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Reserved on : 06.08.2026
Pronounced on : 04.11.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 10792 OF 2026

C/W

CRIMINAL PETITION NO. 10798 OF 2026

CRIMINAL PETITION NO. 10808 OF 2026

IN CRL.P No. 10792/2026

BETWEEN:

SHRI JAGADEESH B.G.,
S/O LATE GOWDAIAH,
AGED ABOUT 44 YEARS,
R/O BITTANAKURIKE MAJARE,
GOLLARAHATTI,
DEVALAPURA POST, KORA,
TUMAKURU, KARNATAKA
PINCODE 572 128.

...PETITIONER

(BY SRI ROHIT V.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA

Digitally signed by CHETAN B C
Location: High Court of Karnataka

BY GUBBI POLICE STATION,
BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU – 560 001.

2. THE STATE OF KARNATAKA
REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SPECIAL INVESTIGATION DIVISION (CID),
CARLTON HOUSE, PALACE ROAD,
BENGALURU – 560 001.

3. SMT.B.M.SHASHIKALA
W/O LATE B.SATISH,
AGED ABOUT 50 YEARS,
WORKING AS A THASILDAR,
GUBBI TALUK
TUMAKURU DISTRICT,
PINCODE - 572 216.

…RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE IMPUGNED NOTICE DATED 13.07.2026 ISSUED TO THE PETITIONER BY THE RESPONDENT NO.2 U/S 41A OF THE Cr.P.C (ANNEXURE-D) IN CR.NO.157/2022 U/S 406, 408, 409, 420, 465, 468 R/W 34 OF IPC ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC GUBBI TUMAKUR DISTRICT.

IN CRL.P NO. 10798/2026

BETWEEN:

1. SHRI VIVEK B.C.,
   S/O LATE CHANDRAPPA,
   AGED ABOUT 31 YEARS,
   R/O BYCHENAHALLI VILLAGE,
   KASABA HOBLI, GUBBI TALUK
   TUMAKURU DISTRICT
   PINCODE – 572 216.

...PETITIONER

(BY SRI ROHIT V.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY GUBBI POLICE STATION,
   BY ITS STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDING
   BENGALURU – 560 001.

2. THE STATE OF KARNATAKA
   REPRESENTED BY
   THE DEPUTY SUPERINTENDENT OF POLICE,
   SPECIAL INVESTIGATION DIVISION (CID),
   CARLTON HOUSE, PALACE ROAD,
   BENGALURU – 560 001.

3. SMT.B.M.SHASHIKALA
   W/O LATE B.SATISH,
   AGED ABOUT 50 YEARS,
   GRADE 2,
   WORKING AS A THASILDAR,

TALUK OFFICE, GUBBI TOWN,
TUMAKURU DISTRICT,
PINCODE 572 216.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I)

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE IMPUGNED NOTICE DATED 13.07.2026 ISSUED TO THE PETITIONER BY THE RESPONDENT NO.2 UNDER SECTION 41A OF THE CR.P.C.., (ANNEUXRE-D) IN THE CR.NO.157/2022 PENDING BEFORE THE SENIOR CIVIL JUDGE AND J.M.F.C GUBBI COURT, TUMAKURU.

IN CRL.P NO. 10808/2026

BETWEEN:

1. SHRI K.V.NARAYANA
   S/O LATE SRI VENKATCHALAIAH,
   AGED ABOUT 57 YEARS,
   2ND CROSS, VIDYA NAGARA
   GUBBI TALUK
   TUMAKURU DISTRICT
   PINCODE – 572 216.

...PETITIONER

(BY SRI ROHIT V.R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY GUBBI POLICE STATION,
   BY ITS STATE PUBLIC PROSECUTOR
   HIGH COURT BUILDING

BENGALURU – 560 001.

2. THE STATE OF KARNATAKA
REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SPECIAL INVESTIGATION DIVISION (CID),
CARLTON HOUSE, PALACE ROAD,
BENGALURU – 560 001.
3. SMT.B.M.SHASHIKALA
W/O LATE B.SATISH,
AGED ABOUT 50 YEARS,
WORKING AS A THASILDAR,
GUBBI TALUK
TUMAKURU DISTRICT,
PINCODE – 572 216.

...RESPONDENTS

(BY SRI B.N.JAGADEESHA, SPP-I)

THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE IMPUGNED NOTICE DATED 13.07.2026 ISSUED TO THE PETITIONER BY THE RESPONDENT NO.2 U/S 41A OF CR.P.C. (ANNEXURE-D) ARISING IN THE CR.NO.157/2022 (CC.NO.4207/2022) PENDING BEFORE THE SENIOR CIVIL JUDGE AND JMFC, GUBBI COURT, TUMAKURU.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners/accused who are public servants are alleged of tampering of records. They are now before this Court calling in question notice under Section 41A of the Cr.P.C., issued by the Crime Investigation Department ('CID') which is said to have undertaken further investigation.

2. Heard Sri **Rohit V.R.**, learned counsel appearing for the petitioners and Sri **B.N. Jagadeesha**, learned State Public Prosecutor-1 appearing for the respondents.

3. Facts in brief, germane, are as follows: -

3.1. Criminal Petition No.10792 of 2026 is preferred by accused No.9, Criminal Petition No.10798 of 2026 is preferred by accused No.8 and Criminal Petition No.10808 of 026 is preferred by accused No.12.

3.2. On 02-07-2022 a crime comes to be registered in Crime No.157 of 2022 alleging fabrication and manipulation of

Government land records which becomes the fulcrum of the crime for offences punishable under Sections 406, 408, 409, 420, 465 and 468 r/w 34 of the IPC. The allegation was that the accused have allegedly and illegally manipulated hand written pahanis pertaining to several years. This was called in question before this Court in Criminal Petition No.12246 of 2023 and connected cases. The criminal petitions were allowed in part and the order of taking cognizance was obliterated. The matter was remitted back to the concerned Court with several directions. The prosecution was held to be at liberty to seek and obtain sanction from the hands of the competent authority and place it before the concerned Court.

3.3. Pursuant to the order passed by this Court, the impugned notices have emerged from the hands of the 'CID'. But, in terms of the notices, the CID is undertaking further investigation. It is this that has driven the public servants to this Court in the subject petitions.

4. The learned counsel appearing for the petitioners, Sri Rohit V. R. would vehemently contend that the order was clear, setting aside cognizance and the concerned Court was directed to

continue proceedings only after obtaining sanction. There is no sanction obtained now and placed before the Court, but by the impugned notices, the CID is now wanting to conduct further investigation. He would submit that there can be no further investigation without the leave of the concerned Court as obtaining under Section 173(8) of the Cr.P.C. The learned counsel would further contend that the notices issued under Section 41A of the Cr.P.C. cannot be issued through WhatsApp or through any electronic mode. It has to be only physically served upon the accused. He would submit that the notices are to get over the order passed by this Court in Criminal Petition No.12246 of 2023 and connected cases. As per the notices, the investigation is handed over to the CID. CID is a separate entity and there should be an order of the concerned Court for further investigation. But, the concerned Court also has no power to order further investigation by different investigating agency. That power is vested only with this Court.

5. *Contrariwise*, the learned State Public Prosecutor Sri B.N. Jagadeesha would submit that the CID can take up

investigation at the direction of a superior Police Officer as obtaining under Section 36 of the Cr.P.C. He would submit that there need not be an order directing further investigation, as the jurisdictional police which had investigated had already reserved its liberty for further investigation as obtaining under Section 173(8) of the Cr.P.C. He would seek dismissal of these petitions.

6. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record. In the light of the submissions and contra submissions, the following issues would arise for consideration:

(i) Whether further investigation in a given case can be undertaken without an express order from the hands of the concerned Court?

(ii) Whether the Crime Investigation Department ('CID') is an independent investigating agency and further investigation by the CID would amount to investigation by a different Investigating Officer?

(iii) Whether the CID can undertake further investigation without the express direction of the concerned Court?

ISSUE NO.1:

(i) Whether further investigation in a given case can be undertaken without an express order from the hands of the concerned Court?

