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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 6713/2019

CHETAN SHARMA

.....Petitioner

Through: Mr. Anil K. Aggarwal and
Mr. Pranjal Singh, Advocates.

versus

DELHI POLICE & ANR

.....Respondents

Through: Mr. Sushil Kumar, ACP with
Mr. Daleep Kumar, Insp., AEKC-
Crime Branch.
Mr. Mukesh Kumar, APP for State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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15.04.2025

[This case is being taken up today as 14th April, 2025 was declared a holiday on account of Ambedkar Jayanti vide Notification dated 7th April, 2025]

1. The present writ petition under Section 482 of the Code of Criminal Procedure, 1973¹ seeks quashing of order dated 7th November, 2019 passed by the Special Judge (PC Act) (ACB-1) in CC No. 307/2019, titled as '*State v. Bipin Chand*'. This order was passed pursuant to a protest petition filed by the Petitioner subsequent to the filing of the chargesheet in FIR No. 114/2008, registered at P.S. Janak Puri.
2. By the impugned order, the Trial Court has directed further investigation in respect of the aforesaid FIR, including investigation against

¹ "Cr.P.C."



the Petitioner for the alleged offence of offering a bribe, under Section 12 of the Prevention of Corruption Act, 1988.²

3. The Petitioner submits that he had previously instituted a Public Interest Litigation, being W.P. (CRL) No. 29/2008, before this Court, wherein he deposited incriminating video evidence recorded by him, purportedly capturing acts of corruption and extortion by certain traffic police officers. In the said proceedings, the Petitioner had prayed for a CBI/magisterial inquiry into the matter, and for prosecution of the police personnel exposed therein.

4. In the said PIL, this Court, by order dated 9th January, 2008, directed an investigation and inquiry to be undertaken by the Commissioner of Police, leading to the registration of FIR No. 114/2008, under Sections 7/13 of the PC Act at P.S. Janak Puri on 9th April, 2008. The investigation of the said FIR was subsequently transferred to the Special Investigation Team of Crime Branch, Delhi Police. Upon culmination of the investigation, the Delhi Police initially filed a combined chargesheet. However, pursuant to directions issued by the Trial Court, the Police was required to file 37 individual charge sheets corresponding to corruption cases registered against 68 accused police officials.

5. Noting certain deficiencies in the investigation and misleading submissions in the chargesheet, the Petitioner filed a protest petition, which culminated in the impugned order. The operative portion of the order is extracted hereinbelow:

“15. In view of the above case law, it is clear that the court can direct further investigation, in the interest of justice, if facts of the case so demand.

16. The court has perused the transcript as well as the video footage

² “PC Act”



today in the court. In the transcript, the name of the accused has not been given. In the video footage, one person can be seen accepting amount from another person and this other person is stated to be Sh. Paramjit Singh, however, the audio in the audio-video footage is not very clear as there is lots of noise and the conversation between the accused and Sh. Paramjit Singh could not be clearly heard by the court.

17. The complainant during arguments stated that the conversation could be heard if headphones are used. Speakers were used but still the audio is very poor. The complainant has stated that he be permitted to help the IO for preparation of the transcript. He has also filed a transcript of the audio-video footage relevant to this case today in court which is marked as Mark-X for the purpose of identification. However, it is felt that it would be proper if the transcript is got prepared through some expert from FSL lab with the help of some scientific method. Also the accused persons have been got identified by the other traffic police officials and thus, their identification by the other police officials is not a proper method and their identification should be conducted by sending their photograph to FSL expert for comparison. The sample voice of the accused as well as Chetan Sharma and Paramjeet have also not been taken and the voice appearing in the audio-video footage has not been got compared with the sample voice of Chetan Sharma, Paramjit and the accused. Certificate U/s 65B Indian Evidence Act of the complainant in support of alleged recording has also not been filed on record by the IO. Copy of writ petition filed by Chetan Sharma before the Hon'ble High Court also not filed on record. Copy of orders dated 23.05.2008 and 04.11.2008 passed by the then Registrar General have been filed. However, copy of orders of Hon'ble High Court dated 09.01.2008, 11.12.2017 and 14.03.2018 not filed. In the present case, it is complainant and Paramjit who stated that they have come to pay the entry fee to the accused and thus, it seems prima facie that it is the complainant who is offering bribe amount to the accused persons. The investigation is, thus, also required from the point of view of section 12 of POC Act against the complainant and Paramjit for giving bribe because giving bribe is also an offence U/s 12 of POC Act and protection of section 24 of POC Act is not available to such a complainant in view of law laid down by the Hon'ble High Court in case of **Bhupinder Singh Patel & Ors. Vs CBI, 2008 VAD(Cr) DHC 293.** It is thus, directed that the present matter be further investigated on the following points:

- (i) The transcript of the conversation in the audio-video footage be got prepared from an FSL lab through scientific method.
- (ii) sample voice of Paramjit and Chetan Sharma be recorded and got compared with the voice of audio-video footage.
- (iii) sample voice of accused be also obtained and be compared with the alleged voice in the audio-video footage through FSL lab.
- (iv) Photograph of the accused be sent to the FSL lab for face identification and comparison with the person in the audio-video footage.



(v) Certificate U/s 65B Indian Evidence Act of the complainant in support of alleged electronic evidence be also obtained and be filed.

(vi) Certified copy of writ petition filed by the complainant before the Hon'ble High Court as well as copy of the relevant orders be also obtained.

(vii) **IO to investigate also from the point of view of section 12 of POC Act.**

18. *The present matter be further investigated on the above points and after the matter is further investigated, all the relevant material collected during further investigation be placed before the sanctioning authority and sanctioning authority to apply its mind afresh and dispose off the request of IO for grant of prosecution sanction U/s 19 of POC Act. Thereafter, the IO may file fresh report/chargesheet as per section 173 Cr.P.C. Application of complainant U/s 173(8) Cr.P.C. disposed off accordingly."*

6. The Trial Court has merely directed further investigation in the matter, which direction falls squarely within the jurisdiction and powers vested in the Trial Court under Section 173 Cr.P.C. It is well settled that a Magistrate is not bound by the conclusions drawn by the police in its final report. In appropriate cases, upon application of judicial mind, the Magistrate may reject the closure report and take a different view. In the present case, the Magistrate, upon a protest petition by the Petitioner, found sufficient grounds to direct further investigation. Thus, any interference by this Court at this stage would amount to short-circuiting the process that is already underway under the Magistrate's supervision.

7. The Petitioner has contended that the Trial Court ought to have extended to him the protection envisaged under Section 24 PC Act, thereby precluding the invocation of Section 12 against him. Although Section 24 of the PC Act has since been omitted, nonetheless, even if it is applicable, the role and involvement of the Applicant in the operation has to be ascertained prior to the grant of such protection to the Petitioner. In this regard, reliance has been placed on the judgment of this Court in ***Bhupinder Singh Patel v.***



CBI,³ wherein it was categorically held that immunity under Section 24 PC Act is extended only where the bribe giver is unwilling to pay illegal gratification to a public servant and approaches the police agency, in order to get the public servant trapped while accepting the bribe. The Trial Court, upon a *prima facie* assessment, suggesting that the Petitioner had offered the bribe amount to the accused persons as per the material on record, directed “*IO to investigate also from the point of view of section 12 of POC Act*”. This direction to conduct investigation from the perspective of Section 12 will enable the Trial Court to evaluate the Petitioner’s role in the sting operation conducted by him, allegedly in the capacity of a whistleblower, thereby demonstrating as to whether the Petitioner’s case falls under Section 24. As already noted, such a direction to conduct further investigation lies well within the jurisdiction of the Trial Court. Accordingly, this Court finds no infirmity warranting interference with the impugned order, at this stage.

8. In view of the foregoing, this Court finds no merit in entertaining the present petition, which seeks to interdict an investigation duly directed by a Court of competent jurisdiction. Accordingly, the petition is dismissed.

SANJEEV NARULA, J

APRIL 15, 2025

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³ 2008 SCC OnLine Del 711.