IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 402 OF 2026

Charan Kawal Singh Gujral,
Aged 47 years, Occ: Business,
R/o: Plot No.41, Sector 5, Behind Parsik Bank, Koparkhairne, Navi Mumbai – 400709. **PETITIONER**

Versus

1. State of Maharashtra,
Thr. Police Station Officer, Sadar Police Station, District Nagpur City.

2. Pramod Ganpatrao Pinge,
Age 55 years,
R/o. Plot No. 105, Akhil Vishwabharti Housing Society, P.S. Gittikhadan, Nagpur. **RESPONDENTS**

Mr. S.V. Sirpurkar, Advocate a/w Mr. Dhruv Sirpurkar, Advocate for the Petitioner.
Mrs. S.S. Jachak, Addl.PP for the Respondent Nos. 1 & 2/State.

CORAM : URMILA JOSHI PHALKE AND RAJ D. WAKODE, JJ.

RESERVED ON : 22nd SEPTEMBER, 2026.
PRONOUNCED ON : 08th OCTOBER, 2026.

ORAL JUDGMENT :- (PER : URMILA JOSHI PHALKE, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by the consent of learned Counsel appearing for the respective parties.

3. The instant Petition seeks declaration that the entire action of Respondent being without statutory authority declared as illegal and violative of the fundamental rights under Articles 14 and 21 of the Constitution of India and also to hold and declare that the act of initiation of investigation against the Petitioner by the Respondent Police Station in connection with FIR No. 833/2025 is ultra vires in view of the statutory scheme of the MGST Act.

4. As per the contention of the Petitioner in the present Petition, who is a businessman engaged in the business of trading in automobile parts under the name and style of his

proprietorship firm 'Guru Nanak Motors and Eshna Enterprises' having their registered office at Opera House, Mumbai.

5. The FIR came to be registered at the instance of one Pramod Ganpatrao Pinge alleging commission of offences under Sections 132(1)(a), 132(1)(b), 132(1)(c), 132(1)(e) & 132(1)(f) of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter to be referred as "MGST Act") and under Sections 3(5), 318(4), 336(3) & 340(2) of Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as "BNS"). The Petitioner is not named in the said FIR No.833/2025.

6. In the said FIR it was alleged that, the complainant has received an application bearing ARN No. AA2710250433610 gk was submitted in Form GST REG-1 for obtaining registration under the Goods and Services Tax Act, 2017. Upon scrutiny, all documents annexed with the said application were found to be false and fabricated. It was also found that, the applicant had previously made 18 applications based on the same PAN by submitting false documents. The Complainant-State Tax Officer stated that the applicant in the

aforesaid application used PAN No. BJVPP6569E belonging to one Javed Laddu Khan Pathan. In the said application, mobile number 7359825971 and email address globaltraders776@gmail.com were mentioned. By submitting false information and fabricated documents in this manner, bogus invoices worth crores of rupees were generated on such GST numbers without any actual business transactions, solely for availing fraudulent input tax credit.

7. It was also alleged that another entity Savaliya Enterprises, Ratnagiri who was accused No. 2 adopted the same modus operandi and availed fraudulent input tax credit. The total extent of alleged loss suffered by the Government exchequer, as per the contention of the Complainant is Rs. 25 Lakhs. During the course of the investigation, the Investigating Officer has arrested seven accused persons. The notice was also issued to the present Petitioner on 19.01.2026. It revealed during the investigation that, several fake companies registered with the GST portal. Out of which some are not in existence. It also revealed that, huge transaction in crores of rupees took place. The Petitioner who is proprietor of Eshna enterprises

shown to have purchased goods from one Noor company at Mumbai to the tune of Rs. 28,42,09,202/- in the month of July 2025.

8. It further revealed that, the Petitioner had a transaction with one Sunshine Enterprises, from whom the Petitioner purchased the goods to the tune of Rs. 7,97,52,000/- in the said month. The Petitioner has also purchased the goods from Amarjit Enterprises, Mumbai in the tune of more than Rs. 30 corers in the same month. During the course of the investigation it also revealed that, the Petitioner sold the goods worth of Rs. 29,10,56,564/- in the month of July 2025. The proprietor of Noor Enterprises Shri Gurmitsingh Dhir and Jasminder Kaur. The proprietors of Sunshine Enterprises are Amolsingh Shetty and Jasprit Shetty, whereas the proprietor of Amarjit Enterprises are Gurwindersingh Surendrasingh Kochar. On verification of the record from the office of GST it revealed that Noor Enterprises company is not in existence as on today.

