. It appears that the State Government and especially the office of Director General, Anti Corruption Bureau has not at all responded. If an employee is making grievance regarding the harassment given to him, then it becomes duty of the concerned Department at least to hold an inquiry and consider the grievances. If at all it is turned out after the inquiry that the grievances those

have been made are false or incorrect, then that should be made known to the concerned employee, so that he would be at liberty to take any other action including legal action against the concerned person. Superior Government officer is duty bound to afford protection to the employees working under him. The protection that is expected is from harassment and allegations. Now, the chronology of events are required to be considered here. There was a trap against the brother of respondent No.3 on 05.04.2021. On the same day, as respondent No.3 in First Information Report says that, he was informed about the action taken against the brother by applicant Rajkumar, then he says that on the same day he met Talathi Dadasaheb Andhale on the say of his brother, and thereupon, on the same day it appears that Dadasaheb Andhale made the voice recorder available to respondent No.3. How all these things can happen on a single day, is a question. Now, as per the First Information Report, on 06.04.2021 informant Jamaluddin along with his relative Shaikh Azim went to office of Anti Corruption Bureau around 11.30 a.m. and on that day he was having the tape recorder/voice recorder having 8 GB memory card on his person concealed below his clothes. Then he says that when he made discussion with Rajkumar, he indicated towards his colleague and asked him to go out and thereafter other colleague made demand of Rs.2,00,000/-. The informant said that he showed his readiness to give Rs.20,000/- and then it was settled for Rs.50,000/-. In the First Information Report, there is absolutely no explanation as to why informant felt that he should not approach any other higher officer to make complaint against respondent No.2. Now, he says that on the statement of or suggestion of his brother Shaikh Samad Shaikh Noor Mohammad, who was Sectional Engineer, he came to know about name of Dadasaheb Andhale. Since the charge sheet is now filed, we are constrained to consider the evidence that has been collected. There is absolutely no statement of said brother of respondent No.3 that has been taken under Section 161 of the Code of Criminal Procedure. There is statement of Dadasaheb Andhale, who has his own version as to why he had, online, purchased the voice recorder on 04.12.2020. He has not stated that he was knowing Shaikh Samad Shaikh Noor Mohammad, but then he says that directly on 05.04.2021 the informant/complainant had contacted him and told about the raid that was conducted against his brother. He has then stated that he gave advice to respondent No.2 that the superiors of applicant Rajkumar are not taking any action on the complaint against him and they insist on evidence and, therefore, they should collect the evidence at their level and then give a complaint. He had then purchased new memory card on 06.04.2021 and placed it in the voice recorder. It is to be noted that when the First Information Report in this case was filed, already the hash value and the transcript was ready. There is no explanation in First Information Report as to who has got it done. But the explanation of the same is coming in the statement of said Dadasaheb Andhale. He says that he as well as the informant had taken the recording to a cyber expert at Pune, taken the hash value, certificate was taken, get the transcript prepared and then placed it along with the application dated 13.04.2021 in the sealed envelope. Interesting point to be noted is that an application dated 12.04.2021 has been annexed with the charge sheet, wherein there is a specific mention that around 6.30 to 7.00 p.m. on 08.04.2021 they had gone to Anti Corruption Bureau, Ahmednagar to lodge a report, but it refused to accept the clip and then it was told that they would verify with the panchas and lay a trap then only action would be taken and on saying this they sent back. On the next day they were asked to remain present around 11.00 a.m. at Beed, where they were called by Anti Corruption Bureau, Nashik Division and he went along with the panchas for verification in the office of applicant Rajkumar. At that time, applicant Rajkumar refused to talk to respondent No.2 and took objection for the presence of the panch. All these things are missing in the First Information Report. That means, there was a verification conducted by Anti Corruption Bureau, wherein there was no support to the fact which was alleged in the recording that was allegedly done on 06.04.2021. Now, whether in such case the private document should have been believed by Anti

Corruption Bureau, who registered the First Information Report, is a question. Further, it can be seen from the statement of witness Dadasaheb Andhale as well as in respect of production of voice recorder, memory card etc. that it is produced by him and not by respondent No.2. From alleged date of recording i.e. 06.04.2021 till the hash value was taken on 12.04.2021 the said voice recorder was in the custody of Dadasaheb Andhale because respondent No.2 is not claiming the custodian of the same and the production is by Dadasaheb Andhale. We cannot forget that Dadasaheb Andhale is the person against whom the raid was conducted by applicant Rajkumar. That means, the said accused appears to have taken active part in getting so called evidence against him.