7. Section 173(8) of the Cr.P.C., reads as follows:

> "**173. Report of police officer on completion of investigation**.—
>
> … … …
>
> (8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."

Section 173(8) Cr.P.C., mandates that nothing in the Section would be deemed to preclude further investigation in respect of an offence after the report under sub-Section (2) has been forwarded to the Magistrate by the Officer in-charge of the Police Station.

8. The other two provisions that are pressed into service by the leaned State Public Prosecutor are Section 36 of the Cr.P.C. and Section 4 of the Karnataka Police Act. Section 36 of the Cr.P.C.,

empowers that the Police Officers superior in rank to an Officer in-charge of the Police Station may exercise the same powers throughout the local area as if they are appointed, as may be exercised by such other officer within the limits of the station. Section 4 of the Karnataka Police Act, 1963 reads as follows:

> "**4. Superintendence of Police Force to vest in the Government**. - The superintendence of the Police Force throughout the State vests in and is exercisable by the Government and any control, direction or supervision exercisable by any officer over any member of the Police Force shall be exercisable subject to such superintendence."

Section 4 mandates superintendence of Police Force to vest in the Government. It is with these provisions; further investigation is now justified at the hands of the CID.

9. The issue that requires a peripheral answer is, whether further investigation can be done without the express order from the Court. The jurisprudence earlier was that it can be taken.

9.1. The Apex Court in **STATE OF ANDHRA PRADESH v. A.S.PETER**[1], has held as follows:

"…. …. ….

[1] **(2008) 2 SCC 383**

> **9. Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the charge-sheet is a statutory right of the police. A distinction also exists between further investigation and reinvestigation. Whereas reinvestigation without prior permission is necessarily forbidden, further investigation is not.**"

9.2. Again, the Apex Court in **STATE THROUGH CENTRAL BUREAU OF INVESTIGATION v. HEMENDHRA REDDY**[2], has held as follows:

"…. …. ….

"Position of law on the subject of "Further Investigation"

> **56. In *King Emperor* v. *Khwaja Nazir Ahmad* [*King Emperor* v. *Khwaja Nazir Ahmad*, 1944 SCC OnLine PC 29: (1943-44) 71 IA 203] the Privy Council delineated the powers of the police to investigate. It was held thus: (SCC OnLine PC)**
>
> > **"… Just as it is essential that everyone accused of a crime should have free access to a Court of justice, so that he may be duly acquitted if found not guilty of the offence with which he is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry.**
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> > In India as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and

[2] **(2023) 16 SCC 779**

> it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rules by an exercise of the inherent jurisdiction of the Court. **The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Courts to intervene in an appropriate case** when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus."

57. In *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj* v. *State of A.P.* [*Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj* v. *State of A.P.*, (1999) 5 SCC 740: 1999 SCC (Cri) 1047: AIR 1999 SC 2332], it was held in paras 10 and 11: (SCC pp. 742-43)

> "***10*. Power of the police to conduct further investigation, after laying final report, is recognised under Section 173(8) of the Code of Criminal Procedure. Even after the court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. This has been so stated by this Court in *Ram Lal Narang* v. *State (UT of Delhi)* [*Ram Lal Narang* v. *State (UT of Delhi)*, (1979) 2 SCC 322 : 1979 SCC (Cri) 479] . The only rider provided by the aforesaid decision is that it would be desirable that the police should inform the court and seek formal permission to make further investigation.**
>
> *11*. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation."

58. In *Hemant Dhasmana* v. *CBI* [*Hemant Dhasmana* v. *CBI*, (2001) 7 SCC 536: 2001 SCC (Cri) 1280], it was held: (SCC pp. 542-43, paras 15-16)

> "*15*. When the report is filed under the sub-section the Magistrate (in this case the Special Judge) has to deal with it by bestowing his judicial consideration. If the report is to the effect that the allegations in the original complaint were found true in the investigation, or that some other accused and/or some other offences were also detected, the court has to decide whether cognizance of the offences should be taken or not on the strength of that report. We do not think that it is necessary for us to vex our mind, in this case, regarding that aspect when the report points to the offences committed by some persons. But when the report is against the allegations contained in the complaint and concluded that no offence has been committed by any person, it is open to the court to accept the report after hearing the complainant at whose behest the investigation had commenced. If the court feels on a perusal of such a report that the alleged offences have in fact been committed by some persons the court has the power to ignore the contrary conclusions made by the investigating officer in the final report. Then it is open to the court to independently apply its mind to the facts emerging therefrom and it can even take cognizance of the offences which appear to it to have been committed, in exercise of its power under Section 190(1)(*b*) of the Code. The third option is the one adumbrated in Section 173(8) of the Code. …
>
> ***16*. Although the said sub-section does not, in specific terms, mention about the powers of the court to order further investigation, the power of the police to conduct further investigation envisaged therein can be triggered into motion at the instance of the court. When any such order is passed by a court which has the jurisdiction to do so, it would not be a proper exercise of revisional powers to interfere therewith because the further investigation would only be for the ends of justice**."

59. In *UPSC* v. *S. Papaiah* [*UPSC* v. *S. Papaiah*, (1997) 7 SCC 614: 1997 SCC (Cri) 1112], it was held in para 13: (SCC pp. 620-21)

> **"*13*. … The Magistrate could, thus in exercise of the powers under Section 173(8)CrPC direct CBI to "further investigate" the case and collect further evidence keeping in view the objections raised by the appellant to the investigation and the "new" report to be submitted by the investigating officer would be governed by sub-sections (2) to (6) of Section 173CrPC."**

60. This Court in *Hasanbhai* [*Hasanbhai Valibhai Qureshi* v. *State of Gujarat*, (2004) 5 SCC 347: 2004 SCC (Cri) 1603] held thus: (SCC pp. 350-51, paras 12-13)

> **"*12*. Sub-section (8) of Section 173 of the Code permits further investigation, and even dehors any direction from the court as such, it is open to the police to conduct proper investigation, even after the court took cognizance of any offence on the strength of a police report earlier submitted. All the more so, if as in this case, the Head of the Police Department also was not satisfied of the propriety or the manner and nature of investigation already conducted.**
>
> ***13*. In *Ram Lal Narang* v. *State (UT of Delhi)* [*Ram Lal Narang* v. *State (UT of Delhi)*, (1979) 2 SCC 322: 1979 SCC (Cri) 479] it was observed by this Court that further investigation is not altogether ruled out merely because cognizance has been taken by the court. When defective investigation comes to light during course of trial, it may be cured by further investigation, if circumstances so permitted**. It would ordinarily be desirable and all the more so in this case, that the police should inform the court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the matter by

> the courts. **In view of the aforesaid position in law, if there is necessity for further investigation, the same can certainly be done as prescribed by law. The mere fact that there may be further delay in concluding the trial should not stand in the way of further investigation if that would help the court in arriving at the truth and do real and substantial as well as effective justice**."

61. In *Ram Lal Narang* v. *State (UT of Delhi)* [*Ram Lal Narang* v. *State (UT of Delhi)*, (1979) 2 SCC 322: 1979 SCC (Cri) 479], this Court held thus: (SCC p. 338, para 21)

> "*21*. As observed by us earlier, there was no provision in CrPC, 1898 which, expressly or by necessary implication, barred the right of the police to further investigate after cognizance of the case had been taken by the Magistrate. Neither Section 173 nor Section 190 lead us to hold that the power of the police to further investigate was exhausted by the Magistrate taking cognizance of the offence. Practice, convenience and preponderance of authority, permitted repeated investigations on discovery of fresh facts. **In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the court by seeking its formal permission to make further investigation**."

62. In *State of A.P.* v. *A.S. Peter* [*State of A.P.* v. *A.S. Peter*, (2008) 2 SCC 383: (2008) 1 SCC (Cri) 427], this Court held thus: (SCC p. 386, para 9)

> **"*9*. Indisputably, the law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out of a further investigation even after filing of the charge-sheet is a statutory right of the police. A distinction also exists between further investigation and**

reinvestigation. Whereas reinvestigation without prior permission is necessarily forbidden, further investigation is not."