9. It further revealed that, the address given on the GST portal by the Sunshine company is not traced on the given

address. The address of Amarjeet company is also not traced as on the given address and the same company is also not found. Therefore, the Investigating Officer has issued summons to the proprietors of the said companies alongwith the present Petitioner as he is a proprietor of Eshna Enterprises. The Petitioner is not made an accused and the notice was issued to him asking the present Petitioner to place on record the documents for the period from 01.01.2020 to 31.12.2025 which are (1) All GST Bills and GST Invoices (2) Purchase and Sale Documents of Goods (3) GST Returns and related records and (4) Any other documents connected with GST transaction, as required during investigation.

10. By this Petition, the Petitioner contended that in view of Section 5 of the MGST Act, the investigation powers into the offences under MGST Act exclusively with the officers appointed and or prescribed under Sections 3 and 4 thereof. The Respondent Police Station is not the competent authority therefore lacks statutory authority to conduct investigation. Thus, without any authority the respondent No.1 i.e. Sadar

Police Station has carried out the investigation and thereby seeks a declaration.

11. Heard Mr. Sirpurkar, learned Counsel for the Petitioner, who submitted that, the Petitioner challenges the FIR No. 833/2025 dated 21.12.2025. He submitted that, the impugned FIR could not have been registered for the offences under GST Act, inasmuch as there is a legal bar to that effect under Sections 132(6) read with Section 134 of the MGST Act. The Respondent Police Authorities have no power to independently investigate into the offences under the CGST and MGST Act. The power is especially confirmed as per Section 67 of the CGST Act upon a proper officer, not below the rank of Joint Commissioner.

12. He further submitted that, the Respondent No.2 is not a proper Officer as defined under the Act and thus shall not be entitled to seek assistance of Police under Rule 150 of the CGST Rules and thereby entire action of the Respondent No.1 on the basis of the complaint of the Respondent No.2 is illegal and liable to be quashed and set aside.

13. In support of his contention he placed reliance on ***Deepak Singhal Vs. Union of India & Ors., 2024 SCC OnLine MP 9789*** and ***Daulat Samirmal Mehta Vs. Union of India & Ors., 2021 SCC OnLine Bom 200***.

14. *Per contra*, learned Addl.PP for the State strongly opposed the said contentions and submitted that, in view of Section 70 of the MGST Act, the power to summon persons to give evidence and produce documents are with the police.

15. In a nutshell the entire core of the allegation made in the impugned FIR is that the accused therein has fraudulently with dishonest intention by submitting false documents with an intention to obtain the benefit under the GST took inward supply and pass on the goods to users without actually generating or producing or carrying out any business.

16. By placing reliance on the provisions of Section 67 of the MGST Act, learned Counsel for the Petitioner submitted that, in view of Section 67 the proper officer not below the rank of Joint Commissioner when has reason to believe that – (a) a taxable person has suppressed any transaction relating to supply

of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act ; or (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of State tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

17. He further submitted that, in view of sub-section (2) of Section 67, where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any

proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of State tax to search and seize or may himself search and seize such goods, documents or books or things :

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer :

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

18. He further submitted that, in view of Section 69 of the MGST Act, where the Commissioner has reasons to believe that person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by

order, authorise any officer of State tax to arrest such person. (2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty four hours.

19. He further invited our attention towards sub-section (3) of Section 69 and submitted that, (a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate ; (b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

20. Before addressing the issue involved in the present Petition, it is necessary to address the relevant provision.

Section 122 of the MGST Act deals with penalty for certain offences, which is reproduced as under:

> *"**122. Penalty certain offences**.—Where a taxable person who—*
>
> *(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply ;*
>
> *(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder ;*
>
> *(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due ;*
>
> *(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;*
>
> *(v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;*
>
> *(vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said subsection or where he fails to pay to the Government the amount collected as tax under subsection (3) of section 52 ;*
>
> *(vii) takes or utilizes input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder ;*

(viii) fraudulently obtains refund of tax under this Act ;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder ;

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act ;

(xi) is liable to be registered under this Act but fails to obtain registration ;

(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently ;

(xiii) obstructs or prevents any officer in discharge of his duties under this Act ;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf ;

(xv) suppresses his turnover leading to evasion of tax under this Act ;

(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder ;

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act ;

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act ;

(xix) issues any invoice or document by using the registration number of another registered person ;

(xx) tampers with, or destroys any material evidence or documents ;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this

Act, shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(1A) Any person who retains the benefit of a transaction covered under clause (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.