11 Interestingly, the complaint application dated 12.04.2021 has not been treated as First Information Report, but on the basis of that complaint application it appears that preliminary inquiry was made, statements were recorded through DCP, ACB, Pune and then when he gave positive report, it was then stated that further investigation to be handed over to Anti Corruption Bureau, Aurangabad Division. This letter is dated 27.05.2021 and thereafter on 14.06.2021 First Information Report has been lodged. The most important point is that when the seizure of voice recorder and the transcript has been executed on 12.05.2021 through SDPO, ACB, Solapur, at

that time, First Information Report was not registered. Therefore, the question arises, under which provisions of law then the panchnama and the seizure was effected ? We can understand as regards statements of witnesses those can be recorded in the inquiry, but whether seizure can be made without there being any First Information Report, is a question and there is no answer from the prosecution in this respect. The seizure is before the officer from Solapur and the said report regarding inquiry dated 27.05.2021 is by ACP/SP, ACB, Pune and then after the registration of offence the investigation is by Aurangabad Division. Thus, the way the case has been handled creates every doubt, with the background that an accused against whom the applicant Rajkumar had taken action has taken active part.

12 The important point noted here at the cost of repetition is, immediately after 05.04.2021 respondent No.2 had not contacted higher officer, but for the mysterious reasons took help of Talathi Dadasaheb Andhale. Though the complaint application dated 12.04.2021 states about informant approaching ACB, Ahmednagar on 08.04.2021 and then he was called on 09.04.2021 where even ACB, Nashik Division was also involved, the charge sheet does not include statement of said police officer, panchas, who were present at that time. There is a letter dated 11.05.2021 given by Additional Superintendent of Police, ACB, Pune to Assistant Commissioner of

Police, ACB, Nashik Division calling for the record in respect of events that had taken place on 08.04.2021 and 09.04.2021. It appears that there is a letter dated 12.04.2021 given by ACB, Nashik Division to Director General, ACB, wherein it is specifically stated that there was no demand that was revealed between the complainant and the public servant and, therefore, the proceedings were stayed. That means, the ACB, Nashik Division, which had taken part in the process after taking cognizance of the complaint found that there is no such demand by the public servant. Therefore, though verification has been got done through police agency/competent agency, it was not supporting the allegations yet, then for registration of First Information Report, during investigation and filing charge sheet and for also obtaining the sanction the private document and evidence has been considered which is against legal principles.

13 It can be seen from the statement of witness Dadasaheb Andhale, which is recorded on 13.05.2021 by Mr. Sanjeev Patil, Assistant Police Commissioner/Deputy Superintendent of Police, ACB, Solapur i.e. prior to the lodging of First Information Report, that the raid against him was conducted on 08.06.2020 and he was released on bail on 10.06.2020. According to him, there was demand of money by applicant Rajkumar to his father-in-law. He says as to what investigation has been done by applicant

Rajkumar in his case. According to him, he was demanding the copy of panchnama to applicant Rajkumar but it was not supplied to him. He says that he had also made complaints with the higher authorities of applicant Rajkumar. He says about some incident on 21.08.2020 against him, whereby the demand was made or there was rift in him and applicant Rajkumar. Thus, perusal of his statement would show that he had grudge against applicant Rajkumar and then he has helped respondent No.2, therefore, there is a room to believe that the act is out of revenge by him. Another fact to be noted is that after the First Information Report was registered, his statement was again taken on 22.06.2019, but it is almost copy paste of his earlier statement, even some of the paragraphs are literally copy paste before another officer. Therefore, question is also raised as to whether it can be really said to be a statement under Section 161 of the Code of Criminal Procedure.

14 In **P. Sirajuddin** (supra) Hon'ble Supreme Court has stressed on the necessity of preliminary inquiry before lodging First Information Report when a public servant is charged for serious misdemeanour. This preliminary inquiry as stated was in a different context. Here, in this case the preliminary inquiry is made. Even after in the preliminary inquiry/verification by Nashik Division there was no support to the allegations. Whether in spite of all these

facts the investigating agency ought to have gone with the private documents and private evidence, is a question ? If this is allowed, then it would be easy for any public servant to be trapped by unscrupulous elements. The protection that is required to be given to the Government Servant as contemplated under Section 197 of the Code of Criminal Procedure would get lost. Such public servant, especially from the Anti Corruption Department would be rendered powerless.

15 As regards point of sanction, the things which had happened are already narrated. The said aspect is not at all handled by the concerned officer and the State Government properly. The first and the foremost fact which we want to harp upon is that the State Government agencies are taking too much time to take a decision on the point of sanction. By the time that stage arrives the person, who is to be arrayed as accused or who has been already arrayed as accused, resumes his duty and the salary is also paid to him. The concerned higher authorities on whom the responsibility of sanction to prosecute is saddled are not supposed to sit over the files for years or months together. Here, an impression was given to this Court that the matter was pending before Director General of Police, but then when the matter was not on board, it was taken on board and a statement was made that in fact, the entire file is before another officer. Accordingly, we had

modified the order, but again when the matter was on board and the order was placed, it was by the earlier officer i.e. Director General of Police. All these things were not expected. Either proper instructions were not given to learned APP or some other things had taken place. We do not want to make more observations in view of the fact that in **State of Punjab vs. Hari Kesh** [2025 INSC 50] Criminal Appeal No. of 2025 [arising out of SLP (Criminal) No.9114 of 2019] decided on 07.01.2025 it has been held that -

> "The High Court should not interfere with the trial process by quashing the sanction order and whether the authority that granted the sanction was competent is a matter of evidence to be determined during the trial."

Therefore, we do not want to go into the aspect of competency of Director General of Police, but, still the observation can be made that applicant Pradeep Veer was serving as Police Constable and, therefore, whether the Director General of Police was the appointing and removing authority for him or not, is a genuine question, that may arise in this matter. It is to be noted that in the transcript that was provided by the informant the dialogues are stated to be between applicant Rajkumar, informant and one person. Even if it is taken that the samples match as the FSL report is stated to be taken; yet, the fact remains is that even against applicant Pradeep Veer it is the private document and private evidence that has been preferred by the investigating agency.

16 The present case would certainly come within the category No.7 of guidelines in **State of Haryana and others vs. Chh. Bhajan Lal and others** [AIR 1992 SC 604], which reads as under :

> "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."

17 We, therefore, arrive at a conclusion that the case is made out for quashing the First Information Report and the entire proceedings. Hence, following order.

ORDER

i) Both criminal applications stand allowed.

ii) Charge Sheet No.39/2024 i.e. proceedings in Special Case No.184/2024 pending before learned Special Judge, under the Prevention of Corruption Act, Beed arising out of First Information Report vide Crime No.119/2021 dated 14.06.2021 registered with City Police Station, Beed, Tq. & Dist. Beed, for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988, stands quashed and set aside as against applicant **Rajkumar Saisingh Padvi** in Criminal Application No.2187 of 2021.

iii) Charge Sheet No.39/2024 i.e. proceedings in Special Case No.184/2024 pending before learned Special Judge, under the Prevention of Corruption Act, Beed arising out of First Information Report vide Crime No.119/2021 dated 14.06.2021 registered with City Police Station, Beed, Tq. & Dist. Beed, for the offence punishable under Sections 7 and 12 of the Prevention of Corruption Act, 1988, stands quashed and set aside as against applicant **Pradeep Deelip Veer** in Criminal Application No.2188 of 2021.

(ROHIT W. JOSHI, J.) **(SMT. VIBHA KANKANWADI, J.)**

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