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

CRIMINAL WRIT PETITION NO.887 OF 2019

Cozy Properties Pvt. Ltd. Through its Authorised Signatory Nilesh s/o Kishor Singh Vs.State of Maharashtra and others

| *Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders.* | *Court's or Judge's order* |
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Mr.Firdoz Mirza, Senior Advocate assisted by Mr. Anand Deshpande Advocate and Advocate Isha Deshpande, for the petitioners.
Mr. N.S.Rao, Additional Public Prosecutor for respondent nos.1 to 4.
Mr. P.K.Sathianathan, Advocate for respondent no.5.
Mr.Surendra Singh, Senior Advocate a/w Mr. N.R.Jadhav, Advocate and Mr. Raheel Konhali, Advocate and Mr. Ritesh Dwada, Advocate for respondent no.6.

**CORAM : NITIN W. SAMBRE & MRS. VRUSHALI V. JOSHI, JJ.**
**DATE : MARCH 05, 2025.**

1. Heard.

2. This petition is preferred by the complainant, who is the petitioner no.2, claims to be the Power of Attorney Holder for the petitioner no.1.

3. It is the case of the petitioners that they are owning about thousand acres of land in an around village Kelzar, Ganeshpur, Khapri, Kinhala, Amgaon from Wardha revenue district.

4. The respondent no.6 was granted a contract for construction of the Samruddhi Highway by Nagpur Mumbai Super Communication Expressway Limited (NMSCEL), a company incorporated by the State Government.

5. Accordingly, the respondent no.6 appears to have engaged into a sub-contract with the respondent no.7 and an agreement to that effect

came to be entered into by the respondent no.6 with the respondent no.7 on 27th December, 2018.

6. Alleging that the respondent nos.6 and through their officials and the Directors unauthorizedly excavated minor minerals which led to theft of such minor minerals resulted into lodging of a complaint on 30th July, 2019. The said complaint was directed to the police authorities I.e. respondent no.4. The said complaint was subsequently followed with another complaint by the petitioner no.1 on 20th August, 2019.

7. It appears that the respondent no.4 accordingly registered Crime No.375/2019 based on the aforesaid complaint for an offences punishable under Sections 379, 447, 427, 120-B and Section 34 of the Indian Penal Code against Mr.Anil kumar, an employee of the respondent no.6 and one Ashish Daftari, Director of the respondent no.7 Company. The said complaint further led to filing of the charge-sheet against the aforesaid two accused persons.

8. In the matters of above criminal Act, the petitioners have approached this Court seeking relief of the transfer of investigation to the respondent-Central Bureau of Investigation (C.B.I.).

9. While supporting the case for ordering the transfer of investigation, it is urged by Mr.Mirza, learned Senior Counsel appearing for the petitioner that the ownership of the petitioners can be inferred from the pleadings and material evidence available on record for the

properties from which unauthorizedly minor mineral were extracted which were used for construction by the respondent nos.6 and 7 of Samruddhi Highway. According to him, when the complaint dated 30th July, 2019 in categorical terms alleges an offence punishable under Section 441 of the Indian Penal Code and also of the Mines and Minerals (Development & Regulation) Act, 1957 ("Act of 1957" for short) by the Directors of the respondent nos.6 and 7. The respondent no.4 instead of acting swiftly and diligently, waited for substantial time and based on subsequent complaint proceeded to register a formal offence against the employees and not against the Directors of the respondent no.6 who are real culprits. According to him, the record further depicts that even if the charge-sheet in the matter is submitted in the Court of law, still the investigation is not carried out in diligent and fair manner as such investigation is directed towards absolving the Directors of the respondent no. 6-Company. So as to justify said contentions, Mr.Mirza would invite our attention to the registration of forest offence against the respondent no.6-Company vide Forest Offence No.11/09 punishable under Sections 26(1)(a), (1)(g), 1(h) 1 (d) and (1)(e) of Indian Forest Act, 1927. As such, Mr. Mirza would urge that in relation to the act of theft of minor mineral from the private property, Government property viz forest department, the offences are registered against the respondent nos.6 and 7. Such registration of offences speaks of involvement of multiple investigating agencies. According to him, there is likelihood that all these agencies may carry out individual investigation for the same cause and may give rise to the contradictory version. Such investigation by various agencies on the same issue may lead to the acquittal of the accused. As such it is necessary that the investigation must be carried out by the national and specialised agency like the respondent-C.B.I. So as to substantiate his contention that inspite of there being charge-sheet submitted against the accused persons, the investigation can still be transferred reliance is sought to be placed on the Apex Court judgment in the matter of **Dharam Pal Vs. State of Haryana and others** reported in **(2016) 4 SCC 160** (particularly paragraphs 15 and 16).