63. In *Nirmal Singh Kahlon* v. *State of Punjab* [*Nirmal Singh Kahlon* v. *State of Punjab*, (2009) 1 SCC 441: (2009) 1 SCC (Cri) 523], this Court held as follows: (SCC p. 467, para 68)

> "*68*. An order of further investigation in terms of Section 173(8) of the Code by the State in exercise of its jurisdiction under Section 36 thereof stands on a different footing. **The power of the investigating officer to make further investigation in exercise of its statutory jurisdiction under Section 173(8) of the Code and at the instance of the State having regard to Section 36 thereof read with Section 3 of the Police Act, 1861 should be considered in different contexts. Section 173(8) of the Code is an enabling provision. Only when cognizance of an offence is taken, the learned Magistrate may have some say.** But, the restriction imposed by judicial legislation is merely for the purpose of upholding the independence and impartiality of the judiciary. It is one thing to say that the court will have supervisory jurisdiction to ensure a fair investigation, as has been observed by a Bench of this Court in *Sakiri Vasu* v. *State of U.P.* [*Sakiri Vasu* v. *State of U.P.*, (2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440] , correctness whereof is open to question, but it is another thing to say that the investigating officer will have no jurisdiction whatsoever to make any further investigation without the express permission of the Magistrate."

64. In *Vinay Tyagi* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762: (2013) 4 SCC (Cri) 557], it was held that "*further investigation*" in terms of Section 173(8) CrPC can be made in a situation where the investigating officer obtains further oral or documentary evidence after the final report has been filed before the court. The report on such further investigation under Section 173(8) CrPC can be termed as a supplementary report.

65. In *Vinay Tyagi* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762: (2013) 4 SCC (Cri) 557], it was held that: (SCC p. 790, para 40)

> **"*40.2*. A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.**
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> ***
>
> ***40.4*. Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).**
>
> ***40.5*. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the court to the extent that even where the facts of the case and the ends of justice demand, the court can still not direct the investigating agency to conduct further investigation which it could do on its own.**
>
> ***40.6*. It has been a procedure of propriety that the police has to seek permission of the court to continue "further investigation" and file supplementary charge-sheet."**

66. In *Vinubhai* [*Vinubhai Haribhai Malaviya* v. *State of Gujarat*, (2019) 17 SCC 1: (2020) 3 SCC (Cri) 228] a three-Judge Bench of this Court has endeavoured to lay at rest the controversy enveloping the evasive issue of further investigation directed by the Magistrate. This Court, speaking through R.F. Nariman, J. has laid down at para 42 that: (SCC p. 39)

> **"*42*. … To say that a fair and just investigation would lead to the conclusion that the**

> **police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases midway through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(*h*) and Section 173(8)CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences.** It would also be in the interest of justice that this power be exercised suomotu by the Magistrate himself, depending on the facts of each case. Whether further investigation should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law."

It was also clarified that: (*Vinubhai case* [*Vinubhai Haribhai Malaviya* v. *State of Gujarat*, (2019) 17 SCC 1: (2020) 3 SCC (Cri) 228], SCC p. 21, para 28)

> "*28*. … The "investigation" spoken of in Section 156(3) would embrace the entire process, which begins with the collection of evidence and continues until charges are framed by the Court, at which stage the trial can be said to have begun."

67. Thus, this Court, in conclusion, observed that: (*Vinubhai case* [*Vinubhai Haribhai Malaviya* v. *State of Gujarat*, (2019) 17 SCC 1: (2020) 3 SCC (Cri) 228], SCC p. 21, para 27)

> "*27*. … when Section 156(3) states that a Magistrate empowered under Section 190 may order "such an investigation", such Magistrate may also order further investigation under Section 173(8), regard being had to the definition of "investigation" contained in Section 2(*h*)."

> **68. Thus, in view of the law laid down by this Court in the various decisions cited hereinabove, it is well settled that sub-section (8) of Section 173CrPC permits further investigation, and even dehors any direction from the court, it is open to the police to conduct proper investigation, even after the court takes cognizance of any offence on the strength of a police report earlier submitted.**"

It is these two judgments which had held the field, where it was observed that sub-section (8) of Section 173 Cr.P.C., permits further investigation de hors any direction from the Court that it would be open to the Police to conduct proper investigation, even after the Court takes cognizance of any offence.

9.3. The judgments delivered at a later point in time would hold otherwise. The Apex Court while interpreting Section 193(9) of the BNSS, which is Section 173(8) of the earlier regime Cr.P.C., observes in **PRAMOD KUMAR v. STATE OF UTTAR PRADESH[3],** as follows:

> ***Analysis***
>
> **26. The power of the investigating agency to order further investigation in any criminal case is derived from the aegis of Section 173(8) CrPC [also refer to Section 193(9) BNSS], which is reproduced as follows:**

[3] **(2026) 5 SCC 308**

> **"173. (8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."**

27. Thus, the powers of the investigating agency for further investigation are not in dispute herein. However, what catches attention here and which is also the crux of the controversy in the present case, is which authority can pass an order directing investigating agency to undertake further investigation under Section 173(8)CrPC.

28. The issue regarding the procedure to be followed for directing further investigation in a case has been dealt with by this Court in *Vinay Tyagi* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , wherein this Court while dealing with the contours of Section 173(8)CrPC relating to further investigation, propounded that the police ought to follow the procedure of seeking permission from the Court to conduct "further investigation" and file a supplementary charge-sheet. The relevant paragraphs from the judgment are reproduced as under: (SCC p. 790, para 40)

> "*40*. Having analysed the provisions of the Code and the various judgments as aforeindicated, we would state the following conclusions in regard to the powers of a Magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code:
>
> ***40.1*. The Magistrate has no power to direct "reinvestigation" or "fresh investigation" (de novo) in the case initiated on the basis of a police report.**

> ***40.2*. A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.**
>
> ***40.3*. The view expressed in sub-para 40.2 above is in conformity with the principle of law stated in *Bhagwant Singh case* [*Bhagwant Singh* v. *Commr. of Police*, (1985) 2 SCC 537 : 1985 SCC (Cri) 267] by a three-Judge Bench and thus in conformity with the doctrine of precedent.**
>
> *40.4*. Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).
>
> *40.5*. The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the court to the extent that even where the facts of the case and the ends of justice demand, the court can still not direct the investigating agency to conduct further investigation which it could do on its own.
>
> ***40.6*. *It has been a procedure of propriety that the police has to seek permission of the court to continue "further investigation" and file supplementary charge-sheet. This approach has been approved by this Court in a number of judgments. This as such would support the view that we are taking in the present case*."**
>
> (emphasis supplied)

29. In this very judgment, this Court while noting that although there is no explicit mandate under Section 173(8)CrPC to seek leave of the Court before conducting further investigation, nevertheless, over the time, a practice has been developed to seek permission of the

Court. Therefore, the practice of seeking the leave of the Court will have to be read into the provisions of Section 173(8)CrPC, and it is essentially a prerequisite for directing further investigation. This Court therein held as follows: (*Vinay Tyagi case* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762: (2013) 4 SCC (Cri) 557] , SCC p. 793, paras 49-50)

> "*49*. Now, we may examine another significant aspect which is how the provisions of Section 173(8) have been understood and applied by the courts and investigating agencies. *It is true that though there is no specific requirement in the provisions of Section 173(8) of the Code to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court. The courts, in some of the decisions, have also taken a similar view.* ***The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to be read into, and is a necessary implication of the provisions of Section 173(8) of the Code. The doctrine of contemporanea expositio will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process*.**
>
> ***50*. Such a view can be supported from two different points of view: firstly, through the doctrine of precedent, as aforenoticed, since quite often the courts have taken such a view, and, secondly, the investigating agencies which have also so understood and applied the principle. The matters which are understood and implemented as a legal practice and are not opposed to the basic rule of law would be good practice, and such interpretation would be permissible with the aid of doctrine of contemporanea expositio. Even otherwise, to seek such leave of the court would meet the ends of justice and also provide adequate safeguard against a suspect/accused**."
>
> (emphasis supplied)

30. The proposition of the law laid down in *Vinay Tyagi* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762: (2013) 4 SCC (Cri) 557] has been further affirmed by the three-Judge Bench of this Court in *Vinubhai Haribhai Malaviya* v. *State of Gujarat* [*Vinubhai Haribhai Malaviya* v. *State of Gujarat*, (2019) 17 SCC 1: (2020) 3 SCC (Cri) 228].

