

Shekhar Jagtap 20 (1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.3839 OF 2024

WITH

WRIT PETITION NO.722 OF 2024

WITH

INTERIM APPLICATION NO.3033 OF 2024

WITH

INTERIM APPLICATION STAMP NO.5602 OF 2024

Shekhar Kakasaheb Jagtap

Petitioner

Vs.

State of Maharashtra & Anr.

Respondents

WITH

WRIT PETITION NO.737 OF 2024

Kishor Shamrao Bhalerao

.. Petitioner

Vs.

State of Maharashtra & Anr.

..Respondents

WITH

WRIT PETITION NO.750 OF 2024

Shyamsundar R. Agarwal & Anr.

.. Petitioners

Vs.

State of Maharashtra & Anr.

..Respondents

WITH

WRIT PETITION NO.4923 OF 2024

Manohar Narsappa Patil

.. Petitioner

Vs.

State of Maharashtra & Anr.

..Respondents

WITH

WRIT PETITION (STAMP) NO.19375 OF 2024

Sardar Namdeo Patil

.. Petitioner

Vs.

State of Maharashtra & Anr.

..Respondents

**WITH
CRIMINAL APPLICATION NO.1140 OF 2024**

Sanjay Pandey

.. Applicant

Vs.

State of Maharashtra

..Respondent

.....

Mr. Rajiv Shakdher, Senior Advocate (through VC) a/w Mr.Karan Khetani, Ms. Sairuchita Chowdhary & Mr.Akash Pandey, Advocates for the Petitioner in WP/722/2024 & WP/3839/2024.

Mr. Satyavrat Joshi (through VC) a/w Mr. Priyesh More, Advocates for the Petitioner in WP/4923/2024.

Mr. Mihir Desai, Senior Advocate a/w Mr. Pavan S. Patil, Mr. P. S. Gole, Mr. Shubham Saraf & Mr. Tanmay A. Deshmukh, Advocates for the Petitioner in WP/750/2024.

Mr. S. B. Talekara/w Ms. Madhavi Ayyappan & Mr. Aditya Madane i/b Talekar & Associates, Advocates for the Petitioner in WP/737/2024.

Mr. Manoj Mohite, Senior Advocate a/w Mr. Shailesh Chavan, Mr. Veerdhawal Deshmukh, Mr. Rohan Hogle, Mr.Sachin Pawar, Mr. Hrishikesh Avhad & Mr. Pranjal Jadhav, Advocates for the Petitioner in WPST/19375/2024.

Mr. Mihir Desai, Senior Advocate a/w Mr. Rahul Kamerkar& Ms. Aparajita R. Jha, Advocates for the Applicant in APL/1140/2024.

Mr. Sudeep Pasbola, Senior Advocate, Special Public Prosecutor a/w Mr. J. P. Yagnik, Additional Public Prosecutor, Mr. Ayush Pasbola, Mr. Chinmay Godse, Mr.Rohin Chouhan & Ms. Harshada Shirsath, Advocates for the Respondent-State in WP Nos.3839/2024, 4923/2024, (St)19375/2024 & APL/1140/2024.

Mr. J. P. Yagnik, Additional Public Prosecutor for the Respondent-State in WP Nos.722/2024, 737/2024 & 750/2024.

Mr. Rizwan Merchant a/w Mr. Dilip H. Shukla for the Respondent-Original Complainant in all petitions.

Mr. Salil Balkrishna Bhosale, Senior Police Inspector, Unit 5,

Crime Branch, Thane.

Mr. Swapnil Wagh, IO/API – Colaba PS.

**CORAM : SHREE CHANDRASHEKHAR, CJ &
SUMAN SHYAM, J.**

JUDGMENT

RESERVED ON :- 21st JANUARY 2026.

PRONOUNCED ON :- 20th MAY 2026

Per, Shree Chandrashekhar, CJ :-

In compliance of the order dated 3rd November, 2025 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Criminal) No.17480 of 2025, the writ petitions vide Writ Petition Nos.3839 of 2024 and 722 of 2024 filed by Shekhar Jagtap were listed for hearing on 18th November, 2025 before a Bench constituting the Chief Justice of the High Court of Bombay. On that day, the other Writ Petitions and Criminal Application arising out of the same First Information Reports were also listed together along with the aforesaid Writ Petitions filed by Shekhar Jagtap. These Writ Petitions and Criminal Application have been heard on different dates and reserved for judgment on 21st January, 2026.