10. Mr. Mirza, in addition to above, would urge that the Investigating Officer has failed to abide by the directions issued by this Court on 10th December, 2019 as this Court has specifically directed the Superintendent of Police, Wardha i.e. respondent no.3 to carry out the investigation. However, there is failure on the part of the respondent-Superintendent of Police to carry out the investigation. Based on above he would urge that it can be inferred that the intention of the investigating agency was not to go for fair investigation in the matter. According to him, the complaint, which was lodged by the petitioner no.2 was in fact made available to the respondent no.6 and the respondent no.6 accordingly lodged a complaint against the respondent no.7 based on the contents of the complaint of the petitioner no.2. In such an eventuality, it can be inferred that the respondent

nos.6, 7 and the Investigating Officer were acting hand in glove and there was dearth of fair investigation.

11. Mr. Mirza, in addition to above, would urge that even at the government level, the Government was also supporting the accused persons as could be inferred from the Government Resolution dated 3rd January, 2023, whereby the penalty imposed on the respondent no.6 for illegal excavation was done away with. Mr.Mirza would urge that the same has prompted the petitioners to question the said Government Resolution before this Court and this Court has stayed the effect and operation of the said Government Resolution in independent proceedings.

12. Drawing support from the agreements referred above between the respondent nos.6 and 7 so also the agreement of the respondent no.6 with the company formed by the State Government, he would urge that it was necessary for the respondent no.6 to verify the source of the material which was supplied by the respondent no.7. Such failure on the part of the respondent no.6 has rightly prompted the petitioners to name the Directors of the respondent no.6 as accused persons as their intent was to increase profit margin by illegally procuring the minor minerals.

13. Mr. Mirza, in the aforesaid background, would urge that the Court should be sensitive to the conduct of the State Government of issuing Government Resolution which is stayed in Writ Petition

No.4680/2023 on 26th July, 2023, the initiation of Special Civil Suit No.147/2023 pending on the file of the Civil Judge, Senior Division, Wardha wherein the petitioners have sought recovery of damages to the tune of around Rs.350 crores under various heads from the respondent no.6.

14. In the aforesaid background, it is urged that not only in the facts and circumstances, the investigation can be termed to be unfair but also it is necessary in the interest of justice to direct that the same needs to be transferred to the respondent-C.B.I.

15. In addition to above, Mr.Mirza would urge that the provisions of Section 23 of the Act of 1957 contemplates an offence by the company and its Directors in case of theft of minor mineral. The investigating agency has failed to carry out investigation on the said issue. As such the intention to support or shield the accused can be inferred.

16. As against above, Mr. Surender Singh, learned Senior Counsel appearing for the respondent no.6 and learned Additional Public Prosecutor Mr.Rao would submit that the investigation carried out till this date depicts a fair investigation. According to Mr. Rao, learned Additional Public Prosecutor, though the investigation is carried out and the charge-sheet is signed by the Police Inspector of the local Crime Branch, the Court is required to be sensitive to the affidavit sworn by the Superintendent of Police i.e. the respondent no.3. According to him, the

local crime branch works under the direct supervision of the District Superintendent of Police. The directions issued to the Superintendent of Police by this Court, vide order dated 10th December, 2019, are complied with the investigation in fact is directly supervised by the Superintendent of Police as the same was carried out through local crime branch.

17. According to Mr. Rao, learned Additional Public Prosecutor a supplementary charge-sheet is also submitted in the matter and all the possible witnesses were examined by recording their statements under Section 161 of the Code of Criminal Procedure. According to Mr. Rao, the issue as regards the non-invoking of the Section 23 of the Act of 1957 will be looked into and if so required by the trial Court at an appropriate stage can issue directions or else if so required, a supplementary charge-sheet can be submitted to that effect.