31. This Court has dealt with a similar situation in *Peethambaran* v. *State of Kerala* [*Peethambaran* v. *State of Kerala*, (2024) 16 SCC 65], wherein the District Police Chief i.e. Superintendent of Police, ordered further investigation. This Court therein, while quashing the order passed by the District Police Chief, held that the power to order further investigation rests either with the Magistrate concerned or a higher court, but not with the investigating agency. The relevant paragraphs from the judgment are reproduced as follows: (SCC pp. 74 & 77, paras 19-20 & 28)

> "*19. The Chief Police Officer of a district is the Superintendent of Police who is an officer of the Indian Police Service. Needless to state, an order from the District Police Chief is not the same as an order issued by the Magistrate concerned*. Referring to *Vinay Tyagi* [*Vinay Tyagi* v. *Irshad Ali*, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , this Court in *Devendra Nath Singh* v. *State of Bihar* [*Devendra Nath Singh* v. *State of Bihar*, (2023) 1 SCC 48 : (2023) 1 SCC (Cri) 270] noted that there is no specific requirement to seek leave of the court for further investigation or to file a supplementary report but the investigating agencies, have not only understood it to be so but have also adopted the same as a legal requirement. The doctrine of contemporanea expositio aids such an interpretation of matters which have been long understood and implemented in a particular manner to be accepted into the interpretive process. ***In other words, the requirement of permission for further investigation or to file a supplementary report is accepted within law and is therefore required to be complied with*.**
>
> *20*. In the facts at hand, it is clear that such a permission was never taken, granted or ordered. Consequently, FR-II is without basis. In FR-I it has been stated that in the absence of any documents in respect

> of the financial transactions, the instant case may be treated as a false case. This, then would necessarily imply that after due investigation conducted by a duly authorised person, the conclusion is that the ingredients of the section mentioned in the FIR have not been met and no case is made out.
>
> ***
>
> ***28*. In terms of second question, the above discussion makes clear that the District Police Chief, Kottayam could not have ordered further investigation, as that power rests either with the Magistrate concerned or with a higher court and not with an investigating agency."**
>
> (emphasis supplied)

32. In light of the legal position as settled by this Court through the above judgments, it is safe to say that the power to direct further investigation in a case rests solely at the discretion of the Magistrate/Court concerned. In the event, the police/investigating agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves. Once such an application is filed by the investigating agency, the Magistrate/Court would apply its judicial mind, in light of the facts and circumstances of the particular case and the reasons demonstrated by the investigating agency, in order to exercise its discretion for exercise of its power to decide whether or not further investigation is to be ordered under the purview of Section 173(8)CrPC.

33. In the present case, the Under Secretary to the State of Uttar Pradesh, *vide* its Letter dated 6-6-2019, directed that the investigation in the matter would be conducted by CBCID. The Under Secretary also recommended that further investigation under Section 173(8)CrPC be conducted through its letter addressed to NHRC dated 12-2-2021. Consequently, the investigating officer of CBCID wrote a letter dated 22-4-2021 to the Judicial Magistrate, Firozabad, requesting to grant permission to conduct further investigation under Section

173(8)CrPC and provide a copy of the case diary. However, the Court did not pass any order to the extent of requisitioning the investigating officer to conduct further investigation.

34. Further, *vide* letter dated 26-4-2021, the Superintendent of Police informed the Additional Superintendent of Police/Divisional Officer, Crime Branch, AAD, Agra, about the nomination of the IO in the present case and directed him to complete the investigation expeditiously, submit monthly progress reports, and forward the final report upon completion of the investigation.

35. Thus, it is amply clear that the Superintendent of Police acted in complete defiance of the procedure laid down under the law while passing orders directing further investigation without seeking leave of the Court. It is an unbecoming conduct from the officer of such a rank to exercise unfettered powers, in excess of its jurisdiction, thereby undermining the authority vested in the court of law."

9.4. Again, in **PALINISWAMY VEERARAJA v. STATE OF KARNATAKA[4],** the Apex Court holds as follows:

"…. …. ….

9. On both these questions, the law is no longer *res integra*. True it is that, as held in *Rama Chaudhary* v. *State of Bihar*, the text of Section 173(8) CrPC does not explicitly mandate seeking of permission from the Magistrate and neither does 193(9) BNSS. However, the *proviso* to the said Section mandates that permission of the Court is explicitly required once the trial has begun. Even though the statute does not require express permission, the law as it has developed, has made abundantly clear that seeking of permission from the

[4] **2026 SCC OnLine SC 940**

concerned Magistrate has evolved into a requirement. In *Vinay Tyagi* v. *Irshad Ali*, it has been held as follows:

> "**49.** Now, we may examine another significant aspect which is how the provisions of Section 173(8) have been understood and applied by the courts and investigating agencies. It is true that though there is no specific requirement in the provisions of Section 173(8) of the Code to conduct "further investigation" or file supplementary report with the leave of the court, the investigating agencies have not only understood but also adopted it as a legal practice to seek permission of the courts to conduct "further investigation" and file "supplementary report" with the leave of the court. The courts, in some of the decisions, have also taken a similar view. **The requirement of seeking prior leave of the court to conduct "further investigation" and/or to file a "supplementary report" will have to be read into, and is a necessary implication of the provisions of Section 173(8) of the Code. The doctrine of contemporanea expositio will fully come to the aid of such interpretation as the matters which are understood and implemented for a long time, and such practice that is supported by law should be accepted as part of the interpretative process.**

This proposition was approved in *Vinubhai Haribhai Malaviya* v. *State of Gujarat* and reiterated in *Peethambaran* v. *State of Kerala*. Recently, in *Robert Lalchungnunga Chongthu* v. *State of Bihar*, this Bench observed as follows:

> "**21.** Before parting with this matter, we deem it fit to issue the following directions:
>
> **(i)** In view of *Vinay Tyagi* v. *Irshad Ali*, it can be seen that the '*leave of the court*' to file a supplementary chargesheet, is a part of Section 173(8) CrPC. That being the position, in our considered view, the Court is not rendered *functus officio* having granted such permission. **Since the further investigation is being made with the leave of the Court, judicial stewardship/control thereof, is a function which the court must perform.**

(ii) Reasons are indispensable to the proper functioning of the machinery of criminal law. They form the bedrock of fairness, transparency, and accountability in the justice system. **If the Court finds or the accused alleges (obviously with proof and reason to substantiate the allegation) that there is a large gap between the first information report and the culminating chargesheet, it is bound to seek an explanation from the investigating agency and satisfy itself to the propriety of the explanation so furnished.**

The direction above does not come based on this case alone. This Court has noticed on many unfortunate occasions that there is massive delay in filing chargesheet/taking cognizance etc. This Court has time and again, in its pronouncements underscored the necessity of speedy investigation and trial as being important for the accused, victim and the society. However, for a variety of reasons there is still a lag in the translation of this recognition into a reality.

(iii) While it is well acknowledged and recognised that the process of investigation has many moving parts and is therefore impractical to have strict timelines in place, at the same time, the discussion made in the earlier part of this judgment, clearly establishes that investigations cannot continue endlessly. The accused is not out of place to expect, after a certain point in time, certainty- about the charges against him, giving him ample time to preparing plead his defence. **If investigation into a particular offence has continued for a period that appears to be unduly long, that too without adequate justification, such as in this case, the accused or the complainant both, shall be at liberty to approach the High Court under Section 528 BNSS/482 CrPC, seeking an update on the investigation or, if the doors of the High Court have been knocked by the accused, quashing. It is clarified that delay in completion of investigation will only function as one of the grounds, and the Court, if in its wisdom, decides to entertain**

this application, other grounds will also have to be considered.

(iv) Reasons are not only important in the judicial sphere, but they are equally essential in administrative matters particularly in matters such as sanction for they open the gateway to greater consequences. Application of mind by the authorities granting or denying sanction must be easily visible including consideration of the evidence placed before it in arriving at the conclusion.