2. Criminal Writ Petition No. 3839 of 2024 seeks quashing of the First Information Report bearing CR No. 742 of 2024 registered on 26th August 2024 at Thane Nagar PS on the allegation of commission of the offences under sections 166A, 120B, 170, 193, 195, 199, 203, 205, 207, 352, 355, 384, 389, 465, 466, 471 and 506 of the Indian Penal Code. The complainant, namely, Sanjay Mishrimal Punamiya who claims to be a permanent resident of the City of Mumbai stated that Sanjay Pandey, Shekhar Jagtap, ACP Sardar Patil, PI Manohar Patil, Shyamsundar Agarwal, Shubham Agarwal and Sharad Agarwal were involved in commission of the

aforesaid crime in furtherance of a criminal conspiracy hatched by them with their unknown associates. Criminal Writ Petition No. 722 of 2024 has been filed by Shekhar Jagtap for quashing of CR No. 46 of 2024 registered on 3rd March 2024 at Colaba PS on a written complaint given by Sanjay Mishrimal Punamiya alleging commission of certain offences by Shekhar Jagtap, Shyamsundar Agarwal, Sharad Agarwal, Kishor Bhalerao and their associates. In his complaint dated 3rd March 2024, Sanjay Mishrimal Punamiya alleged commission of the offences under sections 170, 420, 465, 467, 468, 471, 474 and 120B of the Indian Penal Code by the aforesaid accused persons. With a similar prayer seeking quashing of the criminal proceedings against them, Kishor Shamrao Bhalerao, Shyamsundar R. Agarwal, Sharad M. Agarwal, Manohar Narsappa Patil, Sardar Namdeo Patil and Sanjay Pandey have also approached this Court invoking its jurisdiction under Article 226 of the Constitution of India; Criminal Application No.1140 of 2024 has been filed by Sanjay Pandey under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023.

3. The complainant who is the second respondent states that there were criminal cases lodged against him which are either pending investigation or a charge-sheet has been filed against him. He has also lodged criminal complaints against Shyamsundar Agarwal, Shekhar Jagtap, Chhota Shakeel and others, which are pending in different Courts. He extensively refers to the proceedings in CR No.299 of 2021 which was registered at the instance of Shyamsundar Agarwal at Marine Drive PS for the commission of offence on 20th October 2021 under sections 387, 388, 380, 403, 420, 423, 464, 465, 497, 468, 471, etc. In CR No. 46 of 2024, he alleges that he was arrested in CR No.299 of 2021

and Shekhar Jagtap appeared on behalf of Shyamsundar Agarwal in the Court of 8th Metropolitan Magistrate Killa Court, Mumbai but, at the same time, Shekhar Jagtap pressed for his second remand on 29th July 2021 in his capacity as Special Public Prosecutor. He further alleges that Shekhar Jagtap appeared as Special Public Prosecutor in other cases also including the proceedings of Criminal Writ Petition No.2646 of 2023 which was filed by Akbar Pathan seeking quashing of CR No.299 of 2021. Making further allegations against Shekhar Jagtap, the second respondent states that the application filed by the Investigating Officer for obtaining voice sample of Chhota Shakeel in CR No.35 of 2021 was dismissed on 5th January 2022. In that case, Shekhar Jagtap appeared for the State of Maharashtra without any permission and ensured that the application for voice sample of Chhota Shakeel is rejected so as to save Shyamsundar Agarwal in the said case. Constrained, he filed a Miscellaneous Application in the Sessions Court for obtaining the voice sample of Chhota Shakeel and Shekhar Jagtap again appeared in the said case as Special Public Prosecutor and opposed the said application. In CR No.176 of 2021, which was filed on 23rd July, 2021 at Kopri PS by Sharad Agarwal who is a relative of Shyamsundar Agarwal, Shekhar Jagtap opposed his pre-bail application and also appeared in Bail Application No.2812 of 2021 filed by him and made false statement that he is the Special Public Prosecutor. He also appeared without any authority in CR No.365 of 2021 which was registered under sections 379 and 120-B of the Indian Penal Code, section 72 of the Information Technology Act and section 21 of the Indian Telegraph Act.

4. In CR No.742 of 2024 which was lodged on 26th August 2024

against Shekhar Jagtap and six other persons, the second respondent made an allegation that there was a criminal conspiracy hatched by the accused persons to remove Parambir Singh from the post of Police Commissioner, Mumbai and to implicate Parambir Singh and other political leaders by lodging false criminal cases. The accused persons drafted two First Information Reports and provided a pen drive to Suchita Deshmukh who was the Thane Police Officer to register criminal cases against him, Sunil Mangilal Jain, Parambir Singh, Akbar Pathan, Shrikant Shinde, Asha Kokate, Nandkumar Gopale, Sanjay Patil and other Police Officers. However, she declined to register a First Information Report and then Shyamsundar Agarwal called a few IPS Officers who instructed Suchita Deshmukh to register a crime. Thereafter, the police arrested him and Sunil Jain from their house after registering a crime and they were produced in the Court on 22nd July 2021. At that time, Shekhar Jagtap appeared in the case as a lawyer representing Shyamsundar Agarwal. The second respondent further alleged that Sharad Agarwal who is the nephew of Shyamsundar Agarwal provided another pen drive to the police at Kopri PS at around 5:00 am on 23rd July 2021 and Crime No.176 of 2021 was registered against him, Sunil Jain, Manoj Ghatekar, Parag Manere and Parambir Singh. He alleged that the accused persons lodged false cases to pressurize him to give statement against Parambir Singh and other political leaders. The second respondent has also referred to CR No.201 of 2016, which was registered at Thane Nagar PS on 20th November 2016 for offences under sections 420, 467, 468, 470, 471, 120-B of the Indian Penal Code. He further alleged that besides the lodging of false criminal cases, the investigation in