18. As such he would urge that there is no attempt on the part of the Investigating Officer or the Superintendent of Police to over look or not to comply with the directions dated 10th December, 2019 passed by this Court. He would further urge that the fact about the theft of minor minerals and use of same is very much detected and the culprits are brought to the book by filing charge-sheet against them. As such, he has claimed that the investigation carried out till this date is fair and the petition is liable to be dismissed.

19. Mr. Singh, learned Senior Counsel appearing for the respondent no.6 would urge that the issue of theft was first noticed by one Pramod, a Security staff, working with the petitioner no.2. The statement of the said security staff is recorded so also the statement of not only the Directors of the respondent no.6 but also its employees was taken on record pursuant provisions of Section 161 of the Cr.P.C., According to Mr.Singh, the investigation as reflected in the charge-sheet and supplementary charge-sheet would depict that the material stolen was not only discovered but the accused / culprits are booked by filing charge-sheet. According to him, the petitioners had an every intention to target the Directors of the respondent no.6 which in absence of deeming provision the offence being committed by the Directors cannot be invoked against the directors of the respondent no.6 and as such they are rightly so not impleaded as accused persons.

20. So as to substantiate the aforesaid claim, the statement recorded under Section 161 of the Code of Criminal Procedure of the independent witnesses namely Rajesh Jaiwal, Madhukar Masram and Shankar Gedam are sought to be relied on. According to Mr. Singh, the respondent no.7 was admittedly appointed as the Sub-contractor. The Sub-contractor after supplying the minor minerals has raised bills to the tune of Rs.13.5 crores out of which bills of Rs.11.5 crores are paid / cleared. It is not that the procurement of the material by the respondent no.6 was on concessional or at substantially lower cost than that of rates

from the respondent no.7. That being so, in absence of material to that effect, he would claim that the Directors of the respondent no.6 cannot be held liable. So as to substantiate his contention, Mr.Singh has invited our attention to the judgment of the Apex Court in the matter of **Anant Thanur Karmuse Vs. State of Maharashtra and others** reported in **(2023) 5 SCC 802** specifically paragraphs 32 and 34, the judgment in the matter of **Vishal Tiwari (Adani Group Investigation) Vs. Union of India** reported in **(2024) 4 SCC 115** and in the matter of **Sanjay Dutt and others Vs. State of Haryana and another** reported in **2025 SCC Online SC 32**. According to Mr. Singh, unless it is established that the Directors of the respondent no.6- Company were personally involved in the matter of procurement of the stolen material, they cannot be made accused or made criminally liable. As such he would claim that the petition is devoid of merit and is liable to be dismissed.

21. Counsel appearing for the respondent-C.B.I. Mr.Sathianathan, would urge that in the facts and circumstances of the case and having regard to the fact that the investigation is carried out under the direct supervision of the Superintendent of Police under the compliance of the order of this Court, this Court may pass an appropriate order. According to him, however, the Court must be sensitive to the fact that the circumstances in which the Court can

exercise the jurisdiction for ordering transfer of investigation must had regard to.

22. We have considered rival claims.

23. From the rival claims, the necessary facts, which shall be considered for deciding the issue involved in the present petition, vis-a-vis, the transfer of investigation from the local police i.e. respondent No.4 to the Central Bureau of Investigation are as under :

A. The respondent No.6 was awarded contract for construction of stretch of Samrudhi Nagpur Mumbai Super Express Highway.

B. The respondent No. 6 – contractor appointed respondent No. 7 as its sub-contractor for the execution of the part of the work.

C. The respondent No. 7 in the matter of execution of the work in question has extracted minor minerals from the private property of the petitioner, which led to registration of offence and also filing of the charge-sheet.

D. The petitioner has initiated proceedings vide Writ Petition No. 4680/2023, questioning the Government Resolution passed in favour of the respondent accused persons company.

E. Special Civil Suit No. 147/2023 is initiated by the petitioner on the file of the Civil Judge, Senior Division, Wardha, seeking damages to the tune of Rs.350 Crores.

24. The investigating agency has discovered that the employees of the respondent Nos.6 and 7 are engaged in illegal extraction / theft of the minor minerals.

25. The contention that the respondent No.4 has failed to carry out fair investigation in the matter and such investigation is aimed at protecting the Directors of the respondent Nos.6 and 7 – company needs to be appreciated. It is also required to be appreciated that the petitioner is seeking the prosecution of the Directors of the respondent Nos.6 and 7 – company, pursuant to the provisions of Section 23 of the Act of 1957.

