IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE RAJESH KUMAR GUPTA

ON THE 29th OF JULY, 2026

MISC. CRIMINAL CASE No. 23019 of 2026

RAJESH SINGH CHANDEL
Versus
MR ANOOP RANA AND OTHERS

Appearance:

Shri M. P. S. Raghuvanshi, learned Senior Advocate with Shri Vijay Kumar Jha- Advocate for the petitioner.

Shri Chetan Kanungo with Shri Nischal Raje- Advocate for the respondent No.1.

Shri Vivek Khedkar - Additional Advocate General for the respondent/State.

WITH

MISC. CRIMINAL CASE No. 23024 of 2026

SURENDRA NATH SINGH YADAV
Versus
MR. ANOOP RANA AND OTHERS

Appearance:

Shri M. P. S. Raghuvanshi, learned Senior Advocate with Shri B. K. Sharma and Shri Vijay Kumar Jha- Advocate for the petitioner.

Shri Chetan Kanungo with Shri Nischal Raje- Advocate for the respondent No.1.

Shri Vivek Khedkar - Additional Advocate General for the respondent/State.

MISC. CRIMINAL CASE No. 24578 of 2026

AJAY SINGH SIKARWAR
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Prashant Sharma- Advocate for the petitioner.

Shri Chetan Kanungo with Shri Nischal Raje- Advocate for the respondent No.1.

Shri Vivek Khedkar - Additional Advocate General for the respondent/State.

MISC. CRIMINAL CASE No. 26742 of 2026

SANTOSH VERMA
Versus
THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Atul Gupta- Advocate for the petitioner.

Shri Chetan Kanungo with Shri Nischal Raje- Advocate for the respondent No.1.

Shri Vivek Khedkar - Additional Advocate General for the respondent/State.

ORDER

Since all the above petitions arise out of one and the same private complaint instituted by respondent No.2, challenge the common order dated 11.05.2026 passed by the Special Judge under the Madhya Pradesh Dakaiti

Evam Vyapharan Prabhavit Kshetra Adhiniyam, 1981, Gwalior, whereby cognizance has been taken against the present petitioners for offences punishable under Sections 392, 201, and 120 of IPC read with Section 11/13 MPDVPK Act, and involve identical questions of fact and law, they were heard analogously and are being decided by this common order.

2. The present petitions present a significant question concerning the permissible limits of criminal prosecution against police officers acting in discharge of investigative functions and the scope of judicial scrutiny while taking cognizance upon a private complaint under Sections 200 and 202 of the Cr.P.C. The controversy essentially arises out of a private complaint filed by respondent No.2 stating that while investigating Crime No.787/2023 registered at Police Station Thatipur, District Gwalior, the petitioners illegally extorted huge sums of money from the complainant and his family members by threatening false implication and police encounter. Acting upon the complaint, the Special Judge, after recording preliminary statements under Sections 200 and 202 Cr.P.C., passed the impugned order dated 11.05.2026, taking cognizance against all four petitioners. Aggrieved thereby, the petitioners have filed these petitions seeking quashment of the complaint proceedings as well as the order taking cognizance.

2. The aforesaid cognizance order has been passed in consequence of some prior proceedings in other case in which the present complainant happened to be the accused, therefore, the facts of the earlier proceedings are also necessary to be discussed.

3. Crime No.787/2023 came to be registered at Police Station Thatipur

for offences punishable under Sections 420 and 34 of IPC. During investigation, offences under Sections 467, 468, 471 and 120-B IPC along with Sections 66-D and 74 of the I.T. Act were added. The prosecution case in the said crime was that several unemployed persons were induced to pay substantial amounts of money on the false promise that government employment in the Railways would be procured for them. During investigation, the investigating agency allegedly discovered that the fraudulent activity was not confined to one or two complainants but extended to numerous victims, involving a financial fraud running into several crores of rupees. Investigation further revealed digital evidence, forged appointment letters, fabricated identity documents, electronic communications and financial transactions connecting various accused persons. The brother of respondent No.2, namely Vikram Rana, was one of the principal accused in the said crime. Subsequently, respondent No.2 himself also came to be implicated during investigation on the basis of material collected by the investigating agency. Respondent No.2 was arrested and later he was enlarged on bail.

