

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 473 /2022
(Arising out of SLP(CrI.) No. 8788/2021)

PARAM BIR SINGH .. APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA & ORS. .. RESPONDENT(S)

O R D E R

Leave granted.

The murky churning from the battle royale between the then Home Minister of State of Maharashtra and the then Police Commissioner (appellant before us) has given rise to the unfortunate proceedings on which we have commented before.

At the stage of issuing notice on 22.11.2021, we had sketched out the contours of the controversy to the extent we would be required to examine.

We may also note that the allegations made by the appellant against the then Home Minister Shri Anil Deshmukh about a meeting at his residence with Shri Sachin Waze of the Crime Intelligence Unit in the presence of the Personal Secretary alleged to be expressing the wish of a

target to accumulate a sum of Rs. 100 crore per month from dance bars and hookah parlours is already forming subject matter of investigation by the Central Bureau of Investigation (CBI) in which Mr. Deshmukh is still in custody. It is in this context, we had taken note in the order dated 22.11.2021 of the submission of Mr. Puneet Bali, learned senior counsel for the appellant that CBI should investigate into the complete affairs and not the State police in whom he does not appear to have faith, despite having headed the same. In view of what was set out in letter dated 19.04.2021 to the Director, CBI, the transcripts of the whatapp messages exchanged from time to time in pursuance to whatever had transpired had been put on record. Some allegations were made against the then Director General of Police who is now the Commissioner of Police but in our view that aspect is only germane from the point of view of who would investigate into the matter and it is not a reflection on any conduct of the Police Commissioner, something we had put to Mr. Navroz Seervai, learned senior counsel, appearing for the said Commissioner (respondent No. 3). The picture emerging was naturally very disturbing. We had protected the appellant but asked him to join the investigation.

The only aspect which we are really called upon now to examine is whether 5 FIRs and 3 open enquiries (PRs.) registered against the appellant are also liable to be transferred to the CBI along with investigation already on against Mr. Anil Deshmukh or as canvassed by Mr. Darius Khambata, learned senior counsel for the State, the investigation should be carried on by the State Police authorities.

Learned counsel for the appellant has taken us through the list of relevant dates to bring to the notice of this Court what had transpired after the battle royale began. It is not necessary for us to delve into depth with the same but suffice to note the following aspects :

a) FIR No. 0277/2021 was filed at City Kotwali, Akola Station on 28.04.2021, transferred to Bazaar Peth Police Station at Kalyan, registered as FIR No. 105/2021 dated 29.04.2021 by one Bhimraj Rohidas Ghadge who was a police officer and claimed that he had been approaching various Courts and departments for registration of the FIR on account of occurrence of 23.08.2015 but was not successful. This complainant is an accused in 5 cases registered against him out of which 4 are under trial including under the

Prevention of Corruption Act.

b) FIR No. 299/2021 at Marine Drive Police Station dated 21.07.2021 by Mr. Shyam Sundar Agarwal with the date of occurrence mentioned as February, 2020 against whom cases under the MCOCA have been registered.

c) FIR No. 176 of 2021 at Kopari Police Station in Thane dated 23.07.2021 by Mr. Sharad Murlidhar Agarwal and offences mentioned are from 01.11.2016 to 15.05.2018 alleging *inter alia* extortion of amounts and properties from him and his uncle for not pressing charges against them under MCOCA and other provisions of law.

d) FIR No. 151/2021 at Thane police Station dated 30.07.2021 by Mr. Ketan Mansukhlal Tanna with a period offence being 01.11.2018 to 07.02.2019 against whom also MCOCA cases are alleged to be pending.

e) FIR No. 971/2021 at Goregaon Police Station dated 20.07.2021 by Mr. Bimal Agarwal qua offence arising from January 2020 to March 2021. He had been arrested by the Economic Offences Wing (EOW) for cheating the State Government of Rs.6.25 crore and his allegation was that it has been done at the behest of the appellants.

f) Open Enquiry bearing number ENQ-2021/PR No.

153/Pol-2 dated 20.04.2021 by the State of Maharashtra to look into the allegations of the Police Inspector Mr. Anup Dange who was suspended in the year 2020 in connection with investigation in FIR 223/2019. Incidentally, he has been reinstated in March 2021.

g) Open Enquiry bearing No. 63/2021 dated 01.04.2021 into the allegation raised by Police Inspector Mr. Bhimrao Ghadge including under the SC/ST Act making allegations that the appellant has been taking money for posting of senior inspectors and demanding Rs. 2 crore for reinstating him and

h) PR. No. 160/Pol-2 dated 01.04.2021.

Learned counsel for the appellant thus contends by reference to the aforesaid that what would be better facts to shift these investigations to an independent agency and they form a part of a bouquet of cases lodged against the appellant for taking on Mr. Anil Deshmukh.

We had called upon the CBI also to place before us their stand and in the affidavit filed by them, it has been stated that the investigation against Shri Anil Deshmukh is already in progress and the following aspects emerged from the FIR in question:

“(i) that, the then Home Minister of Maharashtra, Shri Anil Deshmukh and unknown others have attempted to obtain undue advantage for improper and dishonest performance of their public duty;

(ii) that, Shri Sachin Vaze, Assistant Police Inspector, Mumbai Police had been reinstated into the police force after being out of the police service for more than 15 years. He was entrusted with most of the sensational and important cases of Mumbai City Police and that the then Home Minister was in knowledge of the said fact; and

(iii) that, the then Home Minister of Maharashtra and others exercised undue influence over the transfer & posting of officials and thereby exercising undue influence over the performance of official duties by the officials.”

Insofar as the present controversy is concerned, it has been categorically stated in the affidavit filed by the CBI that the issues highlighted by the appellant deserve to be entrusted to the CBI for complete, thorough and impartial investigation. This is more so in the context of para (i) above on the aspect whether there has been attempt to obtain undue advantage by Shri Anil Deshmukh. In the process of investigation, the CBI had recorded statements of

a number of individuals and collected relevant documents with respect to obtaining undue advantage from orchestra Bars and other such institutions. In order to ensure the integrity of the investigation being conducted by the CBI, a detailed analysis of the FIRs and the appeals referred to aforesaid, would thus be relevant.

In fact it has been averred that in view of what had been noticed in the proceedings of this Court on 22.11.2021, there was apparently an endeavour to meddle in the Court entrusted investigation. We may however, recognize on the basis of submissions of learned counsel for the State that insofar the direct impact on the investigation with the CBI of the FIRs is concerned, one of them alone is stated to be directly connected.

Mr. Darius Khambata, learned senior counsel appearing for the State has made an impassioned plea to keep in mind the federal structure of our country, the sanctity of police investigation by the State, the possibility of faith in the police being eroded by entrusting it to CBI, absence of direct material by the appellant to claim such a transfer of investigation which should result in choosing the investigating agency, amongst other pleas.

We did put to the learned senior counsel as

to what more could shake the faith in the police of the State than what has already transpired. The objective is to embolden and restore the people's confidence in the police force by an impartial investigation which is necessary.

This is not a reflection on the police force of the State of Maharashtra which is respected but the troubling situation arising at the higher echelons which has brought about the scenario as presented before us.

We are unable to accept the plea of learned senior counsel that the FIRs registered really have to be appreciated in a scenario where when a person loses power, the persons who suffer at his hand come up with their complaints and the FIRs are registered. It is not a coincidental occurrence or occurrences arising from the aforesaid but we do believe *prima facie*, there has been some concerted effort in this direction arising from the *inter se* battle which needs investigation by the agency outside the State police.

We are of the view that the State itself should have offered in such a scenario that investigation should be carried out by the CBI and we must appreciate the hiatus taken by the learned counsel to persuade the State to see that point of

view, though he may not have been successful. We are thus, left to perform our task.

The exigencies in advancement of the principles of justice and fair play and the impartial enquiry require the investigation to be transferred to the CBI. We are not saying that the appellant is a whistle blower, we are not saying that anyone involved in this process is washed with milk. What is the truth, who is at fault, how does such a scenario come to prevail presenting a disturbing picture before the Court is something which the investigation must get into.

The CBI must hold an impartial enquiry into all these aspects to find out whether the allegations made resulting in the FIRs being registered have a ring of truth or whether they are only repercussion of the appellant having raised the red flag. We are not commenting on the merits of the allegations one way or the other and that is also the reason that we do not deem it appropriate to delve into details of all these aspects because we do not want in any manner the investigation to be influenced by any observations of ours.

We are unable to accept the findings of the High Court which seems to treat these as service

disputes, which they are not and thus, have to necessarily set aside the impugned judgment.

We thus, direct the further proceedings and investigations into the five FIRs and three PEs to be transferred to the Central Bureau of Investigation with all the records being handed over within one week from today by the State police authorities.

Needless to say, that all concerned including the appellant, other persons in this drama and the State police will render full assistance to the CBI in furtherance of their investigation to try to get to the truth.

Insofar as the departmental enquiries are concerned, in the very nature of the present proceedings which emanate basically from one set of allegations, it will be appropriate to await the result of the investigations now entrusted to the CBI. Needless to say, we are not revoking the suspension which order shall continue subject to any legal remedy which may be available to the appellant.

We do not know whether this is the end of the road or more allegations, more FIRs will be registered now arising from the period the appellant has served in Maharashtra.

We make it clear that if any FIRs are

registered, they too shall be transferred to the CBI for investigation.

The appeal is allowed in the aforesaid terms with the hope that we will see the truth emerge.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[M.M. SUNDRESH]

NEW DELHI,
MARCH 24, 2022.

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (CrI.) No(s). 8788/2021

(Arising out of impugned final judgment and order dated 16-09-2021 in WP No. 1843/2021 passed by the High Court Of Judicature At Bombay)

PARAM BIR SINGH **Petitioner(s)**

VERSUS

THE STATE OF MAHARASHTRA & ORS. **Respondent(s)**

**IA No. 33563/2022 - INTERVENTION APPLICATION
IA No. 20858/2022 - PERMISSION TO PLACE ON RECORD SUBSEQUENT
FACTS)**

Date : 24-03-2022 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH**

For Petitioner(s) **Mr. Puneet Bali, Sr. Adv.
Ms. Natasha Dalmia, AOR
Mr. Utsav Trivedi, Adv.
Mr. Himanshu Sachdeva, Adv.
Ms. Manini Roy, Adv.
Ms. Aditya Soni, Adv.
Mr. Vishwajeet Beniwal, Adv.
Mr. Satyam Aneja, Adv.**

For Respondent(s) **Mr. Darius Khambata, Sr. Adv.
Mr. Rahul Chitnis, adv.
Mr. Sachin Patil, AOR
Mr. Tushar Hhathiramani, Adv.
Mr. Aaditya A Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv.**

**Mr. K.M. Nataraj, Ld. ASG
Mr. Kanu Agrawal, Adv.
Mr. Shantanu Sharma, Adv.
Mr. Ritwiz Rishabh, Adv.
Mr. Rajat Nair, Adv.
Mr. Udai Khanna, Adv.
Ms. Indira Bhakar, Adv.
Mr. Vinayak Sharma, Adv.**

Mr. Arvind Kumar Sharma, AOR

Mr. Navroz Seervai, Sr. Adv.

Mr. Ranbir Singh, Adv.

Mr. Samrat Krishnarao Shinde, AOR

Mr. S.B. Talekar, Adv.

Mr. Vipin Nair, AOR

Mr. P.B. Suresh, Adv.

Mr. Arindam Ghosh, Adv.

Ms. Madhavi Ayyappan, Adv.

Mr. Siddharth Dave, Sr. Adv.

Mr. Gaurav Agrawal, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed
order.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]