IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 23rd OF OCTOBER, 2026

WRIT PETITION No. 34200 of 2026

CNR No.: MPHC010604612026

SANJAY SISODIYA

Versus

THE STATE OF MADHYA PRADESH AND ANR

Appearance:

Shri Anil Khare - Senior Advocate with Shri Priyank Agrawal, learned counsel for the petitioner.

Shri Abhinav Shrivastava, learned counsel for the respondent/State.

ORDER

Per. Justice Deepak Khot

The present petition under Article 226 of the Constitution of India has been filed against the impugned order dated 22.7.2026 passed by the learned Special Judge (PC Act), Bhopal in MJC (R) No.1395/2026, whereby the learned court below has rejected the Closure Report (Khatma No.2/2025) submitted by the prosecuting agency and directed further investigation along with collection of fresh voice samples of the petitioner.

2. The brief facts of the case are that a complaint was made by one Karan Gurjar against his landlord Syed Noman Hussain to the effect that he was running a Hotel in the building rented by his landlord under a rent

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agreement executed for 33 months, but the landlord committed vandalism in the hotel premises and got the premises evicted by fraudulant means and also dishonestly retained the articles belonging to the hotel, on which an FIR for the offence under section 420 of IPC was registered against the landlord. The petitioner being ASI conducted investigation into the matter and it is alleged that the petitioner demanded Rs.30,000/- as a bribe from the complainant on the pretext that he conducted investigation and lodged FIR against landlord. Since Karan Gurjar did not want to give bribe, he made a complaint against the petitioner to the Dy.S.P. The Dy.S.P. handed over a Sony digital voice recorder to the complainant and instructed him to record the conversation regarding the bribe demand. Head Constable Brijbihari Pandey was sent as a shadow witness along with the complainant. The complainant gave a second complaint on the same day alleging that petitioner has asked complainant to come with illegal gratification of Rs.10,000/- and he has recorded the conversation in DVR which was handed over. Thereafter, 2 independent witnesses were summoned and a trap was organised to catch the petitioner red handed. The transcript of the demand conversation was made and thereafter FIR bearing Crime No.82/2024 (annexure P/2) was registered against the petitioner for the offence under section 7 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the Act of 1988'). The trap proceedings were initiated 2-3 times but the proceedings could not be completed as the petitioner was not found in the police station premises. The voice samples of the petitioner and the complainant were sent along with the questioned voice to FSL, Bhopal. The

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investigation was completed and closure report No.2/2025 dated 12.03.2026 was submitted before the court on the ground that in the transcript no direct or indirect demand of bribe was found against the petitioner and also on the ground that RFSL Bhopal did not give any opinion in absence of appropriate speech data containing clear words/phrases. However, the court below rejected the closure report and directed the Investigating Officer to conduct further investigation by collecting the voice sample of the petitioner and sending it to RFSL Bhopal for re-examination thereby collecting fresh relevant evidence independently and after investigation proceed in accordance with law.

3. Learned counsel for the petitioner contended that the learned Special Judge committed grave error of law by rejecting the closure report and ordering fresh voice sampling and further investigation, which amounts to a roving inquiry, violating the protection under Article 20(3) of the Constitution of India. It is further submitted that there was no direct and clear demand raised for illegal gratification by the petitioner from the complainant in the transcript. There is no transcript to indicate that the petitioner demanded or accepted the offer of illegal gratification from the complainant. The RFSL, Bhopal has opined that due to unavailability of sufficient common words/phrases containing suitable speech to conduct auditory and spectrographic examination on the recorded voice sample conversation of the petitioner, it is not possible to compare the questioned voice with the sample voice of the petitioner. It is further submitted that the court below has erroneously placed reliance on the RFSL report wherein it

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has been stated that the petitioner has deliberately attempted to suppress his real voice. It is further submitted that there is no such assertion by the Investigating Agency during preparation of memorandum of sample voice of the petitioner. It is further submitted that the trap proceedings completely failed without any recovery or presence of the petitioner, and the complainant himself has stated before the court that he had no objection to the acceptance of the closure report. It is submitted that even if petitioner's voice sample matches with the alleged recorded conversation, even then the demand of bribe cannot be proved. It is further submitted that as per the opinion of I.O., the conversation nowhere confirms the demand of illegal gratification. No ingredients of section 7 of the Act of 1988 are made out against the petitioner. It is submitted that directing the investigating agency to obtain fresh voice samples for re-examination is an exercise in futility and an abuse of the judicial process, especially since an inconclusive RFSL report cannot substantiate a non-existent demand. To bolster his submissions, learned counsel has relied upon the judgments of the Hon'ble Apex Court in the case of ***Ritesh Sinha v. State of U.P., (2013) 2 SCC 357, Ritesh Sinha v. State of U.P., (2019) 8 SCC 1, Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke, (2015) 3 SCC 123, Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537***, Division Bench judgment of this Court in the case of ***State of M.P. Vs. Shivendra Singh and others, Cr.R.No.2049/2018 decided on 17.3.2021*** and Division Bench order of this Court in the case of ***Narendra Mishra Vs. State of M.P., M.Cr.C.No.10053/2021 decided on 23.2.2022***.

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4. Per contra, learned counsel for respondent No. 2 submitted that the impugned order dated 22.07.2026 has been passed by the learned Special Judge after considering the case diary, recorded conversation and RFSL report. It is submitted that the Court is not bound by the closure report submitted by the investigating agency and can direct further investigation, if necessary. It is within the domain and jurisdiction of the court while accepting the closure report to see whether investigation was done properly or not under section 173 Cr.P.C. and the court can direct further investigation under section 178 Cr.P.C. if the material is sufficient for further investigation. The material which was submitted before the court below was sufficient to *prima facie* opine that it requires further investigation, however, as the RFSL report was inconclusive, the direction was given to the Investigating Officer to recollect the voice sample as it was not conclusive to determine the scientific evidentiary value for corroboration of the recording which was given by the petitioner accused. It is further submitted that obtaining a voice sample does not violate Article 20(3) of the Constitution. The complainant's no-objection to the closure report is not binding on the Court, particularly when the recorded conversation *prima facie* indicates a demand for undue advantage. To bolster his submissions, reliance has been placed upon the judgment of the Hon'ble Apex Court in the case of ***Abhinandan Jha v. Dinesh Mishra, 1967 SCC OnLine SC 107, Dablu Kujur v. State of Jharkhand, (2024) 6 SCC 758, State of T.N. v. Hemendhra Reddy, (2023) 16 SCC 779, Ram Singh v. Col. Ram Singh, 1985 Supp SCC 611.***

5. Heard learned counsel for the parties and perused the record.

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6. From the above contention of the petitioner and the respondents, two legal questions which emerged are that whether the learned Special Court (P.C. Act) had committed any illegality or irregularity while directing further investigation in the matter by not accepting the closure report and with further direction to collect the appropriate voice sample of the petitioner and ii) whether the material and evidence which was submitted before the learned Court below do not constitute any offence under the Prevention of Corruption Act.

7. The court below while considering the closure report has categorically found that the offence was registered under the Prevention of Corruption Act on the basis of a transcript, which was reduced on the basis of voice of the petitioner recorded in the voice recorder provided by the investigating agency on the complaint of the respondent/ complainant. It is found by the court that the Deputy S.P. after hearing the conversation dated 14-06-2024 between petitioner and complainant in presence of witnesses had opined that the demand of Rs.10,000/- to be paid by 4 o'clock in the evening and remaining to be paid in 2-3 days was made by the petitioner and also found that such demand itself constitutes an offence under section 7 of the Act of 1988.

8. Explanation appended to section 7 of the Act of 1988 also provide that even an attempt to receive gratification is an offence. This court while going through the explanation appended to section 7 is of the opinion that the transcript of voice of the petitioner constitute an offence prima facie under the Act of 1988. Therefore, it is not the case that the offence is not made out

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on the face value of the report or the material and it cannot be thrown out at the stage of investigation, particularly when the learned court below has opined that the investigating officer has committed irregularity while collecting the evidence and doing the investigation.

9. Therefore, the ground that no offence is made out from the evidence and investigation conducted by the respondent agency is not found to be a sound ground to quash the entire investigation or the FIR.

10. While examining the first question, it is found by this Court that the RFSL, Bhopal has not given any opinion in regard to matching of the voice sample or the evidence that the transcript and the voice sample collected by the investigating agency is not matching with the voice sent for scientific investigation. But, in fact, the opinion is that that because of large intra-speaker variation it seems that the petitioner had made deliberate attempt of disguise because of inappropriate data containing speech which also does not contain proper words and phrase/sentence. Therefore, the opinion was tendered that no opinion can be given on such voice sample. From perusal of the FSL report filed in the reference tab of the ERP, this court is of the considered opinion that the sample which was sent to the FSL was inappropriate and insufficient to form an opinion. Therefore, closure report on the basis of such inconclusive evidence does not lead to the conclusion that on the basis of collected evidence no offence is made out.

11. As observed hereinabove that from the transcript itself *prima facie* offence has been found to be made out, therefore, to substantiate the prima facie information with evidence, the investigator ought to have conducted the

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investigation honestly and carefully.

12. As the opinion has been formed by the RFSL that the voice samples sent for scientific investigation was inappropriate and insufficient, it is safely opined that the investigation on which the closure report was submitted was not conclusive and sufficient.

13. The Hon. Apex Court in the case of ***Abhinandan Jha (supra),*** has held as under :-

> *15. Then the question is, what is the position, when the Magistrate is dealing with a report submitted by the police, under Section 173, that no case is made out for sending up an accused for trial, which report, as we have already indicated, is called, in the area in question, as a 'final report'? Even in those cases, if the Magistrate agrees with the said report, he may accept the final report and close the proceedings. But there may be instances when the Magistrate may take the view, on a consideration of the final report, that the opinion formed by the police is not based on a full and complete investigation, in which case, in our opinion, the Magistrate will have ample jurisdiction to give directions to the police, under Section 156(3), to make a further investigation. That is, if the Magistrate feels, after considering the final report, that the investigation is unsatisfactory, or incomplete, or that there is scope for further investigation, it will be open to the Magistrate to decline to accept the final report and direct the police to make further investigation, under Section 156(3). The police, after such further investigation, may submit a charge-sheet, or, again submit a final report, depending upon the further investigation made by them. If, ultimately, the Magistrate forms the opinion that the facts, set out in the final report, constitute an offence, he can take cognizance of the offence, under Section 190(1)(b), notwithstanding the contrary opinion of the police, expressed in the final report.*
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> *17. We have to approach the question, arising for consideration in this case, in the light of the circumstances pointed out above. We have already referred to the scheme of Chapter XIV, as well as the observations of this Court in Rishbud and Inder Singh case that the formation of the opinion as to whether or not there is a case to place the accused on trial before a Magistrate, is left to the officer in-charge of the police station. There is no express power, so far as we can see, which gives jurisdiction to pass an order of the nature under attack nor can any such powers be implied. There is certainly no obligation, on the Magistrate, to accept the report, if he does not agree with the opinion formed by the police. Under those circumstances, if he still suspects that an offence has been*

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committed, he is entitled, notwithstanding the opinion of the police, to take cognizance, under Section 190(1)(c) of the Code. That provision, in our opinion, is obviously intended to secure that offences may not go unpunished and justice may be invoked even where persons individually aggrieved are unwilling or unable to prosecute, or the police, either wantonly or through bona fide error, fail to submit a report, setting out the facts constituting the offence. Therefore, a very wide power is conferred on the Magistrate to take cognizance of an offence, not only when he receives information about the commission of an offence from a third person, but also where he has knowledge or even suspicion that the offence has been committed. It is open to the Magistrate to take cognizance of the offence, under Section 190(1)(c), on the ground that, after having due regard to the final report and the police records placed before him, he has reason to suspect that an offence has been committed. Therefore, these circumstances will also clearly negative the power of a Magistrate to call for a charge-sheet from the police, when they have submitted a final report. The entire scheme of Chapter XIV clearly indicates that the formation of the opinion, as to whether or not there is a case to place the accused for trial, is that of the officer in-charge of the police station and that opinion determines whether the report is to be under Section 170, being a 'charge-sheet', or under Section 169, 'a final report'. It is no doubt open to the Magistrate, as we have already pointed out, to accept or disagree with the opinion of the police and, if he disagrees, he is entitled to adopt any one of the courses indicated by us. But he cannot direct the police to submit a charge-sheet, because, the
submission of the report depends upon the opinion formed by the police, and not on the opinion of the Magistrate. The Magistrate cannot compel the police to form a particular opinion, on the investigation, and to submit a report, according to such opinion. Thai will be really encroaching on the sphere of the police and compelling the police to form an opinion so as to accord with the decision of the Magistrate and send a report either under Section 169, or under Section 170, depending upon the nature of the decision. Such a function has been left to the police under the Code.

14. The Hon. Apex Court in the case of ***Ramswaroop Soni v. State of M.P., (2020) 18 SCC 327,*** has held as under :-

3. The law is well settled that in case a final report is filed under Section 173(2) CrPC stating that no offence is made out against the accused, any of the following courses can be adopted by the Magistrate:

(a) He may accept the report which was filed by the police in which case the proceedings would stand closed.

(b) He may not accept the report and may take cognizance in the matter on the basis of such final

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report which was presented by the police.
(c) If he is not satisfied by the investigation so undertaken by the police, he may direct further investigation in the matter.

4. *The law is further well settled that the judicial discretion to be used by the Magistrate at such stage has to fall in either of the three aforesaid categories.*

15. A Division Bench of this Court in the case of ***Bhupendra Singh Vs. State of M.P., I.L.R. (2021) MP 764 (DB)*** has held as under :-

16. *Undoubtedly, at the stage of consideration, the prayer for acceptance of the closure report, very lengthy and analytic order is not required but if the matter is sent back with the direction for further investigation or rejection of the prayer for acceptance of closure report, the order must have such contents which indicate shortcoming of the investigation including suggestions and guidelines with regard to further investigation, if needed, when the further investigation is not required and the closure report is not acceptable and the prayer is rejected, the order must indicate in brief the material, available with the report, supporting the allegations and the reasons with regard to contrary opinion to the Investigating officer. Merely saying that prima facie there is suspicion of the commission of the crime is not sufficient to reject the prayer for the closure report filed by the investigating agency. Brief, indicative and speaking order is required to strike balance and to ensure justice with the investigating agency and accused persons.*

16. The Hon'ble Apex Court in the case of ***Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762*** has held as under :-

40. *Having analysed the provisions of the Code and the various judgments as aforeindicated, we would state the following conclusions in regard to the powers of a Magistrate in terms of Section 173(2) read with Section 173(8) and Section 156(3) of the Code:*
40.1. *The Magistrate has no power to direct "reinvestigation" or "fresh investigation" (de novo) in the case initiated on the basis of a police report.*
40.2. *A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.*
40.3. *The view expressed in Sub-para 40.2 above is in conformity with the principle of law stated in Bhagwant Singh case [Bhagwant Singh v. Commr. of Police, (1985) 2 SCC 537 : 1985 SCC (Cri) 267] by a three-Judge Bench and thus in conformity*

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with the doctrine of precedent.

40.4. *Neither the scheme of the Code nor any specific provision therein bars exercise of such jurisdiction by the Magistrate. The language of Section 173(2) cannot be construed so restrictively as to deprive the Magistrate of such powers particularly in face of the provisions of Section 156(3) and the language of Section 173(8) itself. In fact, such power would have to be read into the language of Section 173(8).*

40.5. *The Code is a procedural document, thus, it must receive a construction which would advance the cause of justice and legislative object sought to be achieved. It does not stand to reason that the legislature provided power of further investigation to the police even after filing a report, but intended to curtail the power of the court to the extent that even where the facts of the case and the ends of justice demand, the court can still not direct the investigating agency to conduct further investigation which it could do on its own.*

40.6. *It has been a procedure of propriety that the police has to seek permission of the court to continue "further investigation" and file supplementary charge-sheet. This approach has been approved by this Court in a number of judgments. This as such would support the view that we are taking in the present case.*

41. *Having discussed the scope of power of the Magistrate under Section 173 of the Code, now we have to examine the kinds of reports that are contemplated under the provisions of the Code and/or as per the judgments of this Court. The first and the foremost document that reaches the jurisdiction of the Magistrate is the first information report. Then, upon completion of the investigation, the police is required to file a report in terms of Section 173(2) of the Code. It will be appropriate to term this report as a primary report, as it is the very foundation of the case of the prosecution before the court. It is the record of the case and the documents annexed thereto, which are considered by the court and then the court of the Magistrate is expected to exercise any of the three options aforenoticed. Out of the stated options with the court, the jurisdiction it would exercise has to be in strict consonance with the settled principles of law. The power of the Magistrate to direct "further investigation" is a significant power which has to be exercised sparingly, in exceptional cases and to achieve the ends of justice. To provide fair, proper and unquestionable investigation is the obligation of the investigating agency and the court in its supervisory capacity is required to ensure the same. Further investigation conducted under the orders of the court, including that of the Magistrate or by the police of its own accord and, for valid reasons, would lead to the filing of a supplementary report. Such supplementary report shall be dealt with as part of the primary report. This is clear from the fact that the provisions of Sections 173(3) to 173(6) would be applicable to such reports in terms of Section 173(8) of the Code.*

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45. *The power to order/direct "reinvestigation" or "de novo"*

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investigation falls in the domain of higher courts, that too in exceptional cases. If one examines the provisions of the Code, there is no specific provision for cancellation of the reports, except that the investigating agency can file a closure report (where according to the investigating agency, no offence is made out). Even such a report is subject to acceptance by the learned Magistrate who, in his wisdom, may or may not accept such a report. For valid reasons, the court may, by declining to accept such a report, direct "further investigation", or even on the basis of the record of the case and the documents annexed thereto, summon the accused.

17. The Hon'ble Apex Court in the case of ***UPSC v. S. Papaiah, (1997) 7 SCC 614,*** has held as under :-

13. The appellant brought the contents of its communication dated 23-1-1995 to the notice of the learned Metropolitan Magistrate through its Miscellaneous Petition No. 2040 of 1995 seeking "reinvestigation" but the learned Magistrate, rejected the petition vide order dated 4-11-1995 observing that "rightly or wrongly that Court had passed an order and it had no power to review the earlier order". Here again the learned Magistrate fell into an error. He was not required to "review" his order. He could have ordered "further investigation" into the case. It appears that the learned Metropolitan Magistrate overlooked the provisions of Section 173(8) which have been enacted to take care of such like situations also. That provision reads:

> *"173. (8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."*

The Magistrate could, thus in exercise of the powers under Section 173(8) CrPC direct the CBI to "further investigate" the case and collect further evidence keeping in view the objections raised by the appellant to the investigation and the "new" report to be submitted by the investigating officer would be governed by sub-sections (2) to (6) of Section 173 CrPC. The learned Magistrate, failed to exercise the jurisdiction vested in him by law and his order dated 4-11-1995 cannot be sustained.

18. From the above enunciation of law, it is discernible that the

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magistrate is having ample power to direct reinvestigation when in the opinion of the magistrate, the investigation is faulty and found to be lacking the material and sufficient evidence.

19. A ground is raised by the learned senior counsel for the petitioner that the Hon. Apex Court in the reference in the case of ***Ritesh Sinha (supra)*** has held that the accused cannot be compelled to give evidence against himself, which is violative of fundamental right enshrined under Article 20(3) of the Constitution of India. The Hon. Apex Court has held that in absence of statutory provisions, the power has to be conferred on a magistrate by a process of judicial interpretation and in exercise of jurisdiction vested in the Supreme Court under Article 142 of the Constitution of India and affirmed the view that the magistrate can direct for recording of voice sample of the accused.

20. The other case law cited by the learned Senior Counsel in the case o f ***Sanjay Singh Ramrao Chavan (supra)*** has been found to be on authenticity of the electronic evidence. However, in the available facts of the present case, it is not applicable at this stage because the learned Magistrate has found that the investigation remained inconclusive because the sample collected was not sufficient to form an opinion by the scientific expert. Therefore, at this stage, the said principle is not applicable in the present case in hand.

21. From the above analysis of facts and exposition of law laid down by the Hon. Apex Court, this court is of the considered opinion that the learned Magistrate has not committed any illegality, irregularity, much less

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jurisdictional error in rejecting the closure report and directing further investigation by collecting voice sample of the petitioner for further examination by the RFSL, Bhopal.

22. Accordingly, the petition *sans* merit and is hereby **dismissed** with no orders to cost.

(ANAND PATHAK)
JUDGE

(DEEPAK KHOT)
JUDGE

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