4. Now, the private complaint proceeds substantially on the allegations that the investigating officer Ajay Singh Sikarwar demanded illegal gratification for extending favour during investigation. Several installments of money amounting to approximately Rs.5,80,000/- were allegedly paid on different dates. On 24.12.2023 respondent No.2, his brother and certain relatives were taken to Police Station Thatipur where they were allegedly illegally detained.Respondent No.2 was thereafter compelled to bring

Rs.9,75,000/- from his residence through police constable Santosh Verma. Another sum of Rs.15,00,000/- arranged by Chandralekha Jain was allegedly received by petitioner No.3 herein. Threats were allegedly extended to the complainant and others that unless another Rs.30,00,000/- was paid, the entire family would be falsely implicated and they were also given threats of Police encounter. The written complaints were submitted before the concerned Superintendent of Police but no action was taken. It is also alleged that CCTV footage of the police station was subsequently not preserved and was intentionally destroyed. Such destruction of CCTV footage established conspiracy between all police officials including the Superintendent of Police. Upon these allegations, offences under Sections 392, 120-B and Sections 11/13 of the MPDVPK Act were alleged. Initially, respondent No.2 filed an application under Section 156(3) Cr.P.C. praying for registration of an FIR. The Special Judge, by order dated 31.10.2024, rejected to direct police investigation and observed that the accused persons were known, the occurrence was based upon direct evidence, recovery of any material article was not indispensable and the controversy could appropriately be examined under Sections 200 and 202 Cr.P.C. Accordingly, the application under Section 156(3) Cr.P.C. was rejected and the complaint was directed to proceed as a private complaint.

5. Subsequently, the complainant examined himself. His father was examined and one independent witness Shishupal Singh was also examined. Certain documents including complaints addressed to superior police authorities, loan documents, alleged audio recordings and certain electronic

material were produced. The Special Judge, also summoned records of Sessions Trial No.172/2024 arising out of Crime No.787/2023. Thereafter, correspondence was made with Police Station Thatipur regarding preservation of CCTV footage. Upon receipt of replies from police authorities, the Special Judge recorded various findings regarding alleged non-preservation of CCTV recordings and ultimately, by the impugned order dated 11.05.2026, cognizance was taken against all petitioners.

6. In the aforesaid impugned order of the cognizance the Special Judge principally held that statements under Sections 200 and 202 Cr.P.C. inspire confidence against the present petitioners and non -preservation of CCTV footage corroborates the complainant. It was also believed by the Special Court that failure of superior officers to take action indicates conspiracy and sanction under Section 197 Cr.P.C. is unnecessary and accordingly, observed that prima facie offences under Sections 392, 201, 120-B IPC and Sections 11/13 MPDVPK Act are made out. Accordingly, process was directed to be issued.

7. The petitioners challenge the aforesaid order primarily on the grounds that the Special Judge has travelled far beyond the permissible jurisdiction of enquiry under Sections 200 and 202 of Cr.P.C.. A detailed appreciation of defence material and investigation record has been undertaken without jurisdiction. The findings have virtually been recorded as though a full-fledged trial had already concluded which is totally impermissible. Further grounds raised in the petitions are that essential ingredients of robbery under Section 392 IPC are totally absent and there no

material exists attracting Section 201 IPC. The essential ingredients of criminal conspiracy are wholly missing. The proceedings are manifestly actuated by mala fide as respondent No.2 himself is an accused in Crime No.787/2023, therefore, continuation of criminal proceedings would amount to abuse of the process of Court.

8. Learned Senior Counsel appearing for the petitioners, assisted by learned counsel appearing in the connected petitions, assailed the impugned order on facts as well as on law and submitted that the order dated 11.05.2026 is wholly without jurisdiction, contrary to the settled principles governing cognizance upon a private complaint and suffers from manifest legal infirmities warranting interference under Section 482 of the Code of Criminal Procedure/528 of BNSS. According to the learned counsel, the Special Judge has completely misdirected himself in law by conducting a virtual mini-trial at the stage of Sections 200 and 202 Cr.P.C. and by recording findings which could have been rendered only after appreciation of evidence during trial. It is submitted that the impugned order runs into several pages and records categorical conclusions regarding the truthfulness of the complainant, alleged destruction of evidence, existence of conspiracy and culpability of each petitioner. Such findings, according to the petitioners, are wholly impermissible at the pre-process stage.