[emphasis in original]"

The Apex Court in the judgments rendered in the year 2026 quoted *supra* emphasise on the importance of an order from the Magistrate or the concerned Court for further investigation, despite the previous judgments being relied upon. Therefore, the judicial tone today is that further investigation must be brought to the notice of the concerned Court, particularly after filing the final report before it. The permission of the concerned Court to conduct further investigation would be imperative. Therefore, in the case at hand, the claim for further investigation is contrary to law. In this context it is necessary to notice the direction issued by this Court in Crl.P.No.12246 of 2023 and connected cases while obliterating the order of cognizance. It reads as follows:

"..... ....

12. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petitions are **allowed in part**. The order of taking cognizance in each of the cases stand obliterated.

(ii) Matters are remitted back to the hands of the concerned Court for two actions viz.,

(a) Redrawing the order of taking cognizance by an order which will bear application of mind;

(b) Taking cognizance against public servants only if an order of sanction is placed before the Court by the prosecution.

(iii) **The prosecution is at liberty to seek and obtain sanction from the hands of the Competent Authority and place it before the concerned Court. Once sanction is obtained and placed before the concerned Court, the concerned Court is at liberty to proceed further from the stage of taking cognizance. Same goes with private persons who are accused. The proceedings will continue from the stage of taking cognizance, bearing in mind the observations made in the course of the order."**

This Court only permitted the concerned Court to continue the proceedings against the accused once there was an order of sanction. The order of sanction is yet to be obtained. Even before the order of sanction, the CID has sprung into action in issuing the impugned notices. This is *sans* countenance, as there was no permission either from this Court or from the concerned Court for

further investigation. Therefore, the orders issued in furtherance of the further investigation is contrary to law. This is the first illegality in the notices so issued.

ISSUE NOS.2 AND 3:

(ii) Whether the Crime Investigation Department ('CID') is an independent investigating agency and further investigation by the CID would amount to investigation by a different Investigating Officer?

(iii) Whether the CID can undertake further investigation without the express direction of the concerned Court?

10. The learned State Public Prosecutor-I has projected that the CID is not an independent agency and as such, it would not amount to further investigation at the hands of the CID. It is only continuation of investigation as obtaining under Section 173(8) of the Cr.P.C. I have already answered the aforesaid issue holding that further investigation *suo motu* taken up by the CID is contrary to law. Whether the CID is an independent agency or is just like any other jurisdictional police station is required to be noticed.

11. It need not detain this Court for long or delve deep into the matter. The CID/Corps of Detective was established in the year 1974 by the Government of Karnataka in terms of a Government order dated 15-04-1974. The nomenclature of Corps of Detective was changed on 03-06-2009 from COD to CID. It is further reorganized in terms of a Government order dated 12-02-2013. What does CID comprise of is as follows:

> "The Corps of Detectives was established during the year 1974 by the Government of Karnataka vide order No.HD 229/PEO/73 dated 15-04-1974. The nomenclature was changed by the Government vide Order No.OE/127/COD/2008 dated 03-06-2009 as Criminal Investigation Department. It was further re-organized vide Order No. HD 04 POP 2013 dated 12-02-2013.
>
> The Government has established Criminal Investigation Department to investigate important major cases, economic and financial offences which would require special knowledge of both law and investigation and achieve maximum result in detection of crimes, thereby instilling confidence and good faith among the public in police administration.
>
> **(i) ORGANIZATION:**
>
> (i) The Criminal Investigation Department comprises of the following branches;
>
> 1. Criminal Investigation Department.
> 2. Economic Offences Wing.
> 3. Cyber Crimes and Narcotics
> 4. CID-Forest Cell
>
> (ii) The Criminal Investigation Department is headed by an officer of the rank of Director General of Police who is assisted by officers of the rank of Additional Director

> General of Police/Inspector General of Police, Deputy Inspector General of Police and Officers of other ranks. This organization is under the overall administrative control of the Director General and Inspector General of Police, Karnataka State.
>
> … … …"

Therefore, by no stretch of imagination CID can be declared another jurisdictional Police and the Officer of the CID, an Officer in-charge of the Police Station as obtaining under Section 2(o) of the Cr.P.C.

12. The High Court OF Andhra Pradesh considers the issue in great detail as to whether the CID and Law and Order Police are separate investigative agencies. The High Court OF Andhra Pradesh in **VELAGAPUDI GOWRI VENKATA RAMANA v. STATE OF ANDHRA PRADESH**[5], holds as follows:

"…. …. ….

> **POINTS FOR DETERMINATION**
>
> **16.** The points arising for determination in these petitions are:
>
> (1) **Whether the CID and the Law & Order Police are independent investigating agencies under the control of the Director General of Police, Andhra Pradesh?**

[5] **2026 SCC OnLine AP 4253**

(2) **Whether the Additional Director General of Police, CID, A.P., Mangalagiri, is an "Officer-in-charge of the police station" as defined under Section 2(*o*) CrPC, or is otherwise competent to *suomotu* transfer further investigation in Crime Nos. 261 and 288 of 2019 on the file of Tuni Rural Police Station?**

(3) Even otherwise, whether the impugned exercise, in any event, amounts to an unauthorised reinvestigation rather than further investigation, having regard to the absence of fresh material and of prior permission of the jurisdictional Magistrate?

DETERMINATION BY THIS COURT

Point No. 1:Whether the CID and the Law & Order Police are independent investigating agencies under the control of the Director General of Police, Andhra Pradesh?

17. The material on record discloses that Crime Nos. 261 of 2019 and 288 of 2019 were originally registered and investigated by the Tuni Rural Police Station. Investigation in both crimes was concluded and reports were filed. In Crime No. 261 of 2019, cognizance was taken and the matter was numbered as S.C. No. 158 of 2021. In Crime No. 288 of 2019, the final report was also filed, however, cognizance could not be taken because of the interim orders passed by a coordinate Bench of this Court in W.P. No. 5613 of 2020.

18. The impugned proceedings reveal that, subsequent to the withdrawal of W.P. No. 5613 of 2020 on 14-10-2024 and after a change in the political governance of the State, the Additional Director General of Police, CID, by proceedings dated 11-11-2024, directed the Deputy Superintendent of Police, CID, Rajamahendravaram, to undertake further investigation in the above crimes.

19. The contention of the Petitioners is that the CID is a distinct investigating agency and cannot assume jurisdiction over an investigation already completed by the local police

merely on the basis of administrative instructions. The Andhra Pradesh Crime Investigation Department is undoubtedly a specialised investigative wing constituted by State Government. **Though the CID and the Law & Order Police both function, administratively, under the overall supervision of the Director General of Police, they are distinct investigative establishments with separate organisational hierarchies, jurisdictions and functional responsibilities. The administrative control exercised by the Director General of Police over both wings does not erase the distinction between the investigating agency that originally investigated the offence and another specialised agency subsequently entrusted with the investigation. This distinction assumes significance because erstwhile Section 173(8) CrPC, which is now Section 193(9) of the BNSS, 2023, contemplates continuation of the earlier investigation, not substitution of one investigating agency by another.**

20. In *Mekala Madhusudhan Reddy* (supra), a coordinate Bench of this Court elaborately examined the scope of further investigation after filing of the final report, and held that further investigation is only a continuation of the earlier investigation and cannot be converted into a fresh or de novo investigation by a different investigating agency through executive instructions. It was emphasised that the statutory scheme does not confer unfettered administrative power on superior police officers to substitute the investigating agency once investigation has concluded with the filing of a report before the competent court.

21. The above finding of the coordinate Bench was not based merely in a general characterisation of the CID as a specialised wing, but specifically it is based in the Standing Order 866-1 of Chapter 44 of the Andhra Pradesh Police Manual, which enumerates the particular classes of cases that the CID may take up and expressly provides that "without the orders of Addl. DGP C.I.D or DGP no enquiry or investigation shall be taken up by C.I.D", confirming that the CID's jurisdiction to investigate is specialised, not a general, overriding power exercisable over any case already under investigation by the Law & Order Police**. It was further noted that this**

separateness was reinforced on the facts before it by a judicial admission in the CID officer's own counter-affidavit, which described the CID as "an independent investigating agency". It was also emphasised that statutory scheme does not confer unfettered administrative power on superior police officers to substitute the investigating agency once investigation has concluded with the filing of a report before the competent court.