26. The fact above as claimed by the petitioner in the theft of minor minerals from the property of the petitioner which led to filing of the charge-sheet sufficiently establishes that the respondent investigating agency was satisfied about the commission of the cognizable offence.

27. The only issue thereafter left for consideration for this Court is whether the investigation needs to be transferred to the Central Bureau of Investigation, just because the Directors of the respondent Nos.6 and 7 – companies are not impleaded as accused persons.

28. If we appreciate the said legal submissions we are required to be sensitive to the provisions of Section 319 of the Code of Criminal Procedure. Section 319 of the Code of Criminal Procedure permits the addition of a person as an accused in case if the sufficient evidence has

been brought to the notice of the Court dealing with the prosecution. The statute i.e. Section 319 of the Code of Criminal Procedure provides for a remedy of addition of the accused to an existing trial, even if such accused are not initially charged and such addition can be at any stage of the enquiry or the trial based on the degree of evidence available against such person. Mr. Rao, learned Additional Public Prosecutor for State has already assures this Court that if so required, the provisions of Section 319 of the Code of Criminal Procedure can be taken recourse to at the time of trial and or if so required by filing supplementary charge-sheet.

29. Similarly, the scheme of Section 216 of the Code of Criminal Procedure contemplates that the alteration of charge which can be done any time before the pronouncement of judgment and such alteration which includes addition of charge if so required, must be put to the accused by explaining the same. It also contemplates giving of appropriate opportunity of hearing to the accused persons.

30. As such in a statute particularly under Section 216 of the Code of Criminal Procedure so also Section 319 of the Code of Criminal Procedure appropriate remedy is provided to redress the grievance which is sought to be canvassed by the petitioner in the present petition. Hence the contention that the Directors are intentionally not impleaded as accused can be looked into by the trial Court at an appropriate stage, if sufficient evidence to that effect is brought to the notice of the trial

Court. In our opinion, merely because the Directors are not impleaded as accused persons of the respondent Nos.6 and 7 – company by itself cannot be stretched so as to draw the conclusion that the respondents particularly the respondent No.4 or the Superintendent of Police, Wardha has carried out investigation in bias and targeted manner so as to absolve or shield the accused persons. Rather the investigation carried out after having perused the papers reflects that there is no element of attempt on the part of the respondent authorities to shake or defeat the confidence of the victim like that of the petitioner or that of the public at large. Rather the investigating agency has filed the charge-sheet, noting that there was a theft of minor minerals and the culprits who were involved in such theft were booked and brought to the trial.

31. That being so, the contention raised by the learned Senior Counsel for the petitioner by drawing support from the judgment of the Hon'ble Apex Court in the matter of **Dharam Pal Vs. State of Haryana** (supra), seeking transfer of investigation to the Central Bureau of India for the aforesaid cause cannot be accepted. Rather the Hon'ble Apex Court in para 24 of the very said judgment has observed that the directions for further investigation by another agency has to be very sparingly issued unless there are mitigating circumstances and compelling reasons.

32. While making the aforesaid observations we are equally required to be sensitive to the vicarious liability of the Directors of the

Companies. The Hon'ble Apex Court has an occasion to deal with such an issue in the matter of **Sanjay Dutta Vs. State of Haryana** (supra), particularly para 11 which reads thus :

> "11. It appears that the Courts below proceeded on the erroneous assumption that the three appellants herein being responsible officers of the company are liable for the alleged offence. While a company may be held liable for the wrongful acts of its employees, the liability of its directors is not automatic. It depends on specific circumstances, particularly the interplay between the director's personal actions and the company's responsibilities. A director may be vicariously liable only if the company itself is liable in the first place and if such director personally acted in a manner that directly connects their conduct to the company's liability. Mere authorization of an act at the behest of the company or the exercise of a supervisory role over certain actions or activities of the company is not enough to render a director vicariously liable. There must exist something to show that such actions of the director stemmed from their personal involvement and arose from actions or conduct falling outside the scope of its routine corporate duties. Thus, where the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provisions to this effect. There has to be a specific act attributed to the director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company."