9. Learned counsel further submitted that respondent No.2 is not an independent complainant but himself an accused in Crime No.787/2023 registered at Police Station Thatipur for offences punishable under Sections 420, 467, 468, 471 and 120-B IPC along with provisions of the I.T. Act. The

investigation, according to the petitioners, disclosed a large-scale employment scam wherein numerous unemployed persons were allegedly cheated on the false promise of securing appointments in Government service. Initially, the complainant was not named in the FIR. However, during investigation, digital evidence, documentary material, statements of witnesses and financial transactions revealed his involvement, thereafter he came to be arrayed as an accused. It is argued that immediately after being implicated and arrested, the complainant initiated multiple proceedings against the investigating officials with the sole object of intimidating the investigating agency and derailing the criminal prosecution. The complaint, therefore, is an example of a retaliatory prosecution instituted by an accused against police officers investigating him.

10. Learned counsel for the petitioners placed reliance on the judgement passed by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal**, 1992 Supp (1) SCC 335, wherein it was held that proceedings instituted with an ulterior motive for wreaking vengeance or with a view to spite the accused deserve to be quashed in exercise of inherent jurisdiction, in the case of **R.P. Kapur v. State of Punjab** , AIR 1960 SC 866, wherein the Supreme Court recognized abuse of process as one of the settled grounds for exercise of inherent powers.

11. It is further argued by learned counsel that the entire scheme of Chapter XV of the Cr.P.C. contemplates only a limited enquiry. The object of Sections 200 and 202 Cr.P.C. is merely to ascertain whether sufficient grounds exist for proceeding. The Court is not expected to determine guilt.

Nor can it record findings regarding reliability of witnesses. Eve it can not pronounce upon disputed questions of fact. The Special Judge, however, has discussed in great detail regarding investigation records, CCTV preservation, replies received from police authorities, conduct of superior officers, alleged conspiracy, credibility of witnesses, admissibility of electronic material, and even probable defence. Such an exercise, according to the petitioners, completely destroys the distinction between a preliminary enquiry and a criminal trial.

12. Learned counsel for the petitioners further relied on **Chandra Deo Singh v. Prokash Chandra Bose**, AIR 1963 SC 1430. wherein the Supreme Court held that at the stage of Sections 200 and 202 Cr.P.C., the Magistrate has only to determine whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction.

13. Petitioners further rely upon the judgement passed in the case of Nagawwa v. Veeranna Shivalingappa Konjalgi, (1976) 3 SCC 736 and submitted that at the stage of issuing process the Magistrate cannot undertake meticulous appreciation of evidence.

14. It is further argued that as per the judgement passed in the case of **Mehmood Ul Rehman v. Khazir Mohammad Tunda**, (2015) 12 SCC 42, the Supreme Court emphasized that although reasons are necessary while issuing process, those reasons cannot amount to adjudication of disputed questions of fact.

15. Learned counsel further contend that the Special Judge has virtually decided several disputed factual issues. Illustratively, the impugned

order records findings that complainant's version stands corroborated, CCTV footage was intentionally destroyed, Superintendent of Police was part of conspiracy, police officers deliberately concealed evidence and complainant's allegations inspire confidence. It is argued that none of these conclusions could have been recorded without trial. The Supreme Court has repeatedly deprecated such exercise.

16. Learned counsel for petitioners further relied upon the judgement passed in the case of **Pepsi Foods Ltd. v. Special Judicial Magistrate**, (1998) 5 SCC 749 in the Hon'ble Supreme Court observed that summoning an accused is a serious matter and the Magistrate must not act as a mere post office, yet cannot convert the pre-process stage into a full-fledged adjudication.

17. Further argument on behalf of the petitioners is that in the case of **GHCL Employees Stock Option Trust v. India Infoline Ltd.**, (2013) 4 SCC 505, the Hon'ble Apex Court held that although reasons must exist, the Magistrate cannot evaluate evidence as if deciding guilt. In the similar lines, in the case of **Birla Corporation Ltd. v. Adventz Investments**, (2019) 16 SCC 610, the Hon'ble Supreme Court reiterated that while sufficient grounds must exist, appreciation of disputed evidence belongs exclusively to trial.