Crime No.201 of 2016 was reopened and he was made accused in the said case about five years after its registration in which he was initially cited as a witness. The second respondent further alleged that Shekhar Jagtap appeared as a Special Public Prosecutor without any authority in Crime No.201 of 2016 and ensured that his bail application is rejected. According to the second respondent, he came to know about an observation made by Mr. Kakani, a Judge, on 23rd June 2021 that he was being threatened by a Police Officer. He has also made an allegation that Shekhar Jagtap appeared on behalf of Raju Hiramal Shah in the anticipatory bail application filed by Dilip Gheware in the Thane Sessions Court falsely projecting Raju Hiramal Shah as the complainant in the case.

5. Mr. Rajiv Shakhder, the learned senior Counsel appearing for Shekhar Jagtap submitted that on a bare reading of the allegations made in the First Information Report no offence is made out. The petitioner was appointed as Special Public Prosecutor is a matter of record and the allegations made by the second respondent are a reflection of his grudge against Shekhar Jagtap for opposing his pre-bail and bail applications. It is submitted that the registration of the First Information Reports on the complaints made by the second respondent is an abuse of the process of law and this is a fit case for exercise of power under Article 226 of the Constitution.

6. Mr. Mihir Desai, the learned senior counsel appearing for Shyamsundar R. Agarwal and Sharad Agarwal contended that the complaints lodged by the second respondent are actuated with *malafides* and intended to take revenge on the petitioners. Mr. Mihir Desai, the learned senior counsel appearing for Sanjay Pandey submitted that the allegation against this Applicant is baseless and

mere *ipse dixit* of the second respondent. The other learned counsels appearing for the accused-petitioners advanced similar arguments and contended that the criminal complaints filed by the second respondent are manifestly frivolous and malicious. Mr. Sudeep Pasbola, the learned senior counsel and Special Public Prosecutor opposed the prayer for quashing of the criminal proceedings against the accused persons. However, the learned Special Public Prosecutor could not deny that a 'C' Summary report has been filed by the police.

7. *Per contra*, Mr. Rizwan Merchant, the learned counsel appearing for the second respondent contended that Shekhar Jagtap who had previously appeared for Shyamsundar Agarwal and Raju Shah was not acting as the Special Public Prosecutor and he was trying to protect Shyamsundar Agarwal all the time. He appeared in several cases by virtue of a forged appointment order which is not found in the records and the said document is still to be recovered from him. The learned counsel further submitted that Shekhar Jagtap had direct interest in the matter but he accepted to become the Special Public Prosecutor, and Kishor Bhalerao helped him in manipulating the Government records. Sanjay Pandey also joined them and transferred the investigation of MCOC-CR No.35 of 2021 to the State CID Crime Branch without any reason. The submission made at the Bar is that there was a conspiracy between the accused persons to implicate the second respondent in false criminal cases.

8. The Court is duty bound to examine the matter with greater care where quashing of the criminal proceedings is demanded on the ground that such proceedings are manifestly frivolous or malicious. In "*Sujay Ghosh*,"¹ the Hon'ble Supreme Court held that the High Court owes a duty to look into many other attending circumstances

1 *Sujay Ghosh v. The State of Jharkhand &Anr.* 2026 SCC OnLine SC 454

emerging from the record of the case and try to read in between the lines when a ground is set up that the criminal proceedings are frivolous or vexatious. The Hon'ble Supreme Court observed as under:

“14. When an accused seeks quashing of either the FIR or criminal proceedings on the ground that such proceedings are manifestly frivolous, vexatious or malicious, the Court is duty bound to examine the matter with greater care. It will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the averments and, if need be, with due care and circumspection, and try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the Code or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.”

9. The gravamen of allegation against Shekhar Jagtap is that he appeared in several cases against the second respondent on the basis of a forged and non-existent letter of his appointment as Special Public Prosecutor. To challenge the appointment of Shekhar Jagtap as Special Public Prosecutor, the second respondent refers to RTI information provided to him on 18th August, 2023. He was provided certified copy of the letter appointing Shekhar Jagtap as Special Public Prosecutor in CR No.299 of 2021 and CR No.35 of 2021 dated 29th July 2021 but no information was provided to him in respect of the letter dated 6th August 2021 by which Shekhar Jagtap was allegedly appointed as Special Public Prosecutor by Kishor Bhalerao. On the other hand, Shekhar Jagtap has brought on record a copy of the letter dated 21st July 2021 written by the Joint Commissioner of Police (Law

and Order) Mumbai to the Principal Secretary, recommending his name for appointment as a Special Public Prosecutor. The appointment letter dated 29th July 2021 issued by the Deputy Secretary to the Government of Maharashtra authorized Shekhar Jagtap to appear as a Special Public Prosecutor in Crime No.299 of 2021 and Crime No.35 of 2021. The appointment letters dated 6th August 2021 and 9th August 2021, Notification dated 23rd September 2021, Government Resolution dated 5th April 2021 and Notification dated 21st December 2021 are on record. He has also brought on record several other communications such as letters dated 30th July 2021, 4th August 2021, 11th October 2021, appointment letter dated 18th November 2021, Notification issued by the Law and Judiciary Department dated 10th December 2021.