22. In view of the said ratio, this Court holds that although both the CID and the Law & Order Police function under the administrative control of the Director General of Police, they remain separate investigating agencies for purposes of criminal investigation, and one cannot automatically substitute the other merely through executive instructions. Point No. 1 is answered accordingly.

Point No. 2:

> ***Whether the Additional Director General of Police, CID, A.P., Mangalagiri, is an "Officer-in-charge of the police station" as defined under Section 2(o) CrPC/*Section 2(p) BNSS, 2023*, or is otherwise competent to suomotu transfer further investigation in Crime Nos. 261 and 288 of 2019 on the file of Tuni Rural Police Station?***

23. Section 2(o) CrPC, which is now Section 2(p) BNSS, 2023, defines an "Officer-in-charge of a police station" in similar way in the following terms;

> ***"officer in charge of a police station" includes, when the officer in charge of the police station is absent from the station-house or unable from illness or other cause to perform his duties, the police officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the State Government so directs, any other police officer so present;***

24. It is also relevant to extract Section 36 CrPC which is now Section 30 BNSS which deals with the powers of superior officers of police, in similar way in the following terms;

> ***Powers of superior officers of police.— police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.***

25. In the instant case, the State contends that the Additional Director General of Police, being a superior police officer, can exercise powers under Section 36 CrPC (Section 30 of the BNSS). This contention cannot be accepted on the facts of the present case. Section 36 CrPC (Section 30 of the BNSS) merely enables superior officers to exercise powers exercisable by officers-in-charge of police stations, it does not authorise such an officer to bypass the statutory framework governing investigation after submission of the police report, nor does it permit substitution of one investigating agency by another, independent, investigating wing. **In the present case, the Additional Director General of Police, CID, is admittedly not the Officer-in-charge of Tuni Rural Police Station, where both crimes were registered, nor is he the successor investigating officer in those crimes. His authority flows only from the administrative order transferring the investigation. The expression "Officer-in-charge of a police station," occurring in Section 173(8) CrPC (Section 193(9) of the BNSS, 2023), must be read with the scheme of Chapter XII CrPC Further investigation is intended to supplement the earlier investigation and, therefore, ordinarily has to be undertaken by the same investigating agency, through its officer or successor officer.**

26. The decision in *Mekala Madhusudhan Reddy* (supra) holds that the CID cannot assume jurisdiction as an Officer-in-charge merely on the strength of administrative Standing Orders, unless the law specifically authorises such transfer. This Court also holds that the Additional Director General of Police, CID,

cannot be treated as the Officer-in-charge of Tuni Rural Police Station merely because he holds a superior police rank, nor is he shown to be otherwise competent, under Section 36 CrPC (Section 30 of the BNSS) or any other provision, to *suomotu* transfer further investigation in Crime Nos. 261 and 288 of 2019. Point 2 is answered accordingly.

Point (3)

Even otherwise, whether the impugned exercise, in any event, amounts to an unauthorised reinvestigation rather than further investigation, having regard to the absence of fresh material and of prior permission of the jurisdictional Magistrate?

27. Independently of the finding on Points 1 and 2, and even assuming the CID could otherwise be treated as competent to conduct further investigation, this Court proceeds to examine whether the impugned exercise, on its own facts, satisfies the statutory requirements of "further investigation" under Section 173(8) CrPC (Section 193(9) of the BNSS, 2023), or whether it amounts, in substance, to reinvestigation. For that purpose, the statutory provisions are extracted below;

CrPC	**BNSS**
Section 173 Report of police officer on completion of investigation	**Section 193 Report of police officer on completion of investigation**
(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, ***the officer in charge of the police*** station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in	**(9)** Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, ***the officer in charge of the police station obtains further evidence, oral or documentary***, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government

relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).	may, by rules, provide; and the provisions of sub-sections (3) to (8) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (3): ***Provided that further investigation during the trial may be conducted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may be extended with the permission of the Court.***

28. "Investigation" as defined in Section 2(*l*) of the BNSS includes all the proceedings under BNSS for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf. The Supreme Court in *H.N. Rishbud* v. *State of Delhi* categorized the steps involved in an investigation as follows;

> "….investigation consists generally of the following steps:(1) Proceeding to the spot (2) Ascertainment of the facts and circumstances of the case (3) Discovery and arrest of the suspected offender (4) Collection of evidence relating to the commission of the offence which may consist of (a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit (b) the search of places of seizure of things considered necessary for the investigation and to be produced at the trial, and (5) Formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial and if so taking the necessary steps for the same by the filing of a charge-sheet under Section 173."

29. Section 193 (1) BNSS, corresponding to Sec. 173 (1) CrPC enjoins that the investigation must be completed without "unreasonable delay".

30. In this case, admittedly investigation in both crimes had already been completed, reports had been filed, and Crime No. 261 of 2019 is coming up for trial. The writ petition filed by Respondent 6 seeking reinvestigation was withdrawn with liberty to pursue remedies available under law. Immediately thereafter, representations were made to political authorities, and, consequent thereto, administrative memos were issued transferring the investigation to the CID. The memo dated 2-12-2024 itself shows that the transfer was made on the basis of a representation submitted by the *de facto complainant* to the Chief Office. The memo does not disclose discovery of any fresh evidence or newly discovered material, nor does it mention any witness coming forward with new facts. The only basis reflected in the record is dissatisfaction expressed by the *de facto complainant* and his family members regarding the earlier investigation. Mere dissatisfaction of the complainant cannot constitute the legal foundation for invoking Section 173(8) CrPC (now Section 193(9) of the BNSS). **It is settled principle that further investigation must arise from discovery of fresh material, it cannot become an instrument to reopen completed investigations indefinitely. Nor, on the record as it stands, was any permission sought from, or granted by, the jurisdictional Magistrate before the CID undertook further investigation a safeguard which assumes particular significance on the facts of this case.** The pleadings disclose allegations that the Petitioners were called to the police station, shifted to a private lodge, questioned regarding a particular political leader, compelled to name him while being video-recorded, and forced to sign blank papers. Though these allegations are denied, the Respondents have not filed any substantive counter-affidavit explaining the circumstances necessitating such interrogation after the charge-sheet was filed.

31. In *Mekala Madhusudhan Reddy* (supra), it was categorically held that executive transfer of investigation to another agency, under the guise of further investigation, cannot be sustained as it amounts to reinvestigation. The present case stands on a stronger footing, since investigation had already been completed years earlier and one case had already reached the stage of trial. Accordingly, and independently of the findings on Points 1 and 2, the impugned proceedings dated 11-11-2024, transferring

investigation to the CID, cannot be sustained on this ground either. **This finding does not preclude the original investigating agency from seeking appropriate orders under Section 193(9) of the BNSS before the competent court, if legally permissible and upon the existence of genuine fresh material.**

32. It is well settled that an administrative order affecting the rights of parties must disclose the reasons for the action taken and an order bereft of reasons is liable to be interfered with in exercise of the power of judicial review under Article 226 of the Constitution of India. **In *Mekala Madhusudhan Reddy* (supra), following the judgments of the Supreme Court in *Kranti Associates (P) Ltd.* v. *Masood Ahmed Khan*, *Union of India* v. *Mohan Lal Capoor* and *West Bengal Central School Service Commission* v. *Abdul Halim*, it was held that an administrative order transferring investigation from one agency to another, if it does not disclose the reasons or the material that prompted the transfer, is vitiated for want of reasons and cannot be sustained on judicial review.** The proceedings impugned in the present writ petitions suffer from the same infirmity, the memo dated 1-12-2024 discloses no reason beyond *de facto complainant*'s dissatisfaction, and nothing on the record explains what prompted the exercise of the power at this stage, years after the final report was filed. This point is answered accordingly.