18. Additionally, learned counsel for the petitioners shifted the arguments towards that fact that even assuming every allegation made in the complaint to be true in its entirety, no offence under Section 392 IPC is made out. In this regard, it is submitted that robbery under Sections 390 and 392 IPC requires dishonest intention, commission of theft or

extortion, immediate fear of death, hurt or wrongful restraint, delivery of property under such fear, but the complaint itself states that money was allegedly arranged voluntarily for settlement of the criminal case and also there is no seizure supporting the allegation of aforesaid offence. It is further argued that no independent documentary proof of alleged payment is there. Even no bank trail, no forensic verification, no recovery memo, no contemporaneous complaint before any judicial authority has been produced before the Special Court, therefore, allegations are inherently improbable. It is further argued that whether the alleged payments were voluntary, coerced or altogether fictitious are matters requiring strict proof during trial. The Special Judge, however, has presumed robbery merely because allegations have been made. Such presumption, according to learned counsel, is legally unsustainable.

19. It is further argued that that the Special Judge has invoked Section 201 IPC solely because CCTV footage could not be produced. This finding, according to the petitioners, is wholly speculative. There is no material showing the necessary ingredients establishing aforesaid offence as there is no concrete evidence regarding who deleted the footage, when it was deleted, whether deletion was automatic, whether the footage ever existed, whether the petitioners had custody of servers, whether destruction was intentional, whether any accused caused disappearance of evidence but, entire finding rests on conjecture. Mere non-availability of CCTV footage cannot ipso facto constitute an offence under Section 201 IPC. Reliance is placed upon the settled principle that criminal intent cannot be presumed

merely because evidence subsequently becomes unavailable.

20. Learned counsel further submitted that Section 120-B IPC has been invoked in a wholly mechanical manner. Except bald assertions that the Superintendent of Police and Station House Officer "must have known", there is absolutely no material indicating prior meeting of their minds or common intention in this regard. Also the complaint as well as the Special court failed to show any agreement, concert, overt act, any communication or any circumstance constituting conspiracy. It is argued that suspicion, however strong, cannot substitute proof even at the stage of cognizance where foundational facts are absent.

21. In this regard, learned counsel for the petitioners in all four petitions have placed reliance on the judgements passed in the case of **State (NCT of Delhi) v. Navjot Sandhu**, (2005) 11 SCC 600 and **Kehar Singh v. State (Delhi Administration)**, (1988) 3 SCC 609, and contended that in these cases the Hon'ble Supreme Court explained that conspiracy must be founded upon material showing agreement and cannot be inferred merely because several persons were associated with one investigation.

22. Learned counsel further pointed out that all alleged acts arise out of investigation of Crime No.787/2023. The petitioners were admittedly police officials discharging statutory investigative functions. Even assuming excesses are alleged, the acts complained of possess an undeniable nexus with discharge of official duty. Therefore, previous sanction under Section 197 Cr.P.C. was mandatory before taking cognizance. But, the learned Special Judge has erroneously held otherwise.

23. In support of their submissions, learned counsel for placed heavy reliance on the judgements passed in the cases of **Matajog Dobey v. H.C. Bhari**, AIR 1956 SC 44; **P.K. Pradhan v. State of Sikkim**, (2001) 6 SCC 704; **Devinder Singh v. State of Punjab**, (2016) 12 SCC 87; **D. Devaraja v. Owais Sabeer Hussain**, (2020) 7 SCC 695, wherein the Hon'ble Apex Court held that whenever there exists a reasonable nexus between the act complained of and official duty, sanction becomes a jurisdictional prerequisite.

24. And lastly, it is submitted that continuation of the impugned proceedings would amount to abuse of the process of Court. The complaint is a retaliatory measure instituted by an accused facing serious criminal charges. The Special Judge has exceeded the permissible limits of jurisdiction. The impugned order is founded on presumptions, conjectures and premature findings. No prudent judicial mind, properly instructed in law, could have arrived at the conclusions recorded therein at the stage of cognizance. The case, according to learned counsel, squarely falls within the categories enumerated in **R.P. Kapur (Supra)**, **Bhajan Lal (Supra)**, **Amit Kapoor v. Ramesh Chander**, (2012) 9 SCC 460, and **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra**, (2021) 19 SCC 401, warranting exercise of inherent jurisdiction to secure the ends of justice and to prevent abuse of the process of Court.

