IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1543 OF 2026

Suresh Nagorao Mahajan … Petitioner

VERSUS

The State of Maharashtra and Another … Respondent

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Mr. S. S. Jadhav, Advocate for the Petitioner
Mr. V. M. Chate, APP for Respondent No.1 – State
Mr. Somnath G. Laddha h/f Mr. N. S. Ghanekar, Advocate for Respondent No.2

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CORAM : HITEN S. VENEGAVKAR, J.
DATE : 30.10.2026

PER COURT :

1. Heard the learned advocate for the Petitioner, learned APP appearing for Respondent No.1 – State and the learned Advocate appearing for Respondent No.2.

2. The Writ Petition challenges the order dated 21.09.2026 passed by the Additional Sessions Judge, Aurangabad below Exhibit – 1484 in Sessions Case No.126/2004. By the said order, the learned Judge has permitted the inquiry report submitted by the then Judicial Magistrate, First Class [JMFC], Mohol, to be exhibited only to establish that an inquiry has been conducted against the Investigating Officer, examined in the present Sessions Case as PW – 17. The prayer in the present Writ Petition is to quash and set aside the said order dated 21.09.2026 passed by the learned Additional Sessions Judge, Aurangabad.

3. The Petitioner states that the prosecution arises from the incident that took place on 15.11.2003. According to the prosecution, a dispute concerning the establishment of a Ganpati Temple and a proposed beer bar led to an altercation at the Gram Panchayat Office, where an inquiry into the said dispute was being conducted. Members of the rival group allegedly assaulted several persons with knives, *gajars*, and by delivering fist and kick blows. A pistol was also allegedly placed against one of the injured persons. Crime No.135/2003 was thus registered at Sillod Rural Police Station for the offences punishable under Section 302, 307, 326 and 323 r/w Section 34 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC'] and Sections 3 and 5 of the Arms Act, 1959 [hereinafter referred to as 'the Arms Act']. The prosecution is pending as Sessions Case No.126/2004.

4. The SDPO – Mr. Arvind Chawariya, who had investigated the crime, has been examined by the learned Trial Court as PW – 17. After his evidence was recorded and the defence has led his evidence, Accused No.19, i.e. Rajendra Jaiswal applied for exhibiting the certified copies of proceedings produced at Serial No.9 of the list at Exhibit – 1373. Those papers concern an inquiry into the complaints of police ill-treatment made by Rajaram Trimbak Dongre and Tau Trimbak Dongre in connection Crime No.240/1999 at Mohol Police Station. The inquiry was conducted pursuant to the directions issued by the Sessions Judge, Solapur and report was submitted on 09.05.2000 by Shri. S. R. Jaiswal, the then Civil Judge, Junior Division and JMFC, Mohol, who was the brother-in-law of Accused No.19, namely, Rajesh Jaiswal. The defence relied upon the relationship of that Magistrate with

Accused No.19 to suggest that PW – 17 bore a grievance against the accused.

4. The learned Advocate for the Petitioner submits that the earlier inquiry concerns and entirely distinct and different crime, relates to different person and the different police station. He submits that its existence has no bearing on the occurrence of the offence, which is being tried. He further submits that PW – 17 was examined and cross-examined by the accused persons and at that time, there was no questioning about any alleged prejudice arising from that inquiry has been put to him. As there is no foundation led for introducing the report, in his submission, the said report cannot be part of the trial that is pending adjudication against the accused persons. According to him, the report being a co-lateral controversy into already prolonged trial and repossessed the prosecution evidence to an unwarranted attack. He therefore submits that the order permitting it to be exhibited is unsustainable.

5. The learned Advocate appearing on behalf of PW – 17 supports the impugned order and submit that it is substantially on the single ground that it being a public document and a certified copy of a report it can be exhibited and relied upon. The learned Advocate submitted that the inquiry at Mohol though had no connection with the present prosecution, the direct involvement of PW – 17 is relied upon only for the purpose of showing bias and prejudice against the accused persons. He supports the order and prays that the Writ Petition be dismissed. The learned Advocate also relies upon Section 155 of the Indian Evidence Act, 1872

[hereinafter referred to as 'the Evidence Act'] in support of his contention.

6. The learned APP opposed the petition on the point that the said report bears no effect upon the present prosecution and is not related to the present trial. The said inquiry report is completely irrelevant and alien to the present prosecution. Thus, he submits that the petition be dismissed with costs.

7. The controversy that is involved and the challenge requires to be considered with the reference to what the learned Sessions Judge has actually permitted while allowing exhibiting the documents. The request to exhibit the entire set of papers has not been granted. The learned Judge has expressly excluded the other documents and has further directed that the contents of the inquiry report shall not be read in evidence. The report has been permitted to be exhibited only to show that the inquiry against PW – 17 has been conducted. Nowhere the order does not accept the allegations of the ill-treatment as proved in the Sessions Case nor does it record any finding that PW – 17 was biased or that his investigation was tainted.

