IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

&

HON'BLE SHRI JUSTICE ALOK AWASTHI

CRIMINAL REVISION No. 1685 of 2026

MS GEETA INFOTECH SALES AND SERVICE BHOPAL PROPRIETOR PANKAJ SONI AND OTHERS

Versus

THE STATE OF MADHYA PRADESH THROUGH ECONOMIC OFFENC WING AND OTHERS

Appearance:

Shri Prasanna Namdeo, learned counsel for the petitioner.

Shri Lokendra Joshi, learned counsel for the respondent No. 1.

Ms. Vaishali Baurasi, learned counsel for the respondent No. 4.

Heard on : 03.09.2026

Pronounced on : 21.09.2026

ORDER

Per. Justice Alok Awasthi

Heard on I.A. No. 5307/2026, which is an application under Section 5 of the Limitation Act for condonation of delay. As per Registry's report, the revision is barred by 27 days.

2. Keeping in view the reasons mentioned in the application, I.A. No. 5307/2026 is allowed and delay of 27 days in filing the present revision is hereby condoned.

3. The petitioners have referred the present criminal revision under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha

Sanhita, 2023 being aggrieved by the order dated 12.02.2026 passed in MJC Application No. 11/2022 by the Special Judge (Prevention of Corruption Act), District Ujjain in which the Court has denied the closure report (khatma report) and rejected the same.

4. The facts of the case, in brief, are that Ms. Shyambai Dhurve, Upper Secretary, M.P. General Administration Department sent letter No. F22-6/2015/1-10 Bhopal dated 20.03.2015 to the Economic Offences Wing, Bhopal to the effect that the irregularities committed by Shri S.M. Kumbhare, Principal, Industrial Training Institute, Ujjain, In-charge Deputy Director, Regional Skill Development should be investigated by the Economic Offences Wing. Acting upon the said letter No. 532/21 dated 23.11.2021, it is stated that Shri S.M. Kumbhare purchased items worth of Rs. 96.23 lakhs through limited tenders/quotations instead of open tenders and also purchased materials reserved for Small Industries Corporation like furniture through limited tenders. For the said purpose, quotations were obtained from three firms belonging to the same person violating the financial rules and also contrary to the rules of Government store purchase which reflects that criminal conspiracy was hatched and financial loss was caused to the Government by colluding with the same supplier. A preliminary inquiry bearing No. 7/2015 was registered at the Economic Offences Wing, Headquarters, Bhopal and the investigation was conducted by Siyaram Singh Gurjar, Inspector, Economic Offences Wing, Ujjain.

4. During the investigation, it was found that during his tenure as Deputy Director, Regional Skill Development Department, Ujjain, S.M.

Kumbhare had purchased torches, equipment and other materials worth Rs. 96.23 lakhs for various Industrial Training Institute of the Division, the same were to be purchased through open tender as per M.P. Store Purchase Rules and Financial Code, but S.M. Kumbhare by misusing his position and conspiring against the law, fraudulently purchased the materials from selected firms through limited tender at arbitrary rates higher than the market price from the supplier firms M/s Geeta Infotech Sales, M/s Hanumant Trading Company Bhopal, M/s Karan Enterprises Indore, M/s M.K. Enterprises Ratlam, M/s Swaruchi Enterprises and Fairdeal Traders. From the evidence obtained during the investigation, a Crime No. 05/2017 for the under Sections 420, 120-B of the Indian Penal Code, 1860 (in short "IPC") and Sections 13(1)(D), 13 (2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as "PC Act") was registered in the Economic Offences Wing, Bhopal against the S.M. Kumbhare, the then Deputy Director, Regional Skill Development Department, Ujjain, M/s Geeta Infotech Sales, M/s Hanumant Trading Company Bhopal, M/s Karan Enterprises Indore, M/s M.K. Enterprises Ratlam, M/s Shri Bajrang Tools Traders Bhopal, M/s Raj Electrical and Repairing Centre Bhopal, M/s Swaruchi Enterprises & Fairdeal Traders, other employees and officers of Government Industrial Training Institute, Ujjain. The investigation was conducted by Acting Inspector Prem Kishore Vyas, Deputy Superintendent of Police Pradeep Vishwakarma and Deputy Superintendent of Police Ashok Suryavanshi of Economic Offences Wing Unit, Ujjain. On the basis of evidence, statements and documents obtained during the investigation, a case was presented for closure approval against accused No. 1 S.M. Kumbhare for corruption by obtaining illegal financial benefits in connivance with various firms mentioned above, and for lack of evidence of causing financial loss to the Government.

