



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 817 OF 2025

Anil Ganjidhar Pawar

VERSUS

Vijaya Tukaram Chaudhary And Others

...

- Mr. Anil Ganjidhar Pawar, Party in Person.
- Mr. A. S. Shinde, APP for Respondent No. 9 - State

...

CORAM : MEHROZ K. PATHAN, J.

DATED : 30.03.2026

ORDER :

1. The petitioner has filed the present petition, thereby praying for quashing and setting aside the order dated 24.04.2025, passed by the learned Sessions Judge, Dhule, in Criminal Revision Application No. 18 of 2025, confirming the order dated 13.03.2025, passed below Exhibit 252 in Regular Criminal Case No. 185 of 2015 by the learned Judicial Magistrate, First Class (Court No. 3), Dhule.

FACTS :-

2. The petitioner, appearing in person, submits that he is the informant in Crime No. 73 of 2014, registered with Deopur Police Station, District Dhule, on 27.04.2014, for the offences punishable under Sections 452, 147, 149, 323, 504, 506, 336 and 427 of the IPC.

He submits that a preliminary investigation was carried out by the Investigating Officer, who conducted the spot panchnama and seizure panchnama, and recorded the statements of witnesses, including the present applicant and the wife of the informant as an eye witness. It is further submitted that the investigation was thereafter transferred to another Investigating Officer, who failed to record the statements of the neighbours of the informant, which has resulted in the weakening of the informant's case. The petitioner-informant, therefore, submits that as the case requires further investigation, an application was moved by him under Section 173(8) of the Cr.P.C., seeking a direction to Deopur Police Station to conduct further investigation and submit its report before this Court.

3. The application was opposed by the accused persons by filing their say, wherein they stated that the charge-sheet was filed in the year 2015 and that the informant had, at that time, obtained permission from the Court to conduct the matter in person. Thus, the informant was aware of the collection of evidence and recording of the statements of the witnesses since the year 2015, and as such, the present application, filed after a lapse of 10 years, cannot now be allowed to fill up the lacuna. It was further contended that the matter is time-bound by the Hon'ble High Court and that the present application has been filed only with an intention to prolong the

proceedings. The Court has already examined the witnesses cited by the prosecution. The Investigating Officer in his deposition has also submitted that there is no lacuna left in the prosecution case. Any further investigation, if allowed, would amount to filling up the lacuna. Hence, the said application deserves to be rejected.

4. The learned Trial Court, vide its order dated 13.03.2025, considered in detail the merits of the case as well as the fact that the application was filed by the present applicant after a lapse of 10 years from the filing of the charge-sheet and after having obtained permission to conduct the matter in person, rejected the application, upon considering all aspects of the matter.

5. The petitioner herein thereafter filed Criminal Revision Application No. 18 of 2025. The learned Revisional Court also considered in detail the fact that the earlier Investigating Officer, Shri V. N. Mistry, had conducted the entire investigation, including preparation of the spot panchnama, arrest panchnama, sketch of the scene of offence, seizure of stones and bricks, and preparation of the muddemal on the basis of the statements of the wife and parents of the informant, had also prepared documents in respect of the vehicle vide Exhibit 241.

6. The Revisional Court further considered the submission of the petitioner that the parents of the petitioner had expired and,

therefore, their statements were of no use to the prosecution, and hence, further investigation ought to be directed. It was also contended that the Investigating Officer had not recorded statements of additional witnesses, such as the neighbours at the place of occurrence, and had not assessed the damage to the window glass through an expert by obtaining a valuation report from the RTO. These submissions were considered in detail.

7. The Revisional Court, however, found that the spot panchnama (Exhibit 210) had already been drawn, reflecting the details of the damage caused to the vehicle, and therefore, no further panchnama of the vehicle was required. The learned Revisional Court further observed that the revisionist/petitioner, appearing in person, had himself conducted the proceedings, and that the application filed after 10 years of the pendency of the trial was only with an intention to fill up the lacuna and, therefore, could not be allowed or entertained.

8. Accordingly, the learned Revisional Court did not find any error in the order passed by the learned Trial Court and upheld the same by rejecting the Criminal Revision Application.

9. The petitioner has approached this Court by filing the present writ petition, challenging both the orders passed by the courts below.

SUBMISSIONS :-

10. The submission of the petitioner is that both the courts below have failed to take into consideration that the initial Investigating Officer, Shri V. N. Mistry, had conducted the investigation; however, the investigation was subsequently transferred to one Mr. B. O. Sonawane. It is contended that Mr. Sonawane failed to record the statements of the neighbours of the informant, which has caused prejudice to the prosecution case.

11. It is further submitted that the Investigating Officer, Mr. Sonawane, not only failed to record the statements of the neighbours present at the time of the incident but also failed to obtain a damage assessment report of the window glass from an expert and did not procure a valuation report from the RTO. Mr. Sonawane also did not record the statements of the police personnel who had visited the house for inspection after the incident.