10. On the other hand, Mr.Rizwan Merchant, the learned counsel for the second respondent referred to a communication by the Desk Officer and submitted that there is a grave suspicion against Shekhar Jagtap that he forged the order of his appointment as a Special Public Prosecutor or appeared in the Court in different proceedings against the second respondent on the basis of a non-existent appointment letter. The learned counsel for the second respondent contended that the First Information Report discloses commission of serious offences by the accused persons, the investigation in the matter is still continuing and the police must be given a free hand to unearth the true facts. He further contended that in view of 'C' Summary submitted by the police in CR No. 46 of 2024, Writ Petition No. 722 of 2024 has been rendered infructuous inasmuch as CR No. 46 of 2024 has become non-est. The learned counsel endeavored to harp upon the statements made in the reply affidavit filed by the Principal

Secretary and the Remembrancer of Legal Affairs that no proposal for approval or *ex-post-facto* approval of the appointment of Shekhar Jagtap was received in the Law and Judiciary Department.

11. However, in our opinion, a communication from the Desk Officer of the Home Department to the effect that a copy of the appointment order dated 6th August 2021 is not found in any file cannot outweigh the other official communications, notifications etc. the existence of which has been affirmed in various judicial proceedings. The recommendations made for appointment of Shekhar Jagtap as a Special Public Prosecutor in the communications dated 30th July 2021, 4th August 2021 and 6th August 2021 make a mention of the seriousness, complicity and legal implication. This is also true that the proceedings in Crime Nos.299 of 2021, 176 of 2021 and other cases were conducted during COVID-19 pandemic period. This was the stand taken before the Court in Anticipatory Bail Application No.475 of 2024 filed by Kishor Shamrao Bhalerao that certain oral instructions were used to be given during that period when about 10% staff was working in Mantralaya and *ex-post-facto* approvals were taken. In the letter dated 31st January 2024, Dilip Walse-Patil who was the Home Minister informed the Additional Chief Secretary that Shekhar Jagtap was appointed as a Special Public Prosecutor on his instructions. Mr. Patil reiterated his statement in the later proceedings and Kishor Bhalerao who is the petitioner in Criminal Writ Petition No.737 of 2024 has produced a copy of the said letter in the present proceedings. There is no reason to suspect the genuineness of the communications, orders and appointment letters. The appointment of Shekhar Jagtap as a Special Public

Prosecutor was preceded by recommendations and communications from senior police officers.

12. It is pertinent and logical to reflect on the presumption that a particular judicial or official act which has been performed shall be deemed to have been performed regularly. The well-known maxim of law on which the presumption is founded is: “*omnia praesumuntur rite esse acta*” which means all acts are presumed to have been rightly and regularly done. Section 114 of the Evidence Act refers to a wide range of presumptions of acts which come in aid of the courts in administration of justice. The presumption under illustration (e) of section 114 of the Evidence Act definitely raises a presumption of validity of the manner of issuing the orders of appointment of Shekhar Jagtap as Special Public Prosecutor. An order or notification containing recital, technically correct on the face of it, raises a presumption of fact under section 114 illustration (e) of the Evidence Act. (vide, “*Narayan Govind Gavate*”²). This is also not a valid reason to cause an enquiry or investigation to find the reason why Shekhar Jagtap rendered an opinion for closure of the case to help Shyamsundar Agarwal. The role of the Public Prosecutor is important in criminal administration of justice. He is the representative of the State and he is appointed by the State. But the Public Prosecutor is not like a post box and he does not act on the dictates of the State Government. The Court is not bound by the opinion of the Public Prosecutor and is free to assess whether a *prima-facie* case is made out or not. The rhetorics against Shekhar Jagtap seem to emanate from the fact that the second respondent suffered adverse orders from the Court in the cases in which Shekhar Jagtap appeared as

² *Narayan Govind Gavate & Ors. v. State of Maharashtra & Ors.*: (1977) 1 SCC 133

the Special Public Prosecutor. The facts narrated by the second respondent clearly disclose that he has been embroiled in several cases and he alleges that Shyamsundar Agarwal and others are inimical to him.

13. The second respondent is pressing his agenda so vehemently that he filed a complaint before the Bar Council of Maharashtra and Goa making a similar allegation against Shekhar Jagtap of forging the letter of his appointment as SPP. An inquiry vide Preliminary Inquiry No. 167 of 2023 was conducted by the Bar Council and the complaint filed by the second respondent was dismissed by an order dated 3rd September 2023.

