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Name : Adv. Kamlakar R. Shenoy.
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Charges : 147

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Presented on	06/09/2022
Registered on	06/09/2022
Decided on	05/03/26
Duration	03Y/05M/27D

IN THE SESSIONS COURT FOR GREATER MUMBAI
AT MAZGAON MUMBAI

CRIMINAL REVISION APPLICATION NO. 787 OF 2022

Kamlakar Ratnakar Shenoy,

Age about 65 years, Occ : Business,

R/at : B/903, Vaishali Apartment Seth

Motisha Lane, Opposite Telephone

Exchange, Mazgaon, Mumbai- 400 010.

...Applicant

VERSUS

1. State of Maharashtra

2. Mr. Satish Mathur,

Then Director General of Police, Anti-
Corruption Bureau, Maharashtra State

3. Mr. Keshav Patil

Addl. Commissioner of Police, Anti-
Corruption Bureau, Mumbai.

4. Mr. Ranjan Bhogle,

Addl. Superintendent of Police, Mumbai.

5. Mr. Girish Gode

Then Reader of Director General of
Police, Anti-Corruption Bureau.



Respondents

Applicant in-person present.

Learned APP Ms. B. G. Pande for respondent No.1/State.

Learned Special P.P. Ms.Komal Kandharkar a/w Adv. Amol Andhale and
Adv. Vishal Andhale for Respondent/State Anti Corruption Bureau.

**CORAM : H. H. THE ADDITIONAL SESSIONS JUDGE, SHRI
MUJIBODEEN S. SHAIKH, COURT ROOM NO.88.**

DATED : 05th MARCH, 2026

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No. 1290861 dated 16/3/2026

M. Pande
20/3/2026
Superintendent

City Sessions Court, Bombay



JUDGMENT
(Delivered on 05/03/2026)

1. This Criminal Revision Application is filed challenging the order passed by the learned Metropolitan Magistrate, 62nd Court, Dadar, Mumbai, dated 21.05.2022 in C.C. No. 6200100/SW/2017, thereby dismissed the complaint U/Sec. 203 of Code of Criminal Procedure. It is say and submit that the complainant had filed the report with Economic Offences Wing, Crime Branch, Mumbai against the Chief Executive Officer, Maharashtra Housing and Area Development Authority, the Chief Operating Officers of Mumbai Buildings Repairs and Reconstructions Board and other concerned Officials as they had willfully and deliberately not initiated action against the developers who had not surrendered surplus area admeasuring 1,37,322.53 sq.mt and caused wrongful loss to the Competent Authority and wrongful gain of Rs.14,000/- Crores to the developers. The MHADA Officials have also willfully failed to take action against the developers. The complainant had filed complaint but accused willfully and deliberately failed to register first information report against the accused. The accused disobeyed the direction of law and framed incorrect records. Accused conducted inquiry more than 15 days without registering the first information report (FIR). The accused disobeyed the direction of the law of the Hon'ble Supreme Court and Bombay High Court. The accused also failed to follow the circular of Director General of Police, state of Maharashtra dated 17.02.2012. The act of the accused for seeking opinion of the department where the accused in the report work and conducting the discreet inquiry, is illegal. The accused disobeyed the provision of Section 154 and 157 of the code of Criminal procedure. The Sanction U/Sec. 197 of the Code of Criminal Procedure is not required as the accused have not committed the offence while

discharging the Official duties. Even though, complainant made application for granting the said sanction to Director General of Police, State of Maharashtra, the Director General of Anti-corruption Bureau and the Chief Minister of State of Maharashtra.

2. As the accused persons being public servants failed to discharge their public duty and they are protecting and shielding the offenders / wrongdoers from punishment and prosecution and thereby demoralizing the honest citizen of this country and frustrating the process of justice. Hence, the applicant has filed the complaint against the respondents for the offences punishable U/Sec.217 and 218 of IPC.

3. The Id. Magistrate failed in considering the law and the facts in the present case. The Id. Magistrate failed to appreciate that respondent Nos. 2 to 5 were the Officers of the Anti Corruption Bureau of the Maharashtra state, at the relevant time have willfully and deliberately failed to register the FIR despite of complaint of the applicant disclosing the commission of cognizable offence. The Id. Magistrate has failed to appreciate the noting made by respondent Nos. 2 to 5. It is submitted that para No.7 of the noting respondent No.5 admits there is big-fraud however, he demands permission for discreet inquiry instead of registration of FIR, though the information of disclosing commission of cognizable offence. At para No.13 and 14 respondent No.2 over-rules to demand for discreet inquiry and directs the complaint be sent to the Housing Department of Mantralaya to seek their opinion in spite of the cognizable offence being disclosed. The Id. Magistrate failed to appreciate that respondent No. 2 to 5 were duty bound to register the FIR as the complaint discloses commission of cognizable offence and by seeking permission for conducting the





discreet inquiry instead of registering FIR, they are disobeying the direction U/Sec 154, 156 (2) and 157 of Cr.P.C. The Ld. Magistrate has not given any findings whether complaint filed by the applicant before respondent Nos. 2 to 5 disclosed commission of cognizable offence. If the complaint was disclosing commission of cognizable offences, it was the duty of respondent Nos. 2 to 5 to register the FIR and to discharge their duty by making investigation. The impugned order is passed by the Id. Magistrate is not legal and proper. Hence, this revision petition is filed by the applicant.

4. I heard arguments of applicant in-person and Id. Advocate for respondents. I have gone through the documents, written notes of arguments and citation filed on the record by the parties.

5. The Id. Complainant in-person vehemently argued that some of the public servants in higher rank have been committing the act of omission and commission which promotes and protect the offenders who are silently waging and economic war against the nation. When the public servants in abuse of their position causing loss to the government it amounts to a serious aspect. The Id. Applicant submitted that the Officers are ignoring the binding precedent of the Constitutional Court and taking arbitrary decisions. The Id. Complainant pointed out that the report amounting to cognizable offence has been given to the respondents and they being police Officers and public servants needs to register the First Information Report (FIR), as the report discloses commission of cognizable offence. However, the respondents kept pending the complaint up to 25 months. The complaint was filed on 01.06.2016 and was forwarded to Anti-Corruption Bureau on 03.06.2016. The provision U/Sec. 17-A of PC Act is not applicable to

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this complaint because the said provision is inserted as per the amendments come in to effect on 26.07.2018. The respondents closed the matter till the opinion of State Government is received. The sanction U/Sec. 197 of Cr.PC. is not necessary to prosecute the Officers of the MHADA because they have committed the fraud misusing of position caused wrongful loss to public authority. Disobedience of direction of law, making of fabricated documents and using as genuine does not fall within the ambit of discharge of Officials duties. It is further pointed out that the respondents have consciously avoided to register the FIR against the concerned Officials of MHADA, under the garb of inquiry though the information discloses commission of cognizable offences.

6. The ld. In-person has relied upon number of case laws which are as under:-

1. *Harish Arora Versus Deputy Registrar of Co-Societies WP 3433 of 2025 held that*

“It is a fundamental principle of administrative law that Government Resolutions, Circulars, or Executive Instructions are subservient to statutory enactments and must yield where there is any inconsistency. They are framed to facilitate implementation of statutes, not to supplant or override them. It is equally well settled that while the Government may be bound by its own circulars in administrative decision-making, such circulars or resolutions cannot override statutory law nor can they bind constitutional courts while interpreting legislative provisions. This Court is thus not constrained by the language of the Resolution alone but is duty-bound to test its application in the



light of statutory text, legislative intent, and settled judicial interpretation. Once the Government Resolution dated 4th July 2019 was interpreted in authoritative judicial pronouncements to be merely directory and not mandatory in character, it was incumbent upon respondent No.1, acting as a statutory authority, to follow the binding precedent and give effect to the legal position settled by this Court”.

2. Sanjay and three others Versus State of U.P and Others Application U/Sec. 482 No. 18422 of 2020 the Hon'ble Allhabad High raised held that

“The explanation given by the concerned Magistrate is not acceptable because if a Judge makes such a mistake, then from where will the general public get fair justice. A Judge acts like a God, he/she should not make mistakes due to haste or excess of work. How will a normal man get justice when a judge makes a mistake because of the excess of his/her work? At the present time, only from the temple of justice like Courts, everyone hopes for right and fair justice”.



Dinesh Sharma Versus Emgee Cables and Communication Ltd. Special (CRL No. 10744, 10745/2023 dated 23.04.2025 the Apex Court held that

“The High Court also failed to note that when certain basic material was brought to the notice of the High Court about the criminal conspiracy hatched by the accused persons, it was necessary for the investigation agency to investigate

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thoroughly, in the process of unearthing the truth before the Court. This aspect could have been tested only by conducting a proper trial. The High Court thus should have refrain from quashing the FIR at the nascent stage of the investigation”.

4. Tejas Pravin Dugad Versus Union of India Cri.W.P. 1715/2020 the Hon'ble Bombay High Court held that

“White collar 25 Cri. W.P.1715.20 and other. Odt offences are more serious than offences like murder, dacoity etc. Such offences are committed after hatching conspiracy. This circumstance needs to be kept in mind by Court as the granting of relief of anticipatory bail hampers investigation and such approach cause damage to the image of judiciary”.

5. Inspector of Police and Others Versus Battenpatla Venkata Ratnam and Another AIR 2015 SC (Cri.) 1649 held that

“The learned Magistrate has correctly taken the view that if at all the said view of sanction is to be considered, it could be done at the stage of trial only”.



6. Vinod Kumar Pandey and another Versus Sheesh Ram Saini and Others with Others Civil Appeals arising out of SLP (c) No. 7900 of 2019 and others dated 10.09.2025 held that

Para No.27

In Pradeep Nirankarnath Sharma V. State of Gujarat, this Court, in a very recent judgment held, that where the allegations pertain to the abuse of official position and corrupt practices

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while holding public office, such actions fall squarely within category of cognizable offences and therefore, they are to be inquired into, and holding of any preliminary inquiry before the registration of the FIR is not necessary. If the information provided to the police or the preliminary report discloses a commission of a cognizable offence, the police is duty bound under Section 154 CR.P.C. to register an 'FIR' without any delay.

It is trite to point out that the offence is alleged to have committed in the year 2000 and till date the matter had not been allowed to be investigated. It would be dichotomy of justice if such an offence is allowed to go uninvestigated particularly when there is involvement of the officers on deputation to CBI. It is cardinal in law that justice must not only be done, but must also be seen to be done. It is high time that sometimes those who investigate must also be investigated to keep alive the faith of the public at large in the system.

7. Krishna Prasad Verma (D) through Lrs. versus State of Bihar & Ors. AIR 2019 SC 4852 held that

“Nevertheless, under such circumstances it should be kept in mind that the Judges at all levels have to administer justice without fear or favour. Fearlessness and maintenance of judicial independence are very essential for an efficacious judicial system. Making adverse comments against subordinate judicial officers and subjecting them to severe disciplinary proceedings would ultimately harm the judicial system at the grassroot level.”



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8. Shadakshari Versus State of Karnataka anothers Cri. Appeal No. 256 of 2024 order dated 17.01.2024 held that

“There cannot be any universal rule to determine whether there is a reasonable connection between the act done and the official duty, nor is it possible to lay down any such rule. One safe and sure test in this regard would be to consider if the omission or neglect on the part of the public servant to commit the act complained of could have made him answerable for a charge of dereliction of his official duty. If the answer to this question is in the affirmative, it may be said that such act was committed by the public servant while acting in the discharge of his official duty and there was every connection with the act complained of and the official duty of the public servant. This aspect makes it clear that the concept of Section 197 does not get immediately attracted on institution of the complaint case”.

“5. The question is when the public servant is alleged to have committed the offence of fabrication of record or misappropriation of public fund etc. can he be said to have acted in discharge of his official duties. It is not the official duty of the public servant to fabricate the false records and misappropriate the public funds etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund etc. It does not mean that it is integrally connected or inseparably interlinked with the crime committed in the course of the same



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transaction, as was believed by the learned Judge. Under these circumstances, we are of the opinion that the view expressed by the High Court as well as by the trial court on the question of sanction is clearly illegal and cannot be sustained”.

7. As against the above said arguments and submission of applicant the Id. Advocate for respondents have vehemently argued that the respondents have taken the steps on the complaint of applicant as per the provisions of law. They have sought permission to the State Government to hold open inquiry against the Officers of MHADA but no permission for open inquiry is granted and the discreet inquiry has been made as per the directions of the State Government. As per the provision U/Sec. 17-A of prevention of corruption Act as well as U/Sec. 197 of Cr.PC, the offence cannot be registered directly against the public servant without seeking permission from the competent authority or State Government.

8. After considering the rival submission of the both the parties the following points arise for my consideration and my findings thereon given with the reasons stated herein after.

SR.NO.	POINTS	FINDINGS
1.	Whether the impugned order passed by the Id. Magistrate is perverse?	Yes.
2.	Whether interference of Revisional Court is necessary?	Affirmative
3.	What order?	Criminal Revision Application is Allowed.



REASONS

As to point no.1 to 3 :

9. It is the case of applicant that Officers of the MHADA by making omission and inaction and in collusion with the developers caused loss of worth around of Rs.14,000/- crores by giving surplus area to the builders and developers. Some of the builders surrendered the surplus area. However, from the most of the builders surplus area is not recovered by the MHADA Officers. The approximate value of surplus area yet to be recovered is several thousand crores of Rupees. The applicant brought the above said fact to the notice of senior MHADA Officers and assurances were given to the applicant that they will take necessary remedial measures for the purpose of the effecting recovery of the surplus areas. However, nothing fruitful happened therefore, applicant made an application under RTI act to Public Information Officers Mr. Bhange, MBRRB. The reply was given by the Information Officers dated 19.03.2016 seeking time to furnish the information so called by the applicant. The General information was furnished by MHADA to the applicant vide letter dated 17.03.2013 mentioning therein surplus area of admeasuring 1,37,332.53 sq.mt are to be received in respect of 379 projects. The information further revealed that out of above surplus area only 6191.89 sq.mt. surplus area is surrendered by ten developers. However, the Officers of the MHADA have deliberately avoided to inform and to give information to the applicant what actions they have initiated to recover non-surrendered surplus area. Therefore, the complainant has filed the complaint against the Officers of MHADA before office of Economic Offence Wing, Mumbai and the said complaint was transferred by the Economic Offence Wing, Mumbai crime branch to the Anti -Corruption Bureau, Maharashtra State.

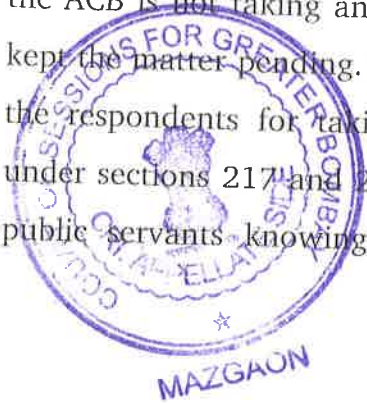


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10. The complainant has given the reminder letter to the Director of General ACB Maharashtra on 17/07/2016 and requested to register the FIR immediately as his complaint discloses commission of cognizable offences under Prevention of Corruption Act as well as IPC. In the said reminder letter, complainant mentioned that Director General of Anti Corruption Bureau, Maharashtra had meeting with the complainant on 11/07/2016 around 3.00 p.m. and in that meeting complainant had given explanation of all the queries and how the offences made out against Mr. Bhange, Mr. Zende and other MHADA Officials who have misused and abused their positions with dishonest intentions by their deliberate act of omission and inaction thereby caused wrongful loss to public authority and wrongful gains to developers and others. The main allegations against the Officials of MHADA is that they have not recovered the surplus area to the tune of 1,37 lacs sq.mtrs. around 30,00,000 sq. fts built up area as sold by developers, worth around Rs.14000 crores. The MHADA Officials have not registered FIR against 389 developers (except some few), not initiated civil proceedings, not initiated proceedings for attachment. The complainant has placed on record Exh.I. The notings have put up by various authorities of Anti Corruption Bureau on the Complaint of the Complainant and they have decided to issue letter to the Principal Secretary of Housing Department Mumbai. The Complaint of Complainant is kept in abeyance till the receipt of report from the Government.

11. Further, the complainant in person states that he is satisfied that the ACB is not taking any action against the MHADA Officials and has kept the matter pending. The complainant has filed a complaint against the respondents for taking cognizance against them for the offence under sections 217 and 218 of IPC alleging that the respondents being public servants knowingly disobeyed the directions of law to the



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prejudice of the complainant regarding the manner in which such investigation shall be conducted. It is alleged by the complainant that the respondents to save the MHADA Officials from legal punishment, have not taken the proper steps as per law against them and therefore, they are liable for prosecution. Therefore, the complainant filed a complaint u/s. 200 Cr.P.C. in the Court of the Metropolitan Magistrate 62nd Court, Dadar, Mumbai. Before filing the complaint, complainant has also submitted a representation to the Chief Minister of Maharashtra, the Director General of Police, Maharashtra State, and the Director General, ACB, Maharashtra State seeking sanction for prosecution against the respondents. The said letter is placed on record at Exh.K dated 21/07/2015. The said letter was served in the Office of the Chief Minister and in the Offices of the Director General of Police and the Director General of ACB. Despite this letter, no sanction was granted nor the complainant informed whether the sanction had been rejected or not. Moreover, it is the contention of the complainant that the act of the accused persons does not fall within the discharging of Official duty; therefore no sanction is necessary for filing the prosecution. He has relied Judgment of Supreme Court the case of **Choudhury Parveen Sultana vs State of West Bengal & Anr, Criminal Appeal No. 08 of 2009 decided on 07/01/2009**, the Apex Court held that, "In our view, the offences complained of cannot be said to part of the duties of the Investigating Officer while investigating an offence alleged to have been committed. It was no part of his duties to threaten the complainant or her husband to withdraw the complaint. In order to apply the bar of Section 197 Cr.P.C. each case has to be considered in its own fact situation in order to arrive at a finding as to whether the protection of Section 197 Cr.P.C. could be given to the public servant. The fact situation in the complaint in this case is such that it does not



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bring the case within the ambit of Section 197 and the High Court erred in quashing the same as far as the respondent No.2 is concerned. The complaint prima facie makes out offences alleged to have been committed by the respondent No.2 which were not part of his Official duties.”

12. As per the amendment of the Government of Maharashtra Act No. XXXII of 2016 published on 30/08/2016 in Section 190 of the Cr.P.C. of Sanctioning authority shall take a decision within a period of ninety days from the date of the receipt of the proposal for sanction and in case the Sanctioning Authority fails to take the decision within the said stipulated period of 90 days, the sanction shall be deemed to have been accorded by the Sanctioning Authority.

13. Further, he has relied upon the Judgment of the Supreme Court in **Shadakshari Vs. State of Karnatana & Anr., Criminal Appeal No. 256/2024** and in the case of **Inspector of Police & Ors. Vs. Battenapatla Venkata Ratnam and Anr., in criminal Appeal No.129 of 2013**. In the case of **Inspector of Police & Ors.** cited supra the Hon'ble Supreme Court held that 'the Learned Magistrate has correctly taken the view that, if at all the said view of sanction is to be considered, it can be considered only at the stage of trial.

14. So far as provision under Section 17 A of the Prevention of Corruption Act is concerned, it is not applicable because the said provision came into effect in the year 2018, whereas the alleged offence is of the year 2016. Kamlakar Ratnakar Shenoy has submitted that the respondents have neglected the binding precedent of the Hon'ble Supreme Court and the Hon'ble High Court for taking cognizance of offences without making an inquiry and if an inquiry is necessary then it



can be completed within reasonable period. Here, in this case the respondents are making inquiry since more than two years period and they are taking stand that they have written the letter to the Housing Department and other authorities of the Government and they have not received any reply from those authorities. Therefore, they are helpless to take the action against the MHADA Officials. However, the act of the respondents come under the omission to consider the prevailing laws and another facet of negligent or dereliction of duty. The respondents are influencing by the factors outside the legitimate scope of inquiry when there is sufficient evidence produced on record by the complainant and the documentary evidence in the form of reply given by the MHADA Officials under Right of Information Act, the MHADA Officials have admitted that 389 builders and developers used huge surplus area at the tune of 1,37,322.53 sq. mtrs around 30 lakhs sq.fits built up area and has sold by the developers worth around Rs.14000 crores. When there is ample evidence, that the MHADA Officials in collusion with the developers caused wrongful loss to the Government and wrongful gain of the developers, then it was the duty of respondents to register the FIR immediately and to start the inquiry to find out the truth in the matter. However, the respondents avoided their responsibility and duty and choose to take the opinion from the Principal Secretary of Housing Department. The MHADA Officials are working under the Housing Department, then how the principal Secretary of Government of Maharashtra will give his opinion to prosecute the officers working under him. Because in the act of using surplus area by the developers, the developers get the benefit around 14000 crores and the MHADA Officials who are knowing this fact that they have not taken any stringent action against the developers, who have not surrendered the surplus area to MHADA. The reason for not



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taking any action against the developers is best known to the MHADA Officials. However, from the facts and circumstances it can be inferred that MHADA Officials might have vested interest therefore, they have not taken any action against the builders. So also, Principal Secretary might have vested interest therefore, he has not given permission to take action or he himself has not taken any action against MHADA Officials who are deeply involved in wrongful gain. Moreover, the Principal Secretary of Housing Department of Government of Maharashtra has kept the matter lingering.

15. The complainant has also relied upon the Judgment of the Hon'ble High Court in the Public Interest Litigation No. 28 of 2017 against the State of Maharashtra, Principal Secretary Housing Department, the Director General of Police Anti Corruption Bureau, the Commissioner of Police and the Chief Executive Officer and sought direction to register the First Information report in respect of his report dated 01/06/2016. The said Writ Petition is decided by the Hon'ble High Court on 18/09/2019. The Hon'ble High Court observed in para No.26 that, "Thus, two high rank Officers of the State were of the opinion that complaint of the petitioner prima facie discloses cognizable offence committed by the Officials of the MHADA/Board. However, inspite of this fact, Officers of the EOW and Officers of the ACB declined to entertain the complaint either by disputing facts and figures disclosed in the petition and/or by saying that initiating the proceedings against the Officials of the MHADA may amount to double jeopardy. It is nothing but shirking the responsibility and acting in defiance of provision of penal laws. In the said judgment in para 29, the Hon'ble High Court mentioned, "In this case, Mr. Keshav Patil, Addl. Commissioner of Anti-Corruption Bureau vide communication dated 18/04/2018 expressed his grave concerned about the alleged complicity



of the Officials of the MHADA and their possible collusion with the developers and thus sought permission to the State to hold open inquiry against the Officers of the MHADA". However, there was no need for this Officer taking recourse to the provisions of Section 17A of the Corruption Act 2018 because this provision is enacted by way of Amendment Act 2018 and this offence is of year 2016. The respondents given much importance to other provisions of law however, cleverly avoided the mandates of law. As per Article 141 of The Constitution of India that the Judgment of Hon'ble Supreme Court is having binding force as a law of the land. In the case of **Lalita Kumbari Vs. Government of Uttar Pradesh & Ors., (2014) 2 SCC 1**, the Constitution Bench has held that "if the information given clearly mentions commission of offence, there is no option but to register the FIR forthwith. The other considerations are not relevant at the stage of registration of FIR, such as whether the information is falsely given, whether the information is genuine, whether the information is credible. These are the issues that are to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given, ex-facie, discloses the commission of cognizable offence. If after investigation, the information given is found to be false, there is always an option to prosecute the complaint for filing a false FIR.

16. In the case in hand the respondents have shown utter disregard to the mandate of law led down in the above case law. In this case, respondents disobeying laws regulating the investigation procedure to the prejudice of complainant and public at large.

17. The I.d. Magistrate in his Judgment in Para No.12 held that, considering the observations of Hon'ble High Court regarding the act of accused, the accused cautiously avoided to register the First



Information Report and kept pending the report of the complainant and sent the case for opinion and remark of the concerned department. Thus, it cannot be said that the act of the accused come within the ambit of Section 217 and 218 of the IPC and therefore, dismissed the complaint. The complainant has relied upon the Judgment of the **Hon'ble Apex Court in the case of Authorized Officer, State Bank of Travancore And Anr. Vs Mathew K.C. AIR 2018 SC 676**, wherein the Apex Court held that, " it is the solemn duty of the Court to apply the correct law without waiting for an objection to be raised by the party, especially when the law stands well settled. Any departure, if permissible, has to be for reasons discussed, of the case falling under a defined exception, duly discussed after noticing the relevant law".

18. The anti-corruption laws have been enacted; and however, effective and efficient implementation is lacking on account of the fact that corrupt activities are widespread in public administration. Acts of commission and omission, lack of expertise and delay in investigation are the vital reasons.

19. The facts and circumstances in the case are sufficiently clear that the act of disobeying the mandate of law led down by the Hon'ble Apex Courts and the laws regulating the investigation. In such set of circumstances the respondents are not entitled to get protection U/Sec. 197 of Cr.PC. As per the judgment of Apex Court in **Authorised Officer, State Bank of Travancore & Anr. Versus Mathew K. C. (cited supra)**, it is the duty of Court to apply correct law, hence offences U/Sec. 166 A, 217, 218 r/w 34 of I.P.C are prima facie attracting against the respondents.

20. After considering the entire fact & circumstances, it become crystal clear that under the garb of preliminary inquiry continues years



together the respondents shown utter disregard to the mandate of law and provisions and therefore, prima facie committed the offence u/s. 166A, 217 and 218 r/w. 34 of IPC by the respondents. In such set up circumstances time has come to pass the bold order to teach the lesson to the public servant working on the higher positions of Government, if they avoided their Official duty showing utter disregard to the law of land then their act can constitute criminal offence. So also, the time has come to give strong message to the Executive Officers/ Bureaucrats that their omission and inaction to take proper action at appropriate time is causing serious issue regarding the economy of the Country as well as economy of the State. Now the time has also come to make it clear that no one is above the law and law does not protect the white collar persons who are using their Office/designation to protect the Officers deeply involved in wrongful gain for them and wrongful loss for the State. Accordingly, I held that the Impugned order passed by the Magistrate is skin saving and erroneous and therefore, it is to be quashed and set aside. Accordingly, I answer point No.1 in the negative and point No.2 in the affirmative and proceed to pass the following order :

ORDER

1. Criminal Revision Application is allowed.
2. The Impugned order passed by the Metropolitan Magistrate 62nd Court at Dadar, Mumbai in C.C.No.100/SW/2017 is hereby set aside.

The Ld. Magistrate to pass order of Issue process against the accused u/s. 166 A, 217 and 218 r/w. 34 of IPC.



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4. The Ld. Metropolitan Magistrate is hereby directed to restore the complaint and to proceed further against the accused persons for recording of evidence of the complainant and witnesses (evidence before charge) after passing issue process order against the accused persons.

5. Proceeding is closed



Digitally signed
by
MUJIBODEEN
SAMADSAB
SHAIKH
Date: 2026.03.17
11:53:26 +0530

(Mujibodeen S. Shaikh)
Addl. Sessions Judge,
Sessions Court, C.R. No.88,
Mazgaon, Gr. Mumbai.

Date : 05/03/2026.

Directly typed on computer on : 05/03/2026
Signed on : 17/03/2026

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"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."		
Upload Date	Upload Time	Stenographer Mahesh S. Lugade
17/03/26	4.00 p.m.	
Name of the Judge (With C.R. No.)		HILJ SHRI MUJIBODEEN S. SHAIKH (COURT ROOM NO.88)
Date of Pronouncement of JUDGMENT / ORDER		05/03/2026
JUDGMENT / ORDER signed by PO. on		17/03/2026
JUDGMENT / ORDER uploaded on		17/03/26

Sonagly
20/3/26
Sealer
This *20th* day of *March* 2026



Certified to be a True Copy
this *20th* day of *March* 2026
M. Madave
For Registrar
City Sessions Court, Bombay

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