12. The petitioner, appearing in person, therefore submits that the lacuna deliberately left by the prosecution appears to be with an intention to assist the accused persons in securing an acquittal in the present case. It is, therefore, contended that the application under Section 173(8) of the Cr.P.C. ought to be allowed, with a further direction to the prosecution to conduct further investigation and to submit an additional charge-sheet before the learned Trial Court by

quashing and setting aside impugned order passed by both the Courts below.

13. The petitioner, appearing in person, further submits that the parents of the petitioner expired during the course of the trial and, as such, the prosecution is left with only two witnesses, i.e., the petitioner and his wife. It is contended that the statements of the neighbours at the spot of the incident would help corroborate the evidence of the petitioner and his wife regarding the occurrence of the incident.

14. It is further submitted that the valuation report from the RTO would also assist the prosecution in establishing its case beyond reasonable doubt. Therefore, further investigation under Section 173(8) of the Cr.P.C. is necessary, and appropriate directions are required to be issued to the concerned Investigating Officer in that regard.

REASONING :-

15. I have gone through the orders dated 03.03.2025 passed by the learned Trial Court as well as the order dated 24.04.2025 passed by the learned Revisional Court. A perusal of the case papers and the charge-sheet shows that the charge-sheet was filed in the year 2015 earlier by the subsequent Investigating Officer, Mr. Sonawane, along with the investigation papers prepared by the earlier Investigating

Officer, Shri V. N. Mistry. It is further seen that since the filing of the charge-sheet in the year 2015, the petitioner, appearing in person, has been permitted to conduct the trial himself. Thus, the petitioner was aware of the alleged lacunae in the charge-sheet, if any, since last 10 years before filing of application under Section 173(8) of Cr.P.C.

16. The observations of the learned Revisional Court further indicate that the trial in the present case has been expedited by the High Court.

17. The contention of the petitioner regarding the absence of a separate vehicle panchnama does not, by itself, entitle him to seek further investigation at such a belated stage. The spot panchnama prepared by the then Investigating Officer already contains detailed descriptions of the scene of offence, including the presence of stones and bricks, a damaged bicycle, and a red Fiat car bearing No. MHS-18-E-355, which was found with both headlights broken, the driver-side glass shattered, the right-side glass broken into pieces, and the glass of both doors and the dicky also broken. Thus, the spot panchnama comprehensively records the damage caused to the vehicle due to the alleged incident, and therefore, both the courts below have rightly found that a separate vehicle panchnama was not necessary.

18. Thus, the courts below have found that the application under Section 173(8) of the Cr.P.C. was filed by the petitioner, appearing in person, after a lapse of 10 years from the filing of the charge-sheet in the year 2015. The petitioner had been permitted to conduct the trial in person and had not taken any steps during this period to seek further investigation, nor had he filed any writ petition alleging that the investigation was incomplete or improper.

19. The trial in the present case had been expedited by the High Court with a direction to complete the same within a stipulated period, which has already expired. The present writ petition has been filed at a belated stage of the trial, when even the Investigating Officer has already been examined. Both the courts below have found that the application was filed only with an intention to protract the trial, without there being any substance.

20. Upon perusal of the judgments of both the courts below and the material on record, it is evident that although Section 173(8) of the Cr.P.C. provides that nothing therein shall preclude further investigation after a report under sub-section (2) has been forwarded to the Magistrate, the same does not confer an absolute right upon the petitioner-informant to seek further investigation after a lapse of 10 years from the filing of the charge-sheet, particularly when he has been conducting the trial in person.

21. The Hon'ble Supreme Court, in the case of ***Vinubhai Haribhai Malaviya and Others vs. State of Gujarat and Another***, (2019) 17 SCC 1, has held that the power of the police to carry out further investigation continues till the stage the trial commences. Section 173(8) of the Code of Criminal Procedure is available at all stages of the progress of the criminal case before the commencement of the trial.

22. The Hon'ble Supreme Court, in the case of ***Athul Rao vs. State of Karnataka and Another***, (2018) 14 SCC 298, has held that when the statements of the accused and witnesses are already on record, and further charge-sheets have been filed after thorough investigation of the allegations made by the complainant from all angles, and charges have also been framed, and the case has been set down for trial, then, in such circumstances, it would not be just and proper to direct further investigation.

23. Thus, in my view therefore the stage for issuing directions for further investigation under Section 173(8) of the Cr.P.C. comes to an end once the trial has commenced. In the present case, the trial has not only commenced, but the entire evidence has already been recorded, and the matter has reached the stage of recording the statements under Section 313 of the Cr.P.C. Hence, at such an advanced stage of the trial, an application for conducting further

investigation under Section 173(8) of the Cr.P.C., filed after a lapse of 10 years from the filing of the charge-sheet, was rightly rejected by the learned Trial Court.

24. Upon going through the entire record, I am of the opinion that the petitioner has grossly failed to make out any case for interference by this Court in its extraordinary jurisdiction for directing further investigation under Section 173(8) of the Cr.P.C. I do not find any error in the findings recorded by the courts below.

25. The petition is, therefore, devoid of merit and substance and is accordingly liable to be rejected.

(MEHROZ K. PATHAN, J.)