25. However, It is further vehemently contended by learned counsel for the petitioners that the Special Judge has committed a manifest jurisdictional error in proceeding to take cognizance against the petitioners

without adhering to the mandatory procedure prescribed under the BNSS, 2023. It is submitted that the petitioners are public servants and the allegations contained in the complaint arise out of acts allegedly performed by them while discharging their official functions in connection with investigation of Crime No.787/2023. Learned counsel submits that Section 223 of the BNSS has introduced a substantive procedural safeguard in respect of complaints against public servants by mandating that, before issuance of process, the Magistrate shall call for a report from the officer superior to the concerned public servant and shall also afford an opportunity of hearing to the proposed accused before deciding whether sufficient grounds exist for issuance of process. According to the petitioners, although the Special Judge called for reports from the departmental authorities and extensively relied upon such reports as well as other materials collected during the preliminary inquiry, the petitioners were never afforded any opportunity of hearing before the impugned order dated 11.05.2026 was passed. It is, therefore, submitted that the entire exercise undertaken by the Special Judge stands vitiated for non-compliance with the mandatory statutory safeguards embodied in Section 223 of the BNSS. It is further contended that the finding recorded by the Special Judge that the provisions of the Cr.P.C. would continue to govern the present complaint by virtue of Section 531 of the BNSS is wholly misconceived and legally unsustainable, inasmuch as the present complaint constitutes an independent criminal proceeding seeking prosecution of police officials for distinct offences and cannot be treated as a continuation of the investigation in Crime

No.787/2023. Consequently, the impugned order, having been passed in complete disregard of the mandatory procedure prescribed by law, deserves to be quashed on this ground alone. In support of this contention, learned counsel for the petitioners placed reliance on the judgement passed in the case of ***Mahendra Kumar Jain Vs. State of U.P. [1986 All L.J. 719], Ajit Kumar Palit Vs. State [AIR 1961 Cal 560 (Full Bench)], Parvinder Singh Khurana Vs. Directorate of Enforcement [2026 SCC OnLine SC 903].***

26. Per contra, learned Public Prosecutor appearing for the State, as well as learned counsel appearing for respondent No.2/complainant, opposed all the petitions and submitted that the impugned order does not suffer from any legal infirmity warranting interference in exercise of inherent jurisdiction. It is contended that the learned Special Judge has not convicted the petitioners nor recorded any final finding of guilt but has merely taken cognizance after conducting an enquiry contemplated under Sections 200 and 202 of the Cr.P.C.. According to the respondents, the learned Special Judge was only required to examine whether sufficient grounds existed for proceeding against the accused persons and not whether the prosecution was ultimately bound to succeed. It is submitted that once prima facie material was available, the learned Special Judge rightly issued process.

27. Learned counsel (as both the respondents opposed the petitions on the same line of arguments, therefore herein after shall be read as for State as well as respondent No.2) submitted that the jurisdiction under Section 482 Cr.P.C. is extraordinary in nature and must be exercised sparingly. According to the learned counsel, the High Court, while exercising inherent

jurisdiction, is not expected to undertake appreciation of evidence or adjudicate disputed questions of fact. The complaint, statements recorded under Sections 200 and 202 Cr.P.C., documentary material and surrounding circumstances collectively disclose commission of cognizable offences. Therefore, at this preliminary stage, interference would amount to stifling a legitimate prosecution.

28. In support of their submissions, learned counsel placed reliance on the judgements passed in the cases of **State of Bihar v. P.P. Sharma** , 1992 Supp (1) SCC 222; **Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque**, (2005) 1 SCC 122; **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra**, (2021) 19 SCC 401 and submitted that the High Court ought not to substitute its own opinion for that of the Magistrate merely because another view is possible.

29. It is further argued by Learned counsel that the complaint is not founded upon vague allegations but contains specific dates, specific amounts, names of individual police officers and the role attributed to each of them. According to the respondents illegal demand of money was made and several installments were also paid. Complainant was illegally detained by the petitioner and even to exert pressure, the police personnel accompanied him to his residence and from there cash was brought. It is further evident from record that another substantial amount was received from Chandralekha Jain also. Repeated threats of false implication and encounter killing were extended to the complainant and the complainant was totally trapped. It is further argued that the complaints were immediately and

promptly submitted before superior authorities but as has been expressed in the complaint, no action was taken over them. It is argued that these allegations, if accepted at face value, unmistakably constitute offences punishable under Sections 392 and 120-B IPC. Learned counsels themselves conceded that whether those allegations are ultimately proved is a matter of trial.

