

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 641 OF 2025

IN

CRIMINAL APPEAL NO. 676 OF 2021

Dr. Anand Teltumbde] ... Applicant

In the matter between :-

Dr. Anand Teltumbde] ... Appellant

V/s.

1. National Investigation Agency &]

2. The State of Maharashtra] ... Respondents

Mr. Mihir Desai, Senior Advocate a/w. Ms. Devyani Kulkarni, Ms. Rishika Agarwal & Ms. Pritha Paul for Applicant/Appellant.

Mr. Sandesh Patil a/w. Mr. Chintan Shah, Mr. Prithviraj Gole & Mr. Krishnakant Deshmukh for Respondent No.1-NIA.

Mr. Vinod Chate, A.P.P. for Respondent No.2-State.

Officers :- (i) Pravin Ingawale, S.P. and (ii) Mr. Vishal Gaikwad, Dy.S.P., N.I.A., present.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 3rd April 2025.

P.C. :

1) The Special P.P. appearing for Respondent No.1-NIA has unnecessarily created an unpleasant situation in the Court, which is as follows :-

1.1) Record indicates that, on 19th March 2025, Mr. Patil, learned Special P.P. on instructions had sought time to file brief reply to the present

Application and at his request the Application was adjourned to 2nd April 2025.

1.2) Today Mr. Patil submitted that, on 19th March 2025 he had made a submission before this Court that, the present Application does not pertain to the assignment of this Court, as it is the assignment of the co-ordinate Bench, however it is not recorded in the Order.

1.3) Mr. Patil submitted that, even if the Application does not pertain to the assignment of this Court, he leaves it to the discretion of this Court for adjudicating it. We are unable to appreciate such submissions.

1.4) According to us, Mr. Patil did not make a submission on 19th March 2025 that, the present Application does not pertain to the assignment of this Court and it is the reason the said fact is not recorded in the Order of 19th March 2025.

2) The Hon'ble Supreme Court in the case of *State of Maharashtra Vs. R.S. Nayak & Anr.*, reported in (1982) 2 SCC 463, in para No.4, has observed as under :-

When we drew the attention of the learned Attorney-General to the concession made before the High Court, Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submissions made by him in the High Court. We are afraid that we cannot launch into an inquiry as to what transpired in the High Court. It is simply not done. Public Policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt.

Judges cannot be dragged into the arena. "Judgments cannot be treated as mere counters in the game of litigation". (Per Lord Atkinson in Somasundaram Chetty v. Subramanian Chetty, AIR 1926 PC 136 : 99 IC 742). We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the judges, to call the attention of the very judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. (Per Lord Buckmaster in Madhu Sudan Chowdhri v. Chandrabati Chowdhrair, AIR 1917 PC 30 : 42 IC 527). That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. Of course a party may resile and an appellate court may permit him in rare and appropriate cases to resile from a concession on the ground that the concession was made on a wrong appreciation of the law and had led to gross injustice; but, he may not call in question the very fact of making the concession as recorded in the judgment.

2.1) It is further stated that, the only way to correct the record is to bring the said fact to the concerned Court immediately by way of adopting appropriate proceedings.

3) Admittedly since 19th March 2025 till today the Respondent No.1 did not file any *praecipe* or application for modification of the said Order, to incorporate the said submission of Respondent No.1, as recorded in para

No.1.2 hereinabove.

3.1) According to us, Mr. Patil, after uploading of the Order dated 19th March 2025 on the official website of the High Court of Bombay, ought to have moved this Court immediately, if he had the grievance and objection regarding the assignment of roster, so as to get the Application placed before the appropriate Bench. However, today he has left it to the discretion of this Court.

4) Today Mr. Patil submitted that, the present Application amounts to review of Order/Judgment dated 18th November 2022. We therefore called upon him to justify the said submission, as to whether modification of bail condition would amount to review of an Order/Judgment and is barred under Section 362 of Cr.P.C.. To this query, he submitted that, at this stage he is not ready to justify it with supporting judgments / decisions.

5) Mr. Patil drew our attention to para No.2.8 of Affidavit dated 28th March 2025 of Mr. Pravin Ingawale, Superintendent of Police, National Investigation Agency, Mumbai, which reads as under :-

“Not before the appropriate Bench of this Hon’ble Court – It is humbly submitted that the present IA No. 641 of 2025 is not maintainable as the same is not before the same Hon’ble Division Bench which had passed the judgment and Order dated 18.11.2022.”

5.1) The learned Special PP. has also not enlightened us on the point that, on what basis Mr. Pravin Ingawale, affiant of Affidavit dated 28th March 2025 has made such an averment.

6) According to us, we cannot exercise such discretion in the matter and therefore we direct the Registry to verify the roster and place the Application before the appropriate Bench.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

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