5. Learned counsel for the petitioners has submitted that the petitioners have not committed any crime. The contract for supply of goods in question was as per the orders issued by the respondent and all the said materials were duly supplied by the petitioner. He has also submitted that Rule 121 of MP Financial Code provides about the receipt of stores, mandates that materials should be thoroughly examined, counted, measured or weighed as appropriate at the time of delivery by a Government servant. Further, it is the responsibility of the Government servant receiving the goods to ensure that the quantities are accurate and the quality is satisfactory. The Government servant must also certify the receipt of materials and record them in the stock register. It is also contended that certification process confirms that the goods have been received and are in compliance with the specified requirement, thereby ensuring transparency and accountability in the procurement process.

6. He has also argued that as per the acknowledgement dated 05.02.2014 materials had already been delivered to the institutions by various firms including petitioner, these firms could not be held responsible for any irregularities committed by respondent No. 6. The documents clearly indicate the failure of respondent No. 6.

7. So far as the rate of payment of goods supplied to the institutes are

concerned, it is argued that formed Committee for determining the rate of payment did not assess the materials with respect to the prevailing market rates. The rates determined by the Committee was not only inaccurate but it also failed to consider several crucial factors with regards to the actual market rate, which was mandatory to evaluate, such as Government taxes, administrative, transportation and delivery expenses, firm profit, central, entry and other taxes. On the aforesaid grounds, the present petition be allowed by setting aside impugned order dated 12.02.2026.

8. On the other hand, learned counsel for the respondent has opposed the prayer and supported the impugned order. It is submitted that the impugned order, is legally sound and does not warrant any interference.

9. We have considered the rival submission of learned counsel for the parties and perused the record available. The question arises for consideration is whether the impugned order has been passed after appreciating the evidence available on record and found the petitioners's participation in the alleged offences ?

10. It is emerged from the record that a Crime No.05/2017 was registered by the EOW, Bhopal against the petitioners for the offences punishable under Sections 420 and 120-B of the IPC and Sections 13(d) and 13(2) of the PC Act. Upon completion of investigation, for the first time, a closure report was submitted before the learned Special Judge. The learned Special Judge, after taking into consideration, vide order dated 27.10.2021, has not accepted the closure report and issued directions to collect the evidence and for further investigation on several points. Secondly, closure

report was again submitted before learned Special Judge on which, upon consideration, learned Special Judge passed the order dated 17.05.2025 (Annexure-A/3). From perusal of the said order, it is apparent that the closure report was rejected merely, although the Court did not accept the closure report and directed the Investigating Officer to make further investigation with regard to the points observed therein in accordance with law. Thus, it can be ascertained that the order dated 17.05.2025 had already determined the issue in respect of closure report viz. its non-acceptance followed by further investigation.

11. Aggrieved by the aforesaid order, a Criminal Revision No.2719/2025 was preferred by the petitioners before this Court. The same was disposed of vide order dated 04.12.2025 (Annexure-A/4) with a direction to remand the matter to the learned Special Judge for consideration in the light of the judgment of the Supreme Court in Abhinandan Jha and Others v. Dinesh Mishra, AIR 1968 SC 117, wherein it has been observed that the Magistrate is not bound to accept the opinion expressed by the police in the final report. The Magistrate may accept the report, disagree with the opinion of the Investigating Agency and proceed in accordance with law, or direct further investigation where the circumstances so warrant.

