

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2795 OF 2024

Sorabh Kamal Jain

... Petitioner

V/s.

State of Maharashtra & Anr.

... Respondents

WITH

WRIT PETITION NO. 3939 OF 2024

Piyush Sharma & Ors.

... Petitioners

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. Ashok Mundargi, senior Advocate a/w Mr. Abinash Pradhan, Ms. Garima Agrawal and Mr. Yash Dedhia i/b Wadia Ghandy & Co. for Petitioner in WP No. 2795 of 2024.

Mr. Mihir Gheewala a/w Ms. Apoorva Kulkarni i/b SSB Legal and Advisory for Petitioners in WP No. 3939 of 2024.

Mr. Ashish I. Satpute, A.P.P. for Respondent-State.

Mr. Dilip Vede. API, Vartak Nagar police station present.

Mr. Girish Kulkarni, senior Advocate a/w Ms. Mrunmai Kulkarni for Respondent No.2 in both Petitions.

CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.

DATE : 7th July 2025.

P.C. :

1) We are astonished to hear a bald submission on instructions from the learned A.P.P that, though the crime in-question is registered on 3rd June 2024, i.e. more than 13 months ago, the basic tenet of investigation i.e. drawing of panchnama of scene of offence or the premises in question has not been carried out by the concerned Investigating Officer till today. The

less said, is better about remaining part of the investigation of an offence of this nature i.e. an economic offence, which is being conducted by the Officer of rank of Assistant Police Inspector of the local police station. Before we make our further adverse comments upon the conduct of Investigating Officer and the nature of investigation carried out till today, we deemed it appropriate to direct the Commissioner of Police, Thane, to file his detailed Affidavit to the Petition.

2) At this stage, we called upon the Case Diary of present case for our perusal.

2.1) We have personally perused the case diary. As usual the case diary is maintained in absolute casual manner and loose leaf in a yellow colour plastic file. The first page of case diary has no number and date. It is typed on a ledger paper. Case diary No.1 to 13 are in loose sheets. It is thus clear that, the concerned Investigating Officer has clearly violated the mandate of law under Section 172(1-B) of the Cr.P.C. coupled with the various Circulars and/or directions issued by the office of the Director General of Police Maharashtra State.

2.2) The office of the Director General of Police has issued Circulars dated 6th December 2018, 16th September 2021 and 12th February 2024, and has repeatedly directed all the police personnel in the State of Maharashtra to maintain case diary as per Section 172 of the Cr.P.C. As per our record, last such Circular is issued on 12th February 2024. There is also a Circular dated

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11th February 2011 issued by the Home Department, Government of Maharashtra, directing all the Investigating Officers to follow the amended Section 172 (1-B) of the Cr.P.C. Present crime is registered on 3rd June 2024.

2.3) According to us, undoubtedly all the police personnel in the State of Maharashtra 'must' follow the mandate of law as per the provisions of the Cr.P.C, so also the directions issued by office of the Director General of Police. In our earlier Order, we have observed that, the directions issued by office of the Director General of Police are not percolated to the lower rank of police personnel and they are blatantly violating the directions issued by the top most Authority of the Police Department. This is unconscionable and unpardonable. It appears to us that, in a disciplined police force, the police personnel themselves are not following the discipline and are not following the mandatory directions issued by the office of the Director General of Police.

2.4) In view of the above, we are left with no other alternative than to direct the Director General of Police to file a detailed reply to the Petition and to explain on oath, why the Circulars issued by its office are not being followed by its subordinate Officers/ police personnel.

3) We therefore direct the Director General of Police to explain on oath whether the provisions of law enacted by the Parliament of India are binding and mandatory on the police personnel in the State of Maharashtra or those are to be retained only in the books of law. So also whether the

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Circular/ directions issued by the office of Director General of Police, Maharashtra State are binding on all police force. If the answer to the said questions are in affirmative, we direct the Director General of Police to take necessary action against the concerned Investigating Officer for committing breach of provisions of the Cr.PC and so also violating the various Circulars issued by the office of the Director General of Police. The said reply be filed within a period of two weeks from today.

3.1) We direct the Director General of Police not to delegate its power to any subordinate Officer while filing the reply.

3.2) In view of the above direction to the Director General of Police, the Commissioner of Police, Thane, need not file his reply to the Petition.

4) We reserve our right to take necessary action against the concerned Investigating Officer for breach of the provisions of law if deem necessary and required, after we peruse the Affidavit of the Director General of Police.

5) Stand over to 21st July 2025.

6) Ad-interim relief, if any granted earlier, to continue till next date.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)