33. Just because the Directors have authorized a particular act by itself will not lead to drawing the inference that such Directors are criminally liable unless there is specific material to that effect that the Director with *mens rea* had tried to conduct himself in such a manner through his active role in the matter of commission of offence. Similarly, in the matter of **Vishal Tiwari (Adani Group Investigation) Vs. Union of India** (supra), the Hon'ble Apex Court had an occasion to deal with the similar issue in the matter of transfer of investigation. The

Hon'ble Apex Court has held that no doubt, the constitutional Court has power to transfer the investigation, however, such powers are to be exercised sparingly and in extraordinary circumstances. Paragraph No. 32 of the said judgment reads thus :

> "32. This Court does have the power under Article 32 and Articles 142 of the Constitution to transfer an investigation from the authorised agency to CBI or constitute an SIT. However, such powers must be exercised sparingly and in extraordinary circumstances. Unless the authority statutorily entrusted with the power to investigate portrays a glaring, wilful and deliberate inaction in carrying out the investigation the court will ordinarily not supplant the authority which has been vested with the power to investigate. Such powers must not be exercised by the court in the absence of cogent justification indicative of a likely failure of justice in the absence of the exercise of the power to transfer. The petitioner must place on record strong evidence indicating that the investigating agency has portrayed inadequacy in the investigation or prima facie appears to be biased."

34. We do not see any glaring, wilful or deliberate inaction on the part of the investigating agency in the matter of carrying out the investigation in a bias or intentional negligent manner so as to infer that true confidence of the petitioner is shaken

35. Similarly, in the matter of **Anant Thanur Karmuse Vs. State of Maharashtra** (supra), the Hon'ble Apex Court while dealing with similar issue in para 34 has observed thus :

> "34. In the case of Himanshu Kumar and Ors. (supra), this Court had occasion to consider the power of the Court to transfer investigation to any other independent agency. After taking into consideration the catena of judgments on the point, it is reiterated that investigation may be transferred to the CBI only in "rare and exceptional cases". In

paragraphs 44 to 53, it is observed and held as under:-

"44. It is now settled law that if a citizen, who is a de facto complainant in a criminal case alleging commission of cognizable offence affecting violation of his legal or fundamental rights against high Government officials or influential persons, prays before a Court for a direction of investigation of the said alleged offence by the CBI, such prayer should not be granted on mere asking.

45. A Constitution Bench of this Court, in the case of the State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal, reported in (2010) 3 SCC 571, has made the following observations pointing out the situations where the prayer for investigation by the CBI should be allowed: (SCC p.602, para 70)

"70.… In so far as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such powers should be exercised, but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

46. In the above decision, it was also pointed out that the same court in Secretary, Minor Irrigation & Rural Engineering Services, U.P. vs. Sahngoo Ram Arya (2002) 5 SCC 521, had said that an order

directing an enquiry by the CBI should be passed only when the High Court, after considering the material on record, comes to the conclusion that such material does disclose a prima facie case calling for an investigation by the CBI or any other similar agency.

47. In an appropriate case when the Court feels that the investigation by the police authorities is not in a proper direction, and in order to do complete justice in the case and if high police officials are involved in the alleged crime, the Court may be justified in such circumstances to handover the investigation to an independent agency like the CBI. By now it is well-settled that even after the filing of the charge sheet the court is empowered in an appropriate case to handover the investigation to an independent agency like the CBI

48. The extraordinary power of the Constitutional Courts under Articles 32 and 226 respectively of the Constitution of India qua the issuance of directions to the CBI to conduct investigation must be exercised with great caution as underlined by this Court in the case of Committee for Protection of Democratic Rights, West Bengal (supra) as adverted to herein above, observing that although no inflexible guidelines can be laid down in this regard, yet it was highlighted that such an order cannot be passed as a matter of routine or merely because the parties have levelled some allegations against the local police and can be invoked in exceptional situations where it becomes necessary to provide credibility and instill confidence in the investigation or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and for enforcing the fundamental rights.

49. We are conscious of the fact that though a satisfaction of want of proper, fair, impartial and effective investigation eroding its credence and reliability is the precondition for a direction for further investigation or re- investigation, submission of the charge sheet ipso facto or the pendency of the trial can, by no means, be a prohibitive impediment.

The contextual facts and the attendant circumstances have to be singularly evaluated and analyzed to decide the needfulness of further investigation or re-investigation to unravel the truth and mete out justice to the parties. The prime concern and the endeavour of the court of law should be to secure justice on the basis of true facts which ought to be unearthed through a committed, resolved and a competent investigating agency.