(1B) Any electronic commerce operator, who is liable to collect tax at source under section 52,-

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act, shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized,—

(a) for any reason, other than the reason of fraud or any willful misstatement or suppression of facts

to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher ;

(b) for reason of fraud or any willful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1) ;

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder ;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder ;

(d) fails to appear before the officer of State tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry ;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty five thousand rupees."

21. Section 132 deals with punishment for certain offences, which reads as under:

*"**132. Punishment for certain offences.**—(1) Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely :—*

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax ;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax ;

(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill ;

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due ;

(e) evades tax 5 or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d) ;

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act ;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder ;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder ;

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section, shall be punishable—

> *(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with*

imprisonment for a term which may extend to five years and with fine ;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine ;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine ;

(iv) in cases where he commits or abets the commission of an offence specified in clause (f), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.

(5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.

> *(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.*
>
> *Explanation. - For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and cess levied under the Goods and Services Tax (Compensation to States) Act."*

22. The learned Counsel for the Petitioner, raised an objection that the Respondent No.1 the concerned Police Station has no power to investigate the matter as specific powers are enumerated by the provisions of the MGST Act.

23. To understand the scope of said submission, it is necessary to refer Section 4 of the Code of Criminal Procedure, which reads as under:

> *"**4. Trial of offences under the Indian Penal Code and other laws**.—(1) All offences under the Indian Penal Code (45 of 1860) shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.*
>
> *(2) All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner of place of investigating, inquiring into, trying or otherwise dealing with such offences."*

24. So far as the offences under IPC are concerned, sub-section (1) mandates that, they can be investigated into and tried according to the provisions of the Code. When we go to sub-section (2) which concerns the offences "under any other law" it is again the rule that such offences shall also be investigated and tried according to the provisions of the Code itself, but with a rider that such investigation or trial shall be subject to the regulation regarding "the manner or place of which the investigation or trial prescribed in any enactment for the time being in force".

25. The Hon'ble Apex Court in the case of ***State of West Bengal Vs. Narayan K. Patodia, MANU/SC/0246/2000***, has dealt with this situation and by referring its earlier judgment in ***Mirza Iqbal Hussain Vs. State of Uttar Pradesh, MANU/SC/0088/1982 : AIR 1983 SC 60***, wherein a two judge Bench of the Supreme Court considered the contention that in a trial of offences under Prevention of Corruption Act the special Court has no power to confiscate any property in view of Section 4(2) of the Code which excludes powers under the Code while dealing with offences under laws other, than Indian Penal

Code. After extracting Section 4(2) of the Code, the Supreme Court as follows:

> *"It is clear from this provision that in so far as the offences under laws other than the Indian Penal Code are concerned, the provisions of the CrPC apply in their full force subject to any specific or contrary provision made by the law under which the offence is investigated or tried."*

26. By referring the other relevant provisions of the Sales Tax Act, the Hon'ble Apex Court observed that, it is open to the Bureau to get the assistance of any other legally constituted investigating agency for effectively inquiring into all the ramifications of the offence. As in this case if offences falling under the Indian Penal Code or any other enactment are also detected during the course of investigation conducted by the Bureau there is no inhibition to pass over the investigation to the regular police.

27. On the similar observation, the Division Bench of this Court in the case of ***G.S. Oils & Ors. Vs. The State of Maharashtra & Ors., MANU/MH/1706/2012*** has considered the provisions of Section 77 of the VAT Act and observed that, "a perusal of the said section reveals that the Commissioner may

authorise, either generally or in respect of a particular case or class of cases, any officer or person subordinate to him to investigate all or any of the offences punishable under this Act. Sub-section (2) of said section provides that such an Officer who is authorised, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, upon an officer in charge of a police station for the investigation of a cognizable offence."