30. Learned counsel further submitted that during enquiry under Sections 200 and 202 Cr.P.C., the complainant examined himself along with his father and one independent witness namely Shishupal Singh. According to the respondents, all three witnesses have consistently narrated the sequence of events and materially corroborate each other. It is argued that at the stage of issuance of process, only such corroboration is sufficient. Minor discrepancies or contradictions cannot be examined by the High Court while exercising jurisdiction under Section 482 Cr.P.C.

31. In support of their submissions, learned counsel placed reliance on the judgements passed in the cases of **Sonu Gupta v. Deepak Gupta**, (2015) 3 SCC 424, wherein the Hon'ble Supreme Court observed that at the stage of summoning, meticulous appreciation of evidence is impermissible. They also placed reliance on the judgements passed in the case of **U.P. Pollution Control Board v. Mohan Meakins Ltd.**, (2000) 3 SCC 745, and contended that defence material cannot ordinarily be looked into while considering validity of summoning order.

32. Now, learned counsel shifted their arguments to the fact that one of the most significant circumstances considered by the learned Special Judge is

the disappearance of CCTV footage and argued that repeated directions were issued by the learned Special Judge and information was sought from police authorities regarding CCTV footage and replies received from the police themselves disclosed that CCTV registers had not been maintained and reply also revealed that no officer could explain destruction of data and no material was produced showing compliance with the Standard Operating Procedure issued by Police Headquarters. Therefore, according to respondent No.2, the learned Special Judge was fully justified in drawing a prima facie inference regarding deliberate disappearance of relevant electronic evidence.

33. In this regard, learned counsels placed reliance on the judgements passed in the cases of **Paramvir Singh Saini v. Baljit Singh**, (2021) 1 SCC 184, wherein mandatory directions were issued regarding installation, maintenance and preservation of CCTV footage in police stations and regarding preservation of CCTV recordings were reiterated in the case of **Akhilesh Pandey v. State of Madhya Pradesh.** According to the respondents, non-compliance with those directions lends assurance to the complainant's allegations.

34. It is further argued by learned counsel that the alleged acts attributed to the petitioners are wholly outside the scope of official duty. As demanding illegal gratification, extorting money, criminal intimidation, wrongful confinement, robbery, and destruction of evidence can never constitute discharge of official functions. It is therefore argued that sanction under Section 197 Cr.P.C. is wholly unnecessary. In support of their submissions, learned counsel for the respondents placed

reliance on the judgements passed in the cases of **Prakash Singh Badal v. State of Punjab**, (2007) 1 SCC 1 and **Inspector of Police v. Battenapatla Venkata Ratnam**, (2015) 13 SCC 87. wherein the Hon'ble Supreme Court held that criminal misconduct or illegal acts having no nexus with official duty do not attract Section 197 and It has been observed in these judgments that protection under Section 197 cannot become a shield for commission of offences.

35. It is further contended by learned counsel that the learned Special Judge has passed a detailed speaking order after considering the material of complaint, statements recorded under Sections 200 and 202 Cr.P.C., documentary material, investigation records, replies received from police authorities and surrounding circumstances, therefore, once reasons have been assigned, then this Court ought to exercise restraint before interfering. Further reliance has been placed on the judgements passed in the case of **Bhushan Kumar v. State (NCT of Delhi)**, (2012) 5 SCC 424, wherein the Supreme Court observed that detailed discussion of evidence is not required while issuing summons. It is submitted that the impugned order merely satisfies the judicial requirement of recording reasons.

36. It is further argued that almost the entire challenge raised by the petitioners rests upon disputed facts. Whether money was actually paid, complainant was falsely implicated, investigation was bona fide, CCTV footage existed, deletion of the CCTV was intentional, conspiracy existed, all these facts are the matters requiring evidence and such disputed questions cannot be adjudicated under Section 482 Cr.P.C. In support of their

contentions, learned counsel placed reliance on the judgement passed in the cases of **State of Tamil Nadu v. Thirukkural Perumal**, (1995) 2 SCC 449, and **M. Krishnan v. Vijay Singh**, (2001) 8 SCC 645, wherein the Hon'ble Apex Court observed that defence pleas ordinarily cannot be considered while examining validity of criminal proceedings at the threshold.