14. The Bar Council of Maharashtra and Goa is the body empowered to initiate a disciplinary proceeding against the advocates who commit misconduct and are enrolled with it. The instances of misconduct projected by the second respondent cannot be looked into by the police in the course of the investigation. Any inquiry or investigation into the alleged misconduct of Shekhar Jagtap shall impinge upon the powers of the Bar Council of Maharashtra and Goa. The investigation by the police into the alleged misconduct committed by Shekhar Jagtap is not permissible in law. Any issue pertaining to the appointment of Shekhar Jagtap can be examined by the writ Court as to the validity and legality of his appointment but not by the police at the instance of a private person. “*Shivaji*”³ on which the learned counsel for the second respondent placed reliance dealt with the issue of bias on the part of the Public Prosecutor and held that the State has power to appoint a Special Public Prosecutor. In

³ *Shivaji s/o. Rajaram Tatke & Anr. v. The State of Maharashtra & Anr.: Criminal Writ Petition No. 379 of 2022 decided on 23rd January 2023*

“*Omprakash Baheti*⁴, an allegation was made against the Special Public Prosecutor who had personally appeared for the complainant. However, the Court did not find any merit in the petition and held that the appointment was valid and legal.

15. The second respondent is a habitual litigant and a proceeding under the Contempt of Courts Act, 1971 was initiated against him in Appeal (L) No. 352 of 2014 (arising out of an order passed in Notice of Motion No. 313 of 2014 in Suit No. 175 of 2014). He moved the Court of Judicial Magistrate First Class, Thane in Criminal Case No.1697 of 2024 seeking investigation and registration of a First Information Report after an inquiry under section 156(3) of the Cr.P.C. against Shyamsundar Agarwal, Sharad Agarwal and Shubham Agarwal and other known and unknown persons. In this complaint case, the second respondent made similar allegations regarding lodging of several criminal cases and fight between Parambir Singh and Anil Deshmukh, the then Home Minister. He stated about a criminal conspiracy hatched by Shyamsundar Agarwal, Sharad Agarwal, Shubham Agarwal and other known and unknown accused persons to keep him in prolonged judicial custody by filing several cases against him. This complaint case was dismissed as withdrawn on 23rd September 2024. The registration of CR No. 742 of 2024 is also hit by the order dated 7th August 2023 passed in Criminal Writ Petition No. 5036 of 2022 by which the said petition was dismissed as withdrawn. This writ petition was filed by the second respondent seeking formation of a Special Investigation Team (SIT) for making an inquiry and investigation into the appointment of Shekhar Jagtap as a Special Public Prosecutor.

⁴ *Omprakash Baheti & Ors. v. State of Maharashtra*: 2006 SCC OnLine Bom 82

16. There seems to be a long history of enmity between second respondent and Shyamsundar Agarwal who has filed several cases against the second respondent. In CR No. 299 of 2021 registered at the instance of Shyamsundar Agarwal at Marine Drive PS, it is alleged that the second respondent entered into a criminal conspiracy with Parambir Singh and other accused persons to unlawfully extort money from Shyamsundar Agarwal and his family members. They subjected the complainant and his family members to intimidation, coercion and threat of criminal prosecution to compel them to accede to their unlawful demands. They orchestrated the false implication of Shyamsundar Agarwal in CR No.I-35 of 2021 by misusing police machinery with an intention to exert pressure on him. Sharad Agarwal who is the complainant in CR No. 176 of 2021 registered at Kopri PS alleged that Sanjay Punamiya, Parambir Singh, Sunil Jain, Manoj Ghatekar and Parag Manere conspired together and intimidated him with threats of false criminal cases and forced him to part with about Rs. 9 crores. Ketan Tanna is another person who claims that he is aggrieved by the unlawful activities of the second respondent, his brother and Parambir Singh. He lodged CR No. 151 of 2021 at Thane Nagar PS alleging criminal activities by the accused persons under sections 109, 156 and 120B of Indian Penal Code and section 3(25) of the Arms Act. This has also been brought on record that Milan Gandhi lodged CR No. 201 of 2016 at Thane Nagar PS alleging that Shyamsundar Agarwal in connivance with certain government officials of the Thane Collectorate and Mira Bhayandar Municipal Corporation forged and fabricated Urban Land Ceiling certificates and the Revenue records. Furthermore, Mujawar has lodged CR No. 365 of 2021 at Marine Drive PS against the second respondent and his brother for dishonestly and

unauthorizedly obtaining and stealing confidential and sensitive documents pertaining to Preliminary Inquiry. They unlawfully procured and retained the copy of the call detail records pertaining to certain mobile numbers. On the other hand, the second respondent lodged CR No. 35 of 2021 alleging criminal conspiracy by Shyamsundar Agarwal to issue threats to him in the name of gangster Chhota Shakeel. He alleged that the accused persons compelled him to execute and sign a deed of settlement which contained different terms and conditions in comparison to what was initially agreed upon between the parties.