12. After remanding the matter to the Special Judge, learned Special Judge passed the impugned order dated 12.02.2026 (Annexure-A/1), from which, it appears that learned Special Judge again entered into substantive consideration of the allegations and material forming the basis of the original investigation, once again recorded that the closure report was not acceptable

and thereafter directed further investigation substantially on the same aspects. The same findings has been reproduced, which have already been decided vide order dated 17.05.2025.

13. In the case at hand, closure reports were submitted on three occasions, but on each occasion, the learned Special Judge did not accept the closure report and directed the Investigating Officer to conduct further investigation on the points noticed by the Court. However, the non-acceptance of the closure report, cannot indicate that the allegations against the petitioners were proved or there was sufficient material to prosecute them.

14. Here, it can be said that the judicial system cannot compel the Investigating Agency to form a particular opinion or to submit a charge-sheet in accordance with the opinion of the Court. The opinion as to the result of investigation remains within the statutory domain of the Investigating Agency, subject to the judicial powers available to the competent Court under law. Hence, the rejection of the closure report has to be determined in accordance with law, the Court cannot change or replace the police officer's final decision about what the investigation found.

15. In the instant case, the petitioners are contractors/suppliers and the allegations against them mainly arise out of certain irregularities in the departmental procurement process. However, a departmental irregularity, by itself, cannot be treated as proof of criminal liability. Criminal liability is personal and must be based upon specific material connecting the concerned person with the commission of the alleged offence. The orders under challenge do not identify any specific act or omission committed by any of

the petitioners which would constitute an offence under Sections 420 or 120-B of the IPC or the provisions of the Prevention of Corruption Act. There is no clear finding showing that any petitioner had knowingly participated in any illegal act, caused wrongful loss, obtained wrongful gain, or acted in concert with any departmental official for committing an offence.

16. So far as Section 420 of the IPC is concerned, the essential requirement is the existence of fraudulent or dishonest intention at the very beginning of the transaction. Mere irregularity in the procurement process or subsequent failure to comply with any requirement cannot, without more, constitute the offence of cheating. The material placed before the Court must show that the person concerned had dishonest or fraudulent intention from the inception and that such intention resulted in deception.

17. Likewise, an allegation under Section 120-B of the IPC cannot be sustained merely because a person was connected with a particular transaction. Criminal conspiracy requires material indicating an agreement or meeting of minds for committing an unlawful act or for achieving a lawful object by unlawful means. Mere association with the transaction, participation as a contractor or supplier, or dealing with departmental officers does not, in the absence of supporting material, establish such an agreement.

18. The same distinction has to be maintained between a departmental lapse and criminal misconduct. If the prescribed procurement procedure was not followed or if there was any administrative or procedural lapse, the responsibility for such lapse may be examined against the concerned

officer/official who was required to follow the rules as existed in relevant period. Such lapse cannot automatically be shifted on the shoulder of the petitioners merely because they were contractors or suppliers.

19. It is of paramount importance to mention here that impugned order does not depict any fresh material showing the active participation of the petitioners in the alleged offence. In absence of any evidence available against the petitioners, their continued involvement in criminal proceedings cannot be justified only on the basis of departmental irregularities.

20. In view of the aforesaid discussion and settled principle of law, this Court finds that no specific act or omission attributable to any of the petitioners has been found, independent of the alleged departmental irregularities, constitutes the ingredients of Sections 420 or 120-B of the IPC or the offences under the PC Act. The findings of the impugned order does not show any specific reason establishing fraudulent or dishonest intention, deception, conspiracy or conscious participation of the petitioners in the alleged offence. In the considered opinion of this Court, the impugned dated 12.02.2026 passed in MJC No. 11/2022 by the learned Special Judge (Prevention of Corruption Act), Ujjain cannot be sustained and is hereby set aside and consequential proceedings, if any, arising solely from the impugned order dated 12.02.2026 shall also stand quashed.

21. *Ex-consequenti*, present Criminal Revision No. 1685/2026 is allowed.

Pending I.A., if any, stands closed.

Certified copy, as per rules.

(SUBODH ABHYANKAR)
JUDGE

(ALOK AWASTHI)
JUDGE

Vindesh