37. Further arguments of the learned counsel is that the petitions virtually invite this Court to conduct a mini trial wherein the petitioners seek examination of of the facts like admissibility of documents, credibility of witnesses, correctness of investigation, reliability of electronic evidence, legality of seizure and sufficiency of proof. All these matters, lie exclusively within the province of the Trial Court. At the present stage, the Court is only required to see whether the complaint discloses commission of an offence. The respondents therefore pray that all the petitions deserve dismissal.

38. Heard counsel for the rival parties and perused the entire material available herein with due care and diligence and upon hearing learned counsel for the parties at considerable length and after perusal of the record, the following questions arise before this Court for determination:

> **(i)** Whether the Special Judge exceeded the permissible jurisdiction while exercising powers under Sections 200 and 202 Cr.P.C.?
> **(ii)** Whether the impugned order dated 11.05.2026 records findings which could legally be rendered only after a full-fledged criminal trial?
> **(iii)** Whether the materials produced during enquiry disclose the essential ingredients of offences punishable under Sections 392, 201 and 120-B IPC and Sections 11 and 13 of the MPDVPK Act?
> **(iv)** Whether previous sanction under Section 197 Cr.P.C. was a condition precedent for taking cognizance against the petitioners?

> **(v)** Whether continuation of the complaint proceedings would amount to abuse of the process of Court within the meaning of the principles laid down in **R.P. Kapur (supra)**, **Bhajan Lal**(supra), **Amit Kapoor(supra)**, **Neeharika Infrastructure** (supra) and other binding precedents?
> **(vi)** Whether the inherent jurisdiction of this Court deserves to be exercised for securing the ends of justice?

39. The first and foremost issue which falls for consideration is whether the Special Judge, while exercising jurisdiction under Sections 200 and 202 of the Cr.P.C., remained within the statutory contours of the said provisions or transgressed into the realm reserved exclusively for trial. This question assumes considerable significance because the legality of the entire cognizance order substantially depends upon the answer thereto.

40. Chapter XV of the Cr.P.C. comprising Sections 200 to 203 provides a complete mechanism for dealing with private complaints. The legislative object behind these provisions is neither to conduct a trial nor to adjudicate the truthfulness of rival versions. The object is only to enable the Magistrate to ascertain whether sufficient grounds exist for proceeding against the proposed accused. The enquiry contemplated by Section 202 Cr.P.C. is thus of an extremely limited nature. It is intended merely to filter out frivolous, vexatious and groundless complaints. The enquiry is not intended to determine guilt nor is it intended to weigh the evidence as would be done after recording evidence during trial. The Magistrate merely forms a tentative judicial opinion as to whether process deserves to be issued.

41. The scope of Sections 200 and 202 Cr.P.C. is no longer *res*

integra. In **Chandra Deo Singh v. Prokash Chandra Bose**, AIR 1963 SC 1430, the learned Constitution Bench of Hon'ble Apex Court authoritatively explained the scope of enquiry under Section 202 and observed that the Magistrate is only required to determine whether sufficient grounds exist for proceeding and not whether the evidence is sufficient for conviction. The Hon'ble Supreme Court held that even if there are apparent inconsistencies in the statements of witnesses, such inconsistencies cannot ordinarily justify dismissal of the complaint at the threshold. Equally, the Magistrate cannot evaluate the evidence as if finally deciding the guilt of the accused. The learned Constitution Bench observed in substance that the enquiry under Section 202 is merely for deciding whether process should issue and not whether the accused is likely to be convicted.

42. The above principle was reiterated in the case of **Nagawwa v. Veeranna Shivalingappa Konjalgi**, (1976) 3 SCC 736, wherein the Hon'ble Apex Court held that the Magistrate is concerned only with the existence of a prima facie case. The Court specifically cautioned that the Magistrate should not embark upon meticulous appreciation of evidence. The decision further identifies the limited circumstances in which interference with issuance of process is justified, namely where allegations do not constitute any offence or allegations are inherently improbable and where proceedings are barred by law and complaint suffers from fundamental legal defects. These principles continue to govern the field.

43. In the case of **Pepsi Foods Ltd. v. Special Judicial Magistrate**, (1998) 5 SCC 749, the Hon'ble Supreme Court emphasized that summoning

an accused in a criminal case is a serious matter. The Court observed that criminal law cannot be set in motion as a matter of course and the Magistrate is required to apply judicial mind before issuing process. However, application of judicial mind does not mean adjudication upon disputed facts. The Court explained that while reasons are undoubtedly necessary, those reasons must only indicate prima facie satