

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.692 OF 2022**

Somnath Laxman Giri and Anr. ... Petitioners
Versus
State of Maharashtra and Anr. ... Respondents

Mr. H.M.Inamdar, for Petitioners.
Ms. Shruti D. Vyas, 'B' Panel Counsel, for State.
Mr. Sachin Patil, DCP, Cyber Crime, Mumbai now stationed as Superintendent of Police (Rural), Nashik, Present through VC.
Mr. Dashrath Choudhary Police Inspector with Mr. Pawar, PSI, Sinnar Police Station, Nashik, present.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

**DATE: 25th JANUARY, 2022
(THROUGH VIDEO CONFERENCING)**

P.C.:

1. On 24th January, 2022 this Court passed the following Order :

“ By the above Writ Petition, the Petitioners have impugned the communication / letter dated 08.01.2022 which is annexed at Page 17 to the Petition.

2. On 21.01.2022, we heard the matter at some length when Shri. Sandesh Pawar, API was present through VC. At that time, we were not informed that a similar letter is also issued to the Complainants. We inquired from Shri. Pawar, API as to the provision under which the said letter dated 08.01.2022 was issued to the Petitioners. Shri Pawar informed us that it was issued under Section 149 of the Code of Criminal Procedure. When we asked him to produce before us all the documents referred to in the impugned letter dated 08.01.2022, a request was made to adjourn the matter and that is why the matter was adjourned till today.

3. Today, a compilation was handed over in Court by the learned Advocate representing the State. One of the submissions made before us is that in order to maintain law and order, a letter similar to the one served on the Petitioners dated 8th

January, 2022 which is impugned in the above Writ Petition by the Petitioners, was on the same day also served on the Complainants. We are informed that since the Complainants and the Petitioners were both present at the police station at the same time on 8th January, 2022, the said letters dated 8th January, 2022 were handed over to them at the police station itself.

4. We are prima facie satisfied that the letter dated 8th January, 2022 addressed and served on the Complainants purportedly on the same day i.e. 8th January, 2022 is a fabricated / back dated document and is produced before this Court for the first time only because at the time of the earlier hearing the Court had made inquiries qua the basis on which the impugned Notice dated 8th January, 2022 was issued to the Petitioners by the police authorities.

5. The reasons for this Court to arrive at a prima facie finding that the said letter dated 8th January, 2022 issued to the Complainants is fabricated / back dated are as follows :

(i) Since the Court had inquired on the earlier date of hearing, the provision under which the impugned letter was issued to the Petitioners, the police authorities have now on the letter addressed to the Complainants, typed “नोटिस (सी. आर. पी. सी. कलम 149 प्रमाणे)” If both the letters were prepared simultaneously and also served on the Petitioners and the Complainants at the same time as alleged, both the letters would have had the same endorsement.

(ii) The letter produced today is signed by Shri Raosaheb K. Tribhuvan, PSI, MIDC Police Station, Sinnar, Nashik, whereas the letter which was issued to the Petitioners and simultaneously handed over to the Petitioners and the Complainants, is signed by Shri Choudhari, Investigating Officer and Police Inspector.

(iii) The font of both the letters are completely different.

(iv) When we informed the learned AGP representing the State and the Police Officers Shri Choudhary and Shri Pawar that the document which is produced today i.e. the Notice issued to the Complainants, is a fabricated document, they vehemently denied the same. We therefore, asked them to produce the relevant despatch register. True to what we expected, in the despatch register, the particulars of document which is forwarded to the Petitioners and impugned in the present Writ Petition are recorded at serial No.73 and the same number, is also found in the letter dated 8th January, 2022 addressed to the Petitioners. No such entry qua the letter purportedly issued to Complainants is found in the despatch register and therefore,

no such outward register entry is found on the letter allegedly forwarded to the Complainants. A print out of the extract of the station diary allegedly maintained by the police station is produced, wherein it is written that the applicant and the non-applicant have been served notice under Section 149 of the Cr.P.C.

6. In view thereof, we call upon the police officers to produce the original station diary and also their duty register for the period 1st January, 2022 till date.

8. By consent of the parties, the matter to be heard physically on 25th January, 2022. To be placed first on board.”

2. Today Shri Sachin Patil, DCP Mumbai, who is currently stationed as Superintendent of Police (Rural), Nashik, is present through video conferencing. Shri Dashrath Choudhary, PI and Shri Pawar, PSI, are physically present before us. They are unable to offer an explanation to the reasons set out in paragraph no.5 of the Order reproduced hereinabove, because of which as recorded in our Order dated 24th January, 2022, we reached a prima facie finding that the Letter dated 8th January, 2022 issued to the Complainants is a fabricated / back dated document. When we inquired from Shri Chaudhary whether the CCTV footage of 8th January, 2022 is available, like all other Station-house Officers, a stereo type answer was given that the CCTV cameras installed at Sinnar Police Station, Nashik, are not operating since the last two months. However, Shri Chaudhary, PI, admits that there are certain lapses on the part of the police officials on duty at the Sinnar Police Station on 8th January, 2022. He has tendered his unconditional apology for the same. We are accepting the unconditional apology and also give benefit of doubt to the police officials only because the extract of

the General Diary produced before us, records that the Notice dated 8th January, 2022 was served on the Complainants on 8th January, 2022 and are thus not proceeding with the issue any further.

3. As regards the repeated excuse given by the police officials manning the police stations in our State that the CCTV cameras are not functioning since a long time, it is necessary to point out that the three Judge Bench of the Supreme Court has in the case of Paramvir Singh Saini V/s. Baljit Singh and Ors.¹, *vide* its Order dated 2nd December, 2020, interalia recorded that on 16th July, 2020, the Supreme Court issued a notice to the Ministry of Home Affairs on the question of audio-video records of statements recorded under Section 161 Code of Criminal Procedure as is provided in the Proviso to Section 161(3), as well as the larger question with respect to installation of CCTV cameras in police stations. By its further Order dated 16th September, 2020, the Supreme Court impleaded all the States and Union Territories to find out the exact position of CCTV cameras qua each police station, as well as the constitution of Oversight Committees in accordance with the Order dated 3rd April, 2018 passed in the case of Shafhi Mohammad V/s. State of Himachal Pradesh². Since the Affidavits filed by some of the States were not found to be satisfactory, the Supreme Court recorded its displeasure and gave further directions in this regard as follows :

“7. Pursuant to the said directions of this Court, Compliance Affidavits and Action

1 (2021) 1 SCC 184

2 (2018) 5 SCC 311

Taken Reports were filed by 14 States (till 24.11.2020), namely, West Bengal, Chhattisgarh, Tamil Nadu, Punjab, Nagaland, Karnataka, Tripura, Uttar Pradesh, Assam, Sikkim, Mizoram, Madhya Pradesh, Meghalaya, Manipur; and 2 Union Territories, namely, Andaman & Nicobar Islands and Puducherry.

8. The majority of the Compliance Affidavits and Action Taken Reports fail to disclose the exact position of CCTV cameras qua each Police Station. The affidavits are bereft of details with respect to the total number of Police Stations functioning in the respective State and Union Territory; total number of CCTV cameras installed in each and every Police Station; the positioning of the CCTV cameras already installed; working condition of the CCTV cameras; whether the CCTV cameras have a recording facility, if yes, then for how many days/hours, have not been disclosed. Further, the position qua constitution of Oversight Committees in accordance with the Order dated 03.04.2018, and/or details with respect to the Oversight Committees already constituted in the respective States and Union Territory have also not been disclosed.

9. Compliance affidavits by all the States and Union Territories are to be filed, as has been stated earlier, by either the Principal Secretary of the State or the Secretary, Home Department of the States/Union Territories. This is to be done by all the States and Union Territories, including those who have filed so-called compliance affidavits till date, stating the details mentioned in paragraph 8 of this Order. These affidavits are to be filed within a period of six weeks from today.

10. So far as constitution of Oversight Committees in accordance with our Order dated 03.04.2018 is concerned, this should be done at the State and District levels. The State Level Oversight Committee (hereinafter referred to as the "SLOC") must consist of:

- (i) The Secretary/Additional Secretary, Home Department;
- (ii) Secretary/Additional Secretary, Finance Department;
- (iii) The Director General/Inspector General of Police; and
- (iv) The Chairperson/member of the State Women's Commission.

11. So far as the District Level Oversight Committee (hereinafter referred to as "DLOC") is concerned, this should comprise of :

- (i) The Divisional Commissioner/ Commissioner of Divisions/ Regional Commissioner/ Revenue Commissioner Division of the District (by whatever name called);
- (ii) The District Magistrate of the District;

- (iii) A Superintendent of Police of that District; and
- (iv) A mayor of a municipality within the District/ a Head of the Zilla Panchayat in rural areas.

12. It shall be the duty of the SLOC to see that the directions passed by this Court are carried out. Amongst others, the duties shall consist of :

- a) Purchase, distribution and installation of CCTVs and its equipment;
- b) Obtaining the budgetary allocation for the same;
- c) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;
- d) Carrying out inspections and addressing the grievances received from the DLOC; and
- e) To call for monthly reports from the DLOC and immediately address any concerns like faulty equipment.

Likewise, the DLOC shall have the following obligations :

- a) Supervision, maintenance and upkeep of CCTVs and its equipment;
- b) Continuous monitoring of maintenance and upkeep of CCTVs and its equipment;
- c) To interact with the Station House Officer (hereinafter referred to as the “SHO”) as to the functioning and maintenance of CCTVs and its equipment; and
- d) To send monthly reports to the SLOC about the functioning of CCTVs and allied equipment.
- e) To review footage stored from CCTVs in the various Police Stations to check for any human rights violation that may have occurred but are not reported.

14. The duty and responsibility for the working, maintenance and recording of CCTVs shall be that of the SHO of the police station concerned. It shall be the duty and obligation of the SHO to immediately report to the DLOC any fault with the equipment or malfunctioning of CCTVs. If the CCTVs are not functioning in a particular police station, the concerned SHO shall inform the DLOC of the arrest / interrogations carried out in that police station during the said period and forward the said record to the DLOC. If the concerned SHO has reported malfunctioning or non-functioning of CCTVs of a particular Police Station, the DLOC shall immediately request the SLOC for repair and purchase of the equipment, which shall be done immediately. (emphasis supplied)

15. The Director General/Inspector General of Police of each State and Union Territory should issue directions to the person in charge of a Police Station to entrust

the SHO of the concerned Police Station with the responsibility of assessing the working condition of the CCTV cameras installed in the police station and also to take corrective action to restore the functioning of all non-functional CCTV cameras. The SHO should also be made responsible for CCTV data maintenance, backup of data, fault rectification etc. (emphasis supplied)

16. The State and Union Territory Governments should ensure that CCTV cameras are installed in each and every Police Station functioning in the respective State and/or Union Territory. Further, in order to ensure that no part of a Police Station is left uncovered, it is imperative to ensure that CCTV cameras are installed at all entry and exit points; main gate of the police station; all lock-ups; all corridors; lobby/the reception area; all verandas/outhouses, Inspector's room; Sub-Inspector's room; areas outside the lock-up room; station hall; in front of the police station compound; outside (not inside) washrooms/toilets; Duty Officer's room; back part of the police station etc. (emphasis supplied)

17. CCTV systems that have to be installed must be equipped with night vision and must necessarily consist of audio as well as video footage. In areas in which there is either no electricity and/or internet, it shall be the duty of the States/Union Territories to provide the same as expeditiously as possible using any mode of providing electricity, including solar/wind power. The internet systems that are provided must also be systems which provide clear image resolutions and audio. Most important of all is the storage of CCTV camera footage which can be done in digital video recorders and/or network video recorders. CCTV cameras must then be installed with such recording systems so that the data that is stored thereon shall be preserved for a period of 18 months. If the recording equipment, available in the market today, does not have the capacity to keep the recording for 18 months but for a lesser period of time, it shall be mandatory for all States, Union Territories and the Central Government to purchase one which allows storage for the maximum period possible, and, in any case, not below 1 year. It is also made clear that this will be reviewed by all the States so as to purchase equipment which is able to store the data for 18 months as soon as it is commercially available in the market. The affidavit of compliance to be filed by all States and Union Territories and Central Government shall clearly indicate that the best equipment available as of date has been purchased.

(emphasis supplied)

20. The SLOC and the COB (where applicable) shall give directions to all Police Stations, investigative/enforcement agencies to prominently display at the entrance

and inside the police stations/offices of investigative/enforcement agencies about the coverage of the concerned premises by CCTV. This shall be done by large posters in English, Hindi and vernacular language. In addition to the above, it shall be clearly mentioned therein that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence. It shall further mention that CCTV footage is preserved for a certain minimum time period, which shall not be less than six months, and the victim has a right to have the same secured in the event of violation of his human rights.

(emphasis supplied)

21. Since these directions are in furtherance of the fundamental rights of each citizen of India guaranteed under Article 21 of the Constitution of India, and since nothing substantial has been done in this regard for a period of over 2½ years since our first Order dated 03.04.2018, the Executive/Administrative/police authorities are to implement this Order both in letter and in spirit as soon as possible. Affidavits will be filed by the Principal Secretary/Cabinet Secretary/Home Secretary of each State/ Union Territory giving this Court a firm action plan with exact timelines for compliance with today's Order. This is to be done within a period of six weeks from today.

(emphasis supplied)

23. The Supreme Court registry to send a copy of this Order to all Chief/Principal Secretaries of all the States and Union Territories, both by physical as well as electronic means, today itself.”

(emphasis supplied)

4. Therefore, statement, as is made before this Court today, and if made by any official of any police station, that the police officials are unable to provide CCTV footage, as may be required by the Court, on account of the CCTVs installed at the police station being non-functional, is in breach of the aforestated Order of the Supreme Court. Infact, we cannot help but record that the above quoted Order of the Supreme Court is regrettably not being followed in spirit. Pursuant to the directions of

the Supreme Court, the CCTV systems are installed in the police stations, merely by way of compliance to the Order, but the same are intentionally either not maintained properly to serve the purpose it is meant to serve, or are deliberately kept non-functional, so that no evidence would be available in any matter, and no one is any the wiser as to what transpired at the police stations. We therefore, direct the Chief Secretary, State of Maharashtra to ensure that the Order of the Supreme Court in the case of Paramvir Singh Saini (Supra) is obeyed in its true letter and spirit, and to take stern action against the Senior Inspectors of Police Stations / Station Officers in-charge of Police Stations for not reporting the CCTVs which are not functional and also for not taking immediate steps to rectify the fault on account of which any CCTV at their Police Station has stopped functioning. The Chief Secretary, State of Maharashtra will submit a report to this Court setting out the data of functional as well as non-functional CCTVs at all the police stations in the State, and the length/duration for which the data recorded in CCTV's is stored, as also the steps taken to keep a backup of the said data. The Report shall be submitted on 15th February, 2022. A copy of this Order shall be forwarded to the Learned Advocate General, State of Maharashtra for immediate action in the matter.

5. The Learned Advocate for the Petitioners is allowed to join Mr. Kachru Ravsaheb Sandhan as Respondent No.5 to the above Writ Petition. Amendments to be carried out forthwith. Re-verification is dispensed with.

6. A copy of above Writ Petition shall be forthwith served on the newly added Respondent No. 5 through all permissible modes of service by the Advocate for the Petitioners.
7. We direct Respondent No. 5 - Mr.Kachru Ravsaheb Sandhan to physically remain present before this Court on 28th January, 2022 at 12.00 noon.
8. Stand over to 28th January, 2022.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)