50. The above principle has been reiterated in K.V. Rajendra Vs. Superintendent of Polivr CBCID South Zone, Chennai (2013) 12 SCC 480. Dr. B.S. Chauhan, J. speaking for a three-Judge Bench of this Court held:

"13. …This Court has time and again dealt with the issue under what circumstances the investigation can be transferred from the State investigating agency to any other independent investigating agency like CBI. It has been held that the power of transferring such investigation must be in rare and exceptional cases where the court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having "a fair, honest and complete investigation", and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. …"

51. Elaborating on this principle, this Court further observed:

"17. … the Court could exercise its constitutional powers for transferring an investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased."

52. The Court reiterated that an investigation may be transferred to the CBI only in "rare and exceptional cases". One factor that courts may consider is that such transfer is "imperative" to retain "public confidence in the impartial working of the State agencies." This observation must be read with the observations made by the Constitution Bench in the case of Committee for Protection of Democratic Rights, West Bengal (supra), that mere allegations against the police do not constitute a sufficient basis to transfer the investigation.

53. In Romila Thapar v. Union of India (2018) 10 SCC 753, one of us, A.M. Khanwilkar, J., speaking for a three-Judge Bench of this Court (Dr. D.Y. Chandrachud, J. dissenting) noted the dictum in a line of precedents laying down the principle that the accused "does not have a say in the matter of appointment of investigating agency". In reiterating this principle, this Court relied upon its earlier decisions in Narmada Bai v. State of Gujarat, (2011) 5 SCC 79, Sanjiv Rajendra Bhatt v. Union of India, (2016) 1 SCC 1, E. Sivakumar v. Union of India, (2018) 7 SCC 365, and Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542. This Court observed:

"30…the consistent view of this Court is that the accused cannot ask for changing the investigating agency or to do investigation in a particular manner including for court-monitored investigation."

54. It has been held by this Court in CBI v. Rajesh Gandhi, 1997 Cri LJ 63, that no one can insist that an offence be investigated by a particular agency. We fully agree with the view in the aforesaid decision. An aggrieved person can only claim that the offence he alleges be investigated properly, but he has no right to claim that it be investigated by any particular agency of his choice.

55. The principle of law that emerges from the precedents of this Court is that the power to transfer an investigation must be used "sparingly" and only "in exceptional circumstances". In assessing the plea urged by the petitioner that the investigation must be transferred to the CBI, we are guided by the

> parameters laid down by this Court for the exercise of that extraordinary power.”

36. In the aforesaid background, we are of the view that the petitioner has failed to make out a case so as to exercise extraordinary jurisdiction for issuance of direction to transfer the investigation to the Central Board of Investigation.

37. As far as the contention of Mr. Mirza, learned Senior Counsel for the petitioner about the failure of the Superintendent of Police to carry out investigation in compliance with the orders of this Court, we must record the procedural aspect which are adopted in the hierarchy of the police machinery in the matter of investigation. The Superintendent of Police in the State of Maharashtra is the senior most police officer in the District. The local crime branch works under his direct supervision. The Senior Police Inspector, local Crime Branch who has carried out investigation in the matter directly reports to the Superintendent of Police. In the case in hand, the Superintendent of Police has carried out the investigation with the aid and assistance of the Senior Police Inspector of local crime Branch could be noticed from the investigation papers and the charge-sheet. Hence, contentions raised by the learned Senior Counsel for the petitioner that there is failure of the Superintendent of Police, Wardha to carry out investigation cannot be accepted as the same has no legal basis.

38. In the aforesaid background, we are of the view that no case for causing interference in extra ordinary jurisdiction is made out and as such we dismissed this petition accordingly.

39. However, we make it clear that in case if appropriate evidence is brought to the notice of the trial Judge in the matter of an offence being committed by the Directors of the respondent Nos.6 and 7 - Companies, the same be dealt with by the learned trial Judge in accordance with the

provisions of Sections 216 and 319 of the Code of Criminal Procedure or in accordance with other provisions of law.

**(MRS.VRUSHALI V. JOSHI, J.)** **(NITIN W.SAMBRE, J.)**

*Mukund Ambulkar /*
*MP Deshpande*