33. The principles governing the scope and limitations of further investigation have been consistently reiterated by the Supreme Court. **The power of further investigation is undoubtedly available to the investigating agency even after filing of the charge-sheet, however, that power is intended to facilitate discovery of truth, not to provide an opportunity to reopen concluded investigations on mere dissatisfaction or administrative direction. The distinction between further investigation and reinvestigation, the requirement of fresh material, the necessity of maintaining continuity of the investigating agency, and the limits on the authority of the Additional Director General of Police, CID, to conduct further investigation in a case where the earlier investigation was conducted by another agency, have been repeatedly emphasised by the**

Supreme Court. The relevant principles emerging from these judgments are discussed below.

34. In *Ram Lal Narang* (supra), the Supreme Court held that the filing of a police report under Section 173 CrPC, and the Magistrate's taking of cognizance, do not bar the police from conducting further investigation if fresh evidence comes to light. Such investigation is necessary to ensure that all relevant facts including the involvement of new accused or the innocence of existing accused are brought before the Court. While the investigating agency may conduct further investigation and submit a supplementary report, the ultimate discretion regarding further proceedings rests with the Magistrate. **It was also observed that as a matter of judicial propriety, the police should ordinarily inform the court and seek its permission before undertaking further investigation after cognizance has been taken.**

35. In *Vinay Tyagi* (supra), the Supreme Court drew a clear distinction between further investigation and fresh/de novo/reinvestigation. **Further investigation under Section 173(8) CrPC is a continuation of the original investigation, undertaken to collect additional evidence, and results in a supplementary report without affecting the validity of the earlier investigation. A fresh or de novo investigation, by contrast, completely displaces the earlier investigation and can be directed only by the higher Constitutional Courts in exceptional circumstances, where the original investigation is shown to be unfair, tainted, or mala fide. The Court emphasised that this extraordinary power should be exercised sparingly, and only to secure a fair investigation and uphold the ends of justice.**

36. In *K. Vadivel* (supra), the Supreme Court, reiterating the principles in *Hasanbhai Valibhai Qureshi* v. *State of Gujarat* and *Ram Lal Narang* (supra), held that further investigation under Section 173(8) CrPC is permissible even after filing of the charge-sheet, where fresh material or circumstances emerge necessitating a complete and fair investigation. It was reiterated that the object of further investigation is to discover the truth and ensure effective justice, and that delay in trial cannot, by itself, be a ground to refuse such investigation. At the same

time, it was clarified that further investigation cannot be permitted as a fishing or roving enquiry, or merely to fill lacunae in the prosecution case; there must be a reasonable basis demonstrating that further investigation is essential to serve the ends of justice.

37. The Supreme Court, in *Hemendhra Reddy* (supra), emphasised that the prime consideration for permitting further investigation under Section 173(8) CrPC is discovery of the truth and the advancement of real, substantial, and effective justice. **The Supreme Court, in *Chandra Babu* (supra), reiterated that while a Magistrate is empowered to direct further investigation, he has no jurisdiction to order a fresh, de novo, or reinvestigation, particularly by a different investigating agency. Relying on *Vinay Tyagi* (supra), it was held that the power to direct fresh, de novo, or reinvestigation, or to transfer investigation from one agency to another, is vested exclusively in the superior Constitutional Courts, in exercise of their powers under Section 482 CrPC or Article 226 of the Constitution, and is to be exercised sparingly in exceptional cases.**

38. In *K. Chandrasekhar* (supra), the Supreme Court held that, once a case has been entrusted to the CBI, further investigation in respect of the same case can be conducted only by the CBI. The State Government cannot authorise the State Police to undertake further investigation by withdrawing consent, as such action would be contrary to the continuity and lawful control of an investigation already entrusted to the CBI. The notification enabling the State Police to investigate further was accordingly held invalid and unsustainable in law.

39. In *Peethambaran* (supra), the Supreme Court reiterated the principle laid down in *Hemant Dhasmana* v. *CBI* namely, that the power of the police can be set in motion only upon the order of the Court, and that such order should not be interfered with even in exercise of the revisional jurisdiction of a higher Court.

40. In *Bohati Devi* (supra), the Supreme Court, while quashing the order directing reinvestigation by the

CBCID, reiterated the distinction between further investigation and reinvestigation under Section 173(8) CrPC It was held that, while the investigating officer has statutory power to conduct further investigation even after filing of the charge-sheet, that power does not extend to ordering reinvestigation or transferring investigation to another agency without the permission of the competent court. Administrative authorities, including Secretary (Home), have no jurisdiction to direct reinvestigation by another agency, since investigation is governed by the scheme of the CrPC and must be conducted by the concerned investigating officer under the supervision of the Superintendent of Police. The composite High Court of Andhra Pradesh in *Ravikrindi Ramaswamy* (supra), relying on *K. Chandrasekhar* (supra), categorically held that further investigation in a case can be carried out only by the original agency.

41. The High Court of Kerala, in *Anish Anand* (supra), relying on *Peethambaran* and *Chandra Babu* (supra), categorically held that the investigating agency has every right to conduct further investigation under Section 173(8) CrPC, however, it is well settled that further investigation must be conducted by the same agency that conducted the earlier investigation, and not by a different agency.

42. Even in *Balaji Govindappa* (supra), which is relied upon by the learned Advocate General, this Court categorically held that, Sec. 173(8) CrPC (Section 193(9) of BNSS) provides further investigation by the same agency. For holding fresh investigation or reinvestigation, fresh permission of the Magistrate is required. Section 193(9) of BNSS is a corresponding version of Section 173(8) of CrPC, but with a newly added proviso that stipulates that the further investigation during the trial may be conducted with the permission of the Court trying the case and it shall be completed within a period of 90 days, extendable with the permission of the Court. In such circumstances, this Court is of the view that the judgment in *Balaji Govindappa* (supra) has no application to the facts of the present case, where the impugned action amounts to an attempt to reopen a concluded

investigation under the guise of further investigation that too by a different investigating agency.

43. The learned Advocate General relied on the judgment in *A.S. Peter* (supra). However, this Court respectfully distinguishes that decision for the same reasons as given by coordinate Bench in *Mekala Madhusudhan Reddy* (supra). As explained by the coordinate Bench, *A.S. Peter* (supra) did not consider (i) the meaning of "superior police" under the Andhra Pradesh (Andhra Area) District Police Act, 1859 (ii) the meaning of "Officer-in-charge of a police station" under Section 2(o) CrPC or (iii) the limited and specific powers given to the CID under Chapter 44 of the Andhra Pradesh Police Manual. Instead ***A.S. Peter* (supra) proceeded mainly on the ground that the Additional Director General of Police, CID, was a higher-ranking police officer. It did not examine whether his higher rank gave him the power, under Section 36 CrPC, to transfer an investigation from one independent investigating agency to another. For this reason, the coordinate Bench did not follow *A.S. Peter* (supra) in a similar matter. It instead relied on the later Supreme Court decision in *Chandra Babu* (supra), which did not refer to *A.S. Peter* (supra) and on detailed reasoning in *Vinay Tyagi* (supra). These decisions indicate that transferring an investigation from one independent agency to another is a power that belongs to the superior Constitutional Courts. Therefore, for the same reasons given by the coordinate Bench, this Court respectfully declines to apply *A.S. Peter* (supra) to the present case.**

44. Moreover in *A.S. Peter* (supra), the Supreme Court upheld further investigation conducted by the CID after the local police had already filed a charge-sheet, and rejected specific objection that further investigation could not be undertaken by a different investigating agency. However, the further investigation in that case was preceded by a memo filed by the CID before the jurisdictional Magistrate seeking an adjournment, which the Magistrate allowed so that, even though no express permission for further investigation appears to have been separately recorded, the exercise proceeded with the jurisdictional Court apprised of it. In the present case in contrast, it is not in dispute that no such intimation was

made to or permission sought from the jurisdictional Magistrate before the CID commenced further investigation. This distinction goes to the safeguard of judicial oversight that the Supreme Court in *Ram Lal Narang* (supra) identified as a matter of propriety in the exercise of the power of further investigation.