17. The allegation against Kishore S. Bhalerao does not sustain in the face of the official records and the statement given by Anil Deshmukh on whose oral instructions the appointment letter in favour of Shekhar Jagtap was issued. The second respondent alleged that Sardar Patil and Manohar Patil came to the Jupiter Hospital at Thane where he was undergoing treatment and took him away from the hospital in an ambulance and they started questioning him. But after some discussion between Sardar Patil and Ravi Patil and others he was admitted to Saifee Hospital where he was guarded all the times by eight policemen though he was already on pre-arrest bail in Crime No.201 of 2016. The second respondent further alleged that Sardar Patil and other two police officers came to Saifee Hospital to record his statement and informed him that Sanjay Pandey asked him to implicate Parambir Singh and two prominent leaders in the ULC scam but he refused to give any such statement. He further stated that Sardar Patil exploited financial resources of Shekhar Limaye, Satyavan Dhangawe, Bharat Kamble and Anil Moti Ramani. According to him, Sardar Patil has extorted crores of rupees from about 100

builders by summoning them and threatened to implicate them in crime.

18. There is no material produced by the second respondent to support his allegations against the accused persons or that there was criminal conspiracy hatched between Shyamsundar Agarwal, Sharad Agarwal, Sardar Patil, Manohar Patil and Shekhar Jagtap to implicate him or Parambir Singh and others by lodging false criminal cases. There is no verifiable allegation against Sanjay Pandey, Sardar Patil, Manohar Patil and other accused persons. The allegation against Shyamsundar Agarwal emanates also from a grudge nurtured by the second respondent against him. In “*Nalini & Ors*”⁵, the Hon’ble Supreme Court held as under:-

"583. Some of the broad principles governing the law of conspiracy may be summarized though, as the name implies, a summary cannot be exhaustive of the principles.

1. Under Section 120-A IPC offence of criminal conspiracy is committed when two or more persons agree to do or cause to be done an illegal act or legal act by illegal means. When it is a legal act by illegal means overt act is necessary. Offence of criminal conspiracy is an exception to the general law where intent alone does not constitute crime. It is intention to commit crime and joining hands with persons having the same intention. Not only the intention but there has to be agreement to carry out the object of the intention, which is an offence. The question for consideration in a case is did all the accused have the intention and did they agree that the crime be committed. It would not be enough for the offence of conspiracy when some of the accused merely entertained a wish, howsoever horrendous it may be, that offence be committed.

2. Acts subsequent to the achieving of the object of conspiracy may tend to prove that a particular accused was party to the conspiracy. Once the object of conspiracy has been achieved, any subsequent act,

⁵ *State v. Nalini & Ors.*: (1999) 5 SCC 583

which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder.

3. *Conspiracy is hatched in private or in secrecy. It is rarely possible to establish a conspiracy by direct evidence. Usually, both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the accused.*

4. *Conspirators may for example, be enrolled in a chain – A enrolling B, B enrolling C, and so on; and all will be members of a single conspiracy if they so intend and agree, even though each member knows only the person who enrolled him and the person whom he enrolls. There may be a kind of umbrella-spoke enrolment, where a single person at the centre does the enrolling and all the other members are unknown to each other, though they know that there are to be other members. These are theories and in practice it may be difficult to tell which conspiracy in a particular case falls into which category. It may however, even overlap. But then there has to be present mutual interest. Persons may be members of single conspiracy even though each is ignorant of the identity of many others who may have diverse roles to play. It is not a part of the crime of conspiracy that all the conspirators need to agree to play the same or an active role.*

5. *When two or more persons agree to commit a crime of conspiracy, then regardless of making or considering any plans for its commission, and despite the fact that no step is taken by any such person to carry out their common purpose, a crime is committed by each and every one who joins in the agreement. There has thus to be two conspirators and there may be more than that. To prove the charge of conspiracy it is not necessary that intended crime was committed or not. If committed it may further help prosecution to prove the charge of conspiracy.*

6. *It is not necessary that all conspirators should agree to the common purpose at the same time. They may join with other conspirators at any time before the consummation of the intended objective, and all are equally responsible. What part each conspirator is to play may not be known to everyone or the fact as to when a conspirator joined the conspiracy and when he left.*

7. *A charge of conspiracy may prejudice the accused because it forces them into a joint trial and the*

court may consider the entire mass of evidence against every accused. Prosecution has to produce evidence not only to show that each of the accused has knowledge of the object of conspiracy but also of the agreement. In the charge of conspiracy the court has to guard itself against the danger of unfairness to the accused. Introduction of evidence against some may result in the conviction of all, which is to be avoided. By means of evidence in conspiracy, which is otherwise inadmissible in the trial of any other substantive offence prosecution tries to implicate the accused not only in the conspiracy itself but also in the substantive crime of the alleged conspirators. There is always difficulty in tracing the precise contribution of each member of the conspiracy but then there has to be cogent and convincing evidence against each one of the accused charged with the offence of conspiracy. As observed by Judge Learned Hand "this distinction is important today when many prosecutors seek to sweep within the dragnet of conspiracy all those who have been associated in any degree whatever with the main offenders".