8. Since the Sessions Trial was pending before 01.07.2004, the Evidence Act applied and the Evidence Act continuous to govern by virtue of Section 170(2) of BSA. A report prepared by a Magistrate in the discharge of his official functions is a public document within the purview of Section 74 of the Evidence Act. Section 76 provides for the certified copies of public document and Section 77 permits such copies to be produced as proof of there contents. Section 79 of the Evidence Act provides the applicable presumption of

genuineness. The report can therefore be proved through a duly certified copy without requiring its author to be examined merely to establish that he made and submitted the same. Thus, the procedure which has been laid down in the Evidence Act is clear as to how the exhibited documents even if it is public document to be read in evidence.

9. This, however, answers the question of the mode of proof. It does not dispense with the relevance under Section 5 and Section 136 of the Evidence Act, party tendering a document must show the purpose for which the fact sought to be established is relevant. Equally, proof that an official report was made is different from the proof in the present prosecution that every allegation recounted or conclusion expressed in its is correct. Certification does not make those conclusions binding upon the Sessions Court or establish that the investigation of a later an independent defence was unfair. The Petitioner's submission that inquiry concerns a different crime is absolutely correct and tenable. That circumstance prevents the report from being treated as evidence of the occurrence of 15.11.2003. It does not by itself exclude the possibility that the existence of earlier inquiry may have some bearing upon a properly establish plea concerning the Investigating Officer's maintainability or impartiality. The defence identifies the suggested connection as the relationship between Accused No.19 and Magistrate who conducted the inquiry. Whether that connection has been established by admissible evidence, whether PW – 17 knew about the same and whether the record supports any inference of hostility are absolutely separate questions. None of the issues stands answered merely because the report has received

receipt and exhibit numbers. The omission to question PW - 17 as argued by the learned Advocate for the Petitioner suggests bias requires particular care. The learned Sessions Judge has himself recorded that no such foundation was led in his cross-examination. Under the second exception to Section 153 of Evidence Act a witness who denies a fact suggested to impeach his impartiality may be contradicted. Here the report cannot be treated as contradicting and answer which PW – 17 was never asked to give. Nor can the omission be cured merely by exhibiting it. The observations that the defence may refer to the circumstances already in evidence must therefore be understood as permitting submissions founded on admissible evidence and not as permitting an unsupported imputation of personal hostility to be accepted by the witness.

10. The above-referred distinction is material consideration for the present matter. The Sessions Court may notice the official fact that an inquiry took place. It cannot proceed from that fact alone to hold that PW – 17 resented the inquiry and knew that the relationship now relied upon by the accused that PW – 17 falsely implicated any of the accused persons. If reliance upon the suggested bias becomes material to the decision, the Court must examine the evidentiary foundation and the fairness of drawing that inference only on the basis of the evidence recorded before it. The impugned order correctly neither directs recall or authorizes an adverse findings of bias merely upon the production of the report. In the present case, the learned Sessions Judge, has imposed and expressed restriction upon the use of the report. The Petitioner's apprehension would have substance if the findings

concerning ill-treatment were to be imported into this trial as proof of PW – 17 misconduct or as a substitute for evidence of bias in the present investigation. The learned Trial Judge has already excluded the same. However, in the interest of justice, it is clarified that the observations allowing the defence to advance arguments does not enlarge that limited permission.

11. The learned Advocate for the Petitioner has also relied upon the relationship between the Magistrate and Accused No.19. That relationship is the circumstance upon which the defence seeks to build its plea. It does not establish that an inquiry ordered by the District and Sessions Judge, Solapur was undertaken to favour the accused in a later prosecution. No adjudication upon the correctness of the earlier report or the conduct of its author is necessary for deciding this petition. Its admission for the limited purpose already stated expressly by the learned Trial Court is thus maintained. The submission of the learned Advocate for the Petitioner about the delay also requires to be considered in the present case. The Sessions Case has been pending since 2004 and further delay over the limited exhibiting of the present document therefore needs to be avoided. However on the same, the delay cannot justified exclusion of a defence document which is otherwise lawfully receivable. The appropriate course is to preserve the objection, enforced the restriction on the use and proceed with the trial. The present record does not warrant a finding that this application by itself was an abuse of the process of law.

12. Thus, understood, the impugned order does not cause legal prejudice to the Petitioner so as to exercise supervisory jurisdiction

of this Court for quashing of the said impugned order. The prosecution evidence remains to be assessed by the Trial Court on its own merits. The defence has obtained neither a finding against PW – 17 nor acceptance of the truth of the earlier allegations. The concerned that the report may be used beyond its permitted purpose is sufficiently met by the clarification in this order.

13. For the aforesaid reason, the Writ Petition is accordingly dismissed. The order dated 21.09.2026 below Exhibit – 1484 in Sessions Case No.126/2004 is maintained subject to the clarification that inquiry report shall be used only to establish the fact that the inquiry was conducted. Its allegations and findings shall not be treated as substantive proof of misconduct of PW – 17, bias against any accused persons or unfairness of the present investigation.

14. The Sessions Court shall proceed with the trial expeditiously and decide the case independently on the evidence lawfully recorded before it. The trial is being pending or prolonging since 2004 and the same has been expedited by this Court twice and yet the trial is not concluded. Taking the pendency of the trial since 2004 in consideration, I am of the opinion that the prosecution, accused persons and informant to co-operate the conclusion of the trial and preferably the trial be concluded within a period of four months from today. Nothing observed herein shall be construed as an expression on the guilt or innocence of any other accused. There shall be no order as to costs.

[HITEN S. VENEGAVKAR, J.]