45. In view of the foregoing discussion and the facts and circumstances of the present case, this Court is of the view that further investigation under Section 173(8) CrPC, now Section 193(9) of BNSS, is only a continuation of the earlier investigation and cannot be used to substitute the original investigating agency or to conduct a fresh or de novo investigation. The present case involves investigation already completed by the Tuni Rural Police Station, filing of final reports, and, in one case, commencement of trial. **The impugned proceedings transferring the matter to the CID do not disclose any fresh material or newly discovered evidence warranting further investigation, but instead seek to reopen the concluded investigation through a different investigating agency. The principles laid down in the judgments relied upon by the Petitioners, particularly regarding the distinction between further investigation and reinvestigation, the necessity of continuity of the investigating agency, and the limitations on administrative authorities in transferring investigations are directly attracted to the facts of the present case.**

46. For the aforesaid reasons, this Court holds that:

(*i*) The CID and the Law & Order Police, though administratively under the Director General of Police, are distinct investigating agencies

(*ii*) The Additional Director General of Police, CID, cannot be treated as the Officer-in-charge of Tuni Rural Police Station, nor is he otherwise shown to be competent, for the purpose of assuming jurisdiction under Section 173(8) CrPC, now Section 193(9) of the BNSS

> **(*iii*) Even otherwise, the administrative proceedings transferring Crime Nos. 261 of 2019 and 288 of 2019 to the CID for "further investigation" are, on their own facts in the absence of fresh material and of prior permission of the jurisdictional Magistrate beyond the scope of Section 173(8) CrPC, now Section 193(9) of the BNSS and substantially amount to an un-authorised reinvestigation."**

Now, the CID thus cannot mean itself another wing of the police that can undertake further investigation as obtaining under Section 173(8) of the Cr.P.C. This would undoubtedly amount to investigation by a different agency, which cannot be without the direction of this Court

13. The other submission that is projected is under Section 36 of the Cr.P.C. This has borne interpretation in the very judgment relied on in the case of **VELAGAPUDI GOWRI VENKATA RAMANA**'s case. The same would be applicable to the issue on hand as well. Earlier to this judgment in **MEKALA MADHUSUDHAN REDDY v. DIRECTOR GENERAL OF POLICE**[6], the High Court of Andhra Pradesh holds as follows:

"…. …. ….

[6] **2020 SCC OnLine AP 964**

85. No doubt, further investigation can be done by the 'officer-in-charge of the police station', in view of the power vested on such officer by virtue of Section 173(8) Cr.P.C even without obtaining permission from the jurisdictional Magistrate or Sessions Court and file final report or reports on collection of additional evidence, but not by any person other than the 'officer-in-charge of the police station'. Learned Government Pleader for Home contended that the Additional Director General of Police or Deputy Superintendent of Police, C.I.D, Kurnool are the senior officers of the police department and they are entitled to conduct further investigation. But, I am unable to agree with the view of the learned Government Pleader for Home, for the reason that, the Additional Director General of Police, C.I.D, A.P and Deputy Superintendent of Police C.I.D, Kurnool are members of a different Investigating Agency which is claiming to be a premier Investigating Agency in the State level under the control of the State Police Organisation. The claim of the C.I.D as a premier investigating agency is nothing but rodomontade, that means boastful or inflated talk or behaviour of the agency.

86. Section 36 Cr.P.C deals with powers of superior officers of police. According to it, the Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

87. Though the jurisdiction of the Additional Director General of Police, C.I.D, A.P is extended throughout the State, he is not officer-in-charge of the police station or superior officer of officer-in-charge of the police station for conducting further investigation within the meaning of Section 2(o) read with Section 173(8) Cr.P.C as stated above. The power under Section 36 Cr.P.C has to be exercised by District Police Chief who by virtue of the said section is empowered to appoint an officer above the rank of an officer in charge of a police station to exercise the same powers as may be exercised by an 'officer-in-charge of the police station'.

…. …. ….

91. By referring various judgments, the Apex Court subsequent to *Peter's case*, concluded as follows:

> ***"Whether the Magistrate should direct "further investigation" or not is again a matter which will depend upon the facts of a given case. The learned Magistrate or the higher court of competent jurisdiction would direct "further investigation" or "reinvestigation" as the case may be, on the facts of a given case. Where the Magistrate can only direct further investigation, the courts of higher jurisdiction can direct further, reinvestigation or even investigation de novo depending on the facts of a given case. It will be the specific order of the court that would determine the nature of investigation."***
>
> ***21. We respectfully concur with the said view. As we have already indicated, the learned Chief Judicial Magistrate has basically directed for further investigation. The said part of the order cannot be found fault with, but an eloquent one, he could not have directed another investigating agency to investigate as that would not be within the sphere of further investigation and, in any case, he does not have the jurisdiction to direct reinvestigation by another agency. Therefore, that part of the order deserves to be lancinated and accordingly it is directed that the investigating agency that had investigated shall carry on the further investigation and such investigation shall be supervised by the concerned Superintendent of Police.***

92. The view expressed by the Apex Court in *Chandra Babu alias Moses* v. *State* (referred supra) is somewhat contrary to the law declared by the Apex Court in *Peter case* referred above. But, the judgment in *Chandra Babu alias Moses* v. *State* (referred supra) is later in point of time and there is no reference about the judgment in *State of A.P.* v. *A.S. Peter* (referred supra) in the latter judgment. In any view of the matter, it is relevant to refer certain provisions of Police Act at this

stage, since the powers of different police authorities are prescribed under the Act.

93. According to Section 5 of Andhra Pradesh (Andhra Area) District Police Act, 1859, the administration of the Police throughout the General Police District shall be vested in an officer to be styled as the Director General for the Andhra area of the state of Andhra Pradesh and on such superior Police officers as to the state government shall deem fit.

94. Similarly, Section 6 of the Andhra Pradesh Andhra Area District Police Act, 1859, deals with the powers of police. According to it, all Powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing police authorities appointed under this Act provided always that no police authorities appointed shall process or exercise any judicial or revenue authority.

95. The word "superior police' is also defined under Section 1 of the Andhra Pradesh Andhra Area District Police Act, 1859, which is substituted by A.P Act No. 12 of 1989 w.e.f 10.05.1989 and it is as follows:

> ***"The expression superior police shall mean the director of the police inspector General of Police, Commissioner of Police, District Superintendent of Police, Deputy Commissioner of Police, Assistant Commissioner of Police, Assistant Superintendent of Police and Deputy Superintendent of Police."***

96. The expression "subordinate police" is defined as under:

> ***"the expression subordinate police shall mean all police officers of and below the rank of an inspector."***

97. Thus, the Additional Director General of Police, C.I.D, A.P falls under the definition of 'superior police officer' but belonging to a different Investigating Agency of the State. Therefore, an officer of a different Investigating Agency cannot be said to be Superior Police

Officer to exercise power of further investigation under the guise of Section 173(8) Cr.P.C. In *State of A.P.* v. *A.S. Peter* (referred supra), the Apex Court did not advert to the definitions of 'superior police officer' under Andhra Pradesh (Andhra Area) District Police Act, 1859, and 'officer-in-charge of the police station' under Section 2(o) of Cr.P.C and also the duties of C.I.D Police enumerated under Chapter 44 of AP Police Manual, but, simply concluded that the Additional Director General of Police, C.I.D is a superior officer in rank."

(Emphasis supplied at each instance)

I am in respectful agreement with what the High Court of Andhra Pradesh has held. Therefore, all the issues are to be held in favour of the petitioners. The notices so issued by the respondent through WhatsApp again smacks of illegality, which need not be gone into in the light of their power to issue notices not being permitted in law.

14. For the aforesaid reasons, the following:

O R D E R

(i) Criminal Petitions are **allowed**.

(ii) Impugned notices dated 13-07-2026 issued by the 2nd respondent/CID are all obliterated.

(iii) All other directions in the earlier Criminal Petition Nos. 12246 of 2023 and connected cases decided on 16-06-2026 would stand in-tact.

Pending applications if any, also stand disposed.

This Court places its appreciation to the able assistance rendered by Miss. Diya Miria Abraham, Law Clerk cum Research Assistant attached to this Court.

Sd/-
(M.NAGAPRASANNA)
JUDGE

BKP