8. *As stated above it is the unlawful agreement and not its accomplishment, which is the gist or essence of the crime of conspiracy. Offence of criminal conspiracy is complete even though there is no agreement as to the means by which the purpose is to be accomplished. It is the unlawful agreement which is the gravamen of the crime of conspiracy. The unlawful agreement which amounts to a conspiracy need not be formal or express, but may be inherent in and inferred from the circumstances, especially declarations, acts and conduct of the conspirators. The agreement need not be entered into by all the parties to it at the same time, but may be reached by successive actions evidencing their joining of the conspiracy.*

9. *It has been said that a criminal conspiracy is a partnership in crime, and that there is in each conspiracy a joint or mutual agency for the prosecution of a common plan. Thus, if two or more persons enter into a conspiracy, any act done by any of them pursuant to the agreement is, in contemplation of law, the act of each of them and they are jointly responsible therefor. This means that everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done or written by*

each of them. And this joint responsibility extends not only to what is done by any of the conspirators pursuant to the original agreement but also to collateral acts incidental to and growing out of the original purpose. A conspirator is not responsible, however, for acts done by a co-conspirator after termination of the conspiracy. The joinder of a conspiracy by a new member does not create a new conspiracy nor does it change the status of the other conspirators, and the mere fact that conspirators individually or in groups perform different tasks to a common end does not split up a conspiracy into several different conspiracies.

10. A man may join a conspiracy by word or by deed. However, criminal responsibility for a conspiracy requires more than a merely passive attitude towards an existing conspiracy. One who commits an overt act with knowledge of the conspiracy is guilty. And one who tacitly consents to the object of a conspiracy and goes along with other conspirators, actually standing by while the others put the conspiracy into effect, is guilty though he intends to take no active part in the crime."

19. The effect of the registration of a First Information Report can hardly be underestimated from the standpoint of the accused person. The First Information Report is a very important and vital document in a criminal case. An early reporting regarding the commission of a crime is equally important. The delay in lodging the First Information Report may give an impression that the same is a creature of afterthought. Whether the delay is so long as to cast suspicion on the complaint made to the police would depend upon a variety of factors which would vary from case to case. The allegations in both the First Information Reports are focused on Shekhar Jagtap, who according to the second respondent, appeared in the cases against him, opposed his pre-bail and bail applications and tried to shield Shyamsundar Agarwal who is an accused in CR No.35 of 2021. However, many instances which are narrated in the complaints made by the second respondent

occurred in his presence but there is no explanation by him why he instituted the present criminal proceedings after an inordinate delay of about three years. For ensuring itself as to whether any innocent person has been implicated in the crime, the unexplained inordinate delay must be taken into consideration by the Court as a very crucial factor for quashing criminal complaint (vide, “*Hasmukhlal D. Vora*”⁶). The delay in lodging criminal complaints by the second respondent puts the Court on guard and requires it to minutely examine the allegations against the accused persons.

20. In “*Golconda Linga Swamy*”⁷, the Hon'ble Supreme Court held that the exercise of powers by the High Court would be justified to quash any proceeding if it finds that initiation or continuation of such a proceeding amounts to abuse of the process of the Court. The Hon'ble Supreme Court held as under:-

“5. *Exercise of power under Section 482 of the Code in a case of this nature is the exception and not the rule. The section does not confer any new powers on the High Court. It only saves the inherent power which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised, namely : (i) to give effect to an order under the Code, (ii) to prevent abuse of the process of court, and (iii) to otherwise secure the ends of justice. It is neither possible nor desirable to lay down any inflexible rule which would govern the exercise of inherent jurisdiction. No legislative enactment dealing with procedure can provide for all cases that may possibly arise. Courts, therefore, have inherent powers apart from express provisions of law which are necessary for proper discharge of functions and duties imposed upon them by law. That is the doctrine which finds expression in the section which merely recognises and preserves inherent powers of the High Courts. All courts, whether civil or criminal, possess in the absence of any express provision, as inherent in their constitution, all such powers as are necessary to do the right and to undo a wrong in course of administration of justice on the principle quando lex aliquidaliqueconcedit, conceditur et id sine quo res ipsa esse non potest (when the law gives a person anything, it gives him that without which it cannot exist). While exercising powers under the section, the Court does not function as a court of appeal or revision.*

⁶ *Hasmukhlal D. Vora &Anr. v. State of Tamil Nadu: (2022) 15 SCC 164*

⁷ *State of Andhra Pradesh v. Golconda Linga Swamy &Anr.: 2004(6) SCC 522*

Inherent jurisdiction under the section though wide has to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the section itself. It is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone courts exist. Authority of the court exists for advancement of justice and if any attempt is made to abuse that authority so as to produce injustice, the court has power to prevent such abuse. It would be an abuse of the process of the court to allow any action which would result in injustice and prevent promotion of justice. In exercise of the powers court would be justified to quash any proceeding if it finds that initiation or continuance of it amounts to abuse of the process of court or quashing of these proceedings would otherwise serve the ends of justice. When no offence is disclosed by the complaint, the court may examine the question of fact. When a complaint is sought to be quashed, it is permissible to look into the materials to assess what the complainant has alleged and whether any offence is made out even if the allegations are accepted in toto.”