28. It is further held in para 12, which reads as under:

> *"12. A similar question fell for consideration before the Apex Court in the case of State of W.B. (supra). In the said case, under the W.B. Sales Tax Act, a provision was made that the investigation under the said offence was to be carried out by Bureau of Investigation. In the said case also, a complaint was presented by the Assistant Commissioner of Commercial Taxes to the Deputy Superintendent of Police who in turn forwarded it to the officer in charge of the police station, for starting the investigation for the offences punishable under Sections 403, 409, 465, 468, 471, 419 and 420 read with Section 120-B of the I.P.C. and Sections 88(1)(b), (6) and (7) of the Sales Tax Act, 1994 treating as FIR. The registration of the said FIR came to be challenged before the Calcutta High Court. The Calcutta High Court holding that the investigation could not have been carried out by anyone except the Bureau of Investigation, as constituted under the said Act, quashed and set aside the proceedings. The State of West Bengal went in appeal before the Apex Court. The Apex Court while setting aside the judgment of the Calcutta High Court has observed in paragraphs no.16,17, 18 and 19 which read thus:-*

16. The offence envisaged in sub-section (6) is specifically created as supplemental to any other penalty provided by any law for the time being in force. This means, offences falling under the Indian Penal Code and committed by a person while committing the offence contemplated in sub-section (6) cannot get displaced for the sole reason that the accused has committed the offence falling under sub-section (6) of Section 88.

17. Section 7(1) of the Sales Tax Act empowers the State government to constitute a Bureau of Investigation for discharging the functions referred to in sub-section (3) thereof. It empowers the Bureau to carry on the investigation or hold enquiry into any case or alleged or suspected case of evasion of tax or malpractice created thereof and send a report of it to the Commissioner. A reading of Section 7 makes it clear that creation of Bureau of Investigation for the purpose of discharging the function envisaged in sub-section (3) which, of course, includes investigation also. But there is nothing in Section 7 that such investigation can be carried on "only" by the Bureau and not any other investigating agency. It is open to the Bureau to get the assistance of any other legally constituted investigating agency for effectively inquiring into all the ramifications of the offence. As in this case if offences falling under the Indian Penal Code or any other enactment are also detected during the course of investigation conducted by the Bureau there is no inhibition to pass over the investigation to the regular police.

18. If the view of the learned single judge gets approval it would lead to startling consequences. The consequences of such an interpretation would be that if the person who commits the offence under Section 88 of the Act also commits other serious offences falling under Indian Penal Code as part of the same transaction neither the regular police nor any special police force nor even the Central Bureau of Investigation can be authorised to conduct investigation. The accused in such cases would then be well ensconced insulated from the legal consequences of proper and effective investigation. Criminal justice would be the serious casualty then.

> ***19.*** *That apart, how could the FIR be quashed if the investigating agency should have been different? By lodging FIR alone no investigation is conducted by the police. It is the first step towards starting investigation by the police. If High Court was of the opinion that investigation has to be conducted by the Bureau then also there was no need to quash the FIR. Any way we take the view that as offences under the Indian Penal Code are also involved, efficacious investigation can be conducted by entrusting it to the police investigating agency. Inherent powers of the High Court as recognised in Section 482 of the Code are reserved to be used "to give effect to any orders under the Code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice." It is quite unfortunate that learned single judge overlooked the reality that by quashing the FIR in the case the High Court did not achieve any one of the above factors. On the contrary, the result of quashing the FIR had rendered the allegation of offences made against a person to remain consigned in stupor perennially. Hence, instead of achieving ends of criminal justice, the impugned order would achieve the reverse of it."*

29. The facts of the present case are completely identical. Not only that in the present case also, Section 72 of the MGST Act specifically states that, "all officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of central tax and officers of the Union territory tax shall assist the proper officers in the implementation of this Act."

30. Section 72 of MGST, Act, reads as under:

> *"**72. Officers to assist proper officers**.—(1) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of central tax and officers of the Union territory tax shall assist the proper officers in the implementation of this Act.*
>
> *(2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner."*

31. Thus, the present provision permits the officers under the MGST Act to take the assistance of the proper officers for the purpose of the investigation.

32. In the present case also, the offences are registered under the provisions of IPC. Therefore, the observation of the Hon'ble Apex Court in a clear terms that merely because the accused has committed an offence falling under the special statute could not mean that the offences under the Indian Penal Code would get displaced. As already discussed herein above, the accused are also charged additionally for the offences punishable under Sections 318(4), 336(3) and 340(2) of BNS, 2023, which are not common with any of the offences as provided under the MGST Act.

