

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.486 OF 2025

Anil Maji And Ors. ... Applicants
Vs.
The State of Maharashtra And Anr. ... Respondents

None for the Applicant.

Mr. Gauraj Shah i/f Mr. Asad Khan, Advocates for Respondent No.2.

Mr. Mayur S. Sonavane, APP for State.

API Mr. Prashant Kamble, L.T. Marg Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATE : 12th DECEMBER, 2025.

P.C. :

1. By the present application the Applicants have sought for the following substantive reliefs:-

b) That this Hon'ble Court may be pleased to examine the legality and propriety of order dated 21.09.2023 passed by Ld. Magistrate and quash the same.

c) That this Hon'ble Court may be pleased to quash and set aside the order dated 04.04.2025 passed by the Hon'ble Session Court.

2. On 6th May, 2025 this Court made the following order:-

"1. None present for the applicants.

2. Stand over to **10th June, 2025**, under the caption "**for Dismissal**".

3. This matter was called out at 1:25 pm. None appeared on behalf of the Applicants either physically in Court or on V.C., as such the matter was kept back post-lunch, at the request of Mr. Gauraj Shah and Mr. Mayur S. Sonavane.

4. Matter is called out at 4:30 pm none appears on behalf of the Applicants either physically or through Video Conference mode.

5. Mr. Gauraj Shah and Mr. Mayur S. Sonavane, APP for State point out to Para 10 of the impugned order dated 4th April, 2025 passed by the Sessions Court, which reads as follows:-

“10. It is the contention of the applicants that the respondent No.2 is trying to cause investigation as provided under Section 156(3) of the Code of Criminal Procedure by applying under Section 156(3) of the Code of Criminal Procedure by applying under Section 173(8) of the Code of Criminal Procedure. But, I am of the view that the applicants are already charge-sheeted. Surprisingly, no person whose names are mentioned in the application has preferred this revision, but by these applicants who are already accused, and no further investigation is directed against them. It is an apprehension of the counsel of the applicants that it is an attempt to involve them in a crime registered in 24 Pargana wherein 1,000 Kilograms gold is seized. The counsel of respondent No.2 fairly submitted that he is intending only to restart further investigation towards recovery of the gold and investigation against the persons whose names are mentioned in the crime registered in 24 Pargana, West Bengal. It is

the contention of the applicants that the gold seized from Vijay Kumar at 24 Pargana includes the gold belongs to him. The complainant wants only recovery of gold and investigation of role of the persons whose names are mentioned in his application. Therefore, I am of the view that these applicants have no locus standi to challenge further investigation. None of the persons whose names are mentioned in the application along with this application have preferred the revision. Therefore, I am of the view that the revision filed by the applicants to protect the persons whose names are mentioned in the application, is not maintainable. Those persons could have filed their revision separately. Definitely, further investigation is directed towards the recovery of gold and role of the persons mentioned in application. Therefore, the impugned order is not faulted. Hence, I am of the opinion that the revision filed by the applicants is devoid of merits. Consequently, the revision application deserves to be dismissed. In the result, I proceed to pass the following order:-

ORDER

Criminal Revision Application No.892 of 2023 stands dismissed
and disposed of accordingly”.

6. Mr. Gauraj Shah relies on the decision of the Hon’ble Supreme Court in case of ***Satishkumar Nyalchand Shah Vs. State of Gujarat & Ors.***¹ in Para 10 has made the following observation:-

“10. Having heard the learned counsel appearing on behalf of the respective parties and the private respondent herein, we are of the opinion that as such no error has been committed by the High Court dismissing the application submitted by the appellant herein to implead him in the special criminal application filed by the private respondent herein challenging the order

¹ (2020) 4 SCC 22.

passed by the learned Chief Judicial Magistrate rejecting his application for further investigation under Section 173(8) CrPC with respect to one other accused, namely, Shri Bhaumik against whom no charge-sheet has been filed till date. Therefore, it is not at all appreciable how the appellant against whom no relief is sought for further investigation has any locus and/or any say in the application for further investigation under Section 173(8) CrPC. How he can be said to be a necessary and a proper party. It is required to be noted that, as such, even the proposed accused Shri Bhaumik shall not have any say at this stage in an application under Section 173(8) CrPC for further investigation, as observed by this Court in W.N. Chadha [Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260 : 1993 SCC (Cri) 1171] ; Narender G. Goel [Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65 : (2009) 2 SCC (Cri) 933] and Dinubhai Baghabhai Solanki [Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626 : (2014) 2 SCC (Cri) 384] . In Dinubhai Baghabhai Solanki [Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626 : (2014) 2 SCC (Cri) 384] after considering another decision of this Court in Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P. [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047] , it is observed and held that there is nothing in Section 173(8) CrPC to suggest that the court is obliged to hear the accused before any direction for further investigation is made. In Sri Bhagwan Samardha [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047] , this Court in para 11 held as under : (Sri Bhagwan Samardha case [Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740 : 1999 SCC (Cri) 1047] , SCC p. 743)

“11. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation.”

7. Mr. Sonavane, and Mr. Gauraj Shah, learned Advocate for Respondent No.2 by relying on the Order dated 6th May, 2025, insist to pass a order of dismissal.

8. In view of the absence of the Advocate for the Applicant and considering the order dated 6th May 2025, which is being pressed in to service by Mr. Sonavane, learned APP for the State and Mr. Gauraj Shah, learned Advocate for Respondent No.2, this application is dismissed.

(ASHWIN D. BHOBE, J.)