21. In “*R. P. Kapur*”,⁸ the Hon'ble Supreme Court observed that the inherent jurisdiction of the High Court can be exercised to quash the criminal proceedings in a proper case either to prevent the abuse of the process of the Court or otherwise to secure the ends of justice. The Hon'ble Supreme Court held as under:-

“6. Before dealing with the merits of the appeal it is necessary to consider the nature and scope of the inherent power of the High Court under S. 561-A of the Code. The said section saves the inherent power of the High Court to make such orders as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any court or otherwise to secure the ends of justice. There is no doubt that this inherent power cannot be exercised in regard to matters specifically covered by the other provisions of the Code. In the present case the magistrate before whom the police report has been filed under S. 173 of the Code has yet not applied his mind to the merits of the said report and it may be assumed in favour of the appellant that his request for the quashing of the proceedings is not at the present stage covered by any specific provision of the Code. It is well established that the inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction. However, we may indicate some categories of

8 *R. P. Kapur v. The State Of Punjab* AIR 1960 SC 866

cases where the inherent jurisdiction can and should be exercised for quashing the proceedings. There may be cases where it may be possible for the High Court to take the view that the institution or continuance of criminal proceedings against an accused person may amount to the abuse of the process of the court or that the quashing of the impugned proceedings would secure the ends of justice. If the criminal proceeding in question is in respect of an offence alleged to have been committed by an accused person and it manifestly appears that there is a legal bar against the institution or continuance of the said proceeding the High Court would be justified in quashing the proceeding on that ground. Absence of the requisite sanction may, for instance, furnish cases under this category. Cases may also arise where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the First Information Report to decide whether the offence alleged is disclosed or not. In such cases it would be legitimate for the High Court to hold that it would be manifestly unjust to allow the process of the criminal court to be issued against the accused person. A third category of cases in which the inherent jurisdiction of the High Court can be successfully invoked may also arise. In cases falling under this category the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction under S. 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained. Broadly stated that is the nature and scope of the inherent jurisdiction of the High Court under S. 561-A in the matter of quashing criminal proceedings, and that is the effect of the judicial decisions on the point (Vide : In Re : Shripad G. Chandavarkar, AIR 1928 Bom 184, Jagat Chandra Mozumdar v. Queen Empress, ILR 26 Cal. 786, Dr. Shankar Singh v. State of Punjab, 56 Pun LR 54 : (AIR 1954 Punj 193), Nripendra Bhusan Roy v. Gobinda Bandhu Majumdar, AIR 1924 Cal 1018 and Ramanathan Chettiyar v. SivaramaSubramania, ILR 47 Mad 722 : (AIR 1925 Mad 39))”

22. The accusation against the petitioners is that they falsely implicated the second respondent in CR No. 201 of 2021 and

created false documents such as the appointment letter of Shekhar Jagtap and threatened and pressurized him to give a false statement before the police. The allegations made by the second respondent are vague and lack particulars. The allegations are speculative and have proved to be false in view of 'C' Summary report filed by the police. The allegations in both the crimes registered vide CR Nos. 742 of 2024 and 46 of 2024 are outcome of a desperate and vengeful mind and the second respondent seeks a fishing inquiry into a matter which does not require any inquiry at all.

23. The power of the police to register a case and carry the investigation is not unbridled and the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India or under section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 may interdict the investigation and quash the First Information Report. The High Court can legitimately quash the First Information Report where it is manifest from the matters on record that the complaint was not *bona fide* and the complainant was acting with *malafide* intention.

24. Even if it is assumed that the allegations made by the second respondent constitute "some" offence, the investigation in the matter must not be permitted to continue. When the main allegations made by the second respondent which according to him constitute a series of serious offences are not entertainable by the police to launch an investigation, the machinery of police cannot be utilized to find out whether some offence howsoever minor that may be was committed by the accused persons. The High Court may take into consideration the special facts of a case and quash the criminal prosecution. The process of law cannot be misutilized

for oblique purpose and a criminal proceeding which is manifestly attended with *malafide* can be quashed. In “*Bhajanlal*”⁹, the Hon’ble Supreme Court held that a criminal proceeding can be quashed if it is found that the same is maliciously instituted with ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge.

25. For the foregoing reasons, we hold that the registration of First Information Reports against the petitioners is an abuse of the process of law. Therefore, Writ Petition Nos.3839 of 2024, 722 of 2024, 737 of 2024, 750 of 2024, 4923 of 2024 and Writ Petition (Stamp) No.19375 of 2024 and Criminal Application No.1140 of 2024 are allowed and all criminal proceedings arising therefrom are quashed.

26. All pending applications stand disposed of.

(SUMAN SHYAM, J.)

(CHIEF JUSTICE)

⁹ *State of Haryana v. Bhajanlal*: (1992) Supp (1) SCC 335