33. In a subsequent decision of the Hon'ble Apex Court in ***Criminal Appeal No. 1195/2018 arising out the Special Leave Petition (Criminal) No. 4475/2016 decided on 20.09.2018 in the case of State of Maharashtra & Anr. Vs. Sayyed Hassan Sayyed Subhan & Ors.***, wherein the issue that arisen for consideration was whether an accused could be prosecuted for an offence punishable under the Penal Code for which a proceeding can also be drawn under the provisions of the Food Safety and Standards Act. By relying upon the decision of the Apex Court in State of Rajasthan Vs. Hat Singh (supra) and State of Delhi (NCT) Vs. Sanjay (supra), the apex court, in paragraphs 7 and 8 of the judgment, held as follows:-

> *"7. There is no bar to a trial or conviction of an offender under two different enactments, but the bar is only to the punishment of the offender twice for the offence. Where an act or an omission constitutes an offence under two enactments, the offender may be prosecuted and punished under either or both enactments but shall not be liable to be punished twice for the same offence. The same set of facts, in conceivable cases, can constitute offences under two different laws. An act or an omission can amount to and constitute an offence under the IPC and at the same time, an offence under any other law. The High Court ought to have taken note of Section 26 of the General Clauses Act, 1897 which reads as follows:*
>
> *"**Provisions as to offences punishable under two or more enactments** - Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either*

> *or any of those enactments, but shall not be liable to be punished twice for the same offence."*
>
> *"8. In Hat Singh's case this Court discussed the doctrine of double jeopardy and Section 26 of the General Clauses Act to observe that prosecution under two different Acts is permissible if the ingredients of the provisions are satisfied on the same facts. While considering a dispute about the prosecution of the Respondent therein for offences under the Mines and Minerals (Development and Regulation) Act, 1957 and Indian Penal Code, this Court in* ***State (NCT of Delhi) v. Sanjay*** *held that there is no bar in prosecuting persons under the Penal Code where the offences committed by persons are penal and cognizable offences. A perusal of the provisions of the FSS Act would make it clear that there is no bar for prosecution under the IPC merely because the provisions in the FSS Act prescribe penalties. We, therefore, set aside the finding of the High Court on the first point."*

34. Thus, considering the provisions of Section 4 of the Code, which provided that all offences under the Penal Code are to be investigated, inquired into, tried and otherwise dealt according to the provisions contained in the Code, and came to the conclusion that, as there was no provision in the Sales Tax Act which inhibited the powers of the police as conferred by the Code for investigation and trial of offences under the Penal Code, the order passed by the High Court was liable to be set aside and, accordingly, permitted the registration as well as investigation on the first information report.

35. A similar view has been taken by this Court also in the case of ***G.S. Oils*** (supra).

36. Thus, the issue involved in the present Petition that, whether the police can carry out the investigation or not is now no more *res integra*, as the Hon'ble Apex Court has already held in ***State of West Bengal*** (supra) that in case offences falling under the Indian Penal Code or any other enactment are also detected during the course of investigation conducted by the Bureau there is no inhibition to pass over the investigation to the regular police.

37. In view of the above observation, the contention raised by the learned Counsel for the Petitioner, is not sustainable.

38. The Petitioner has further prayed in the present Petition to declare the entire initiation of the investigation illegal and quash the same. The Hon'ble Apex Court in the same judgment observed that, by lodging FIR alone no investigation is conducted by the police. It is the first step towards starting investigation by the police. Even if the Court comes to the

conclusion that, investigation has to be conducted by the Bureau then also there was no need to quash the FIR.

39. Insofar as the present Petition is concerned, the grounds raised in the present Petition that the police are not empowered to carryout the investigation. Now it is well settled position of law that, the FIR is not an encyclopedia of the entire case, the FIR only states the investigation machinery into motion. The present Petitioner is not the accused therein. The matter still is at the stage of investigation. The Investigating Officer would be bound to collect the evidence in support of the prosecution case before charge-sheet is filed. As already observed by the Hon'ble Apex Court that, merely because the accused has committed an offence falling under the special statute could not mean that the offences under the Indian Penal Code would get displaced as already discussed herein above that accused is also charged for the offences punishable under the provisions of IPC and it does not debar the police officers to carryout the investigation. In view of that, the prayers in the present Petition deserve to be rejected. Therefore, the Petition

being devoid of merits liable to be dismissed. Accordingly, we proceed to pass the following order.

O R D E R

i. Criminal Writ Petition is **dismissed.**

40. Rule is discharged.

41. Pending application/s, if any, shall stand disposed of accordingly.

(RAJ D. WAKODE, J.) **(URMILA JOSHI PHALKE, J.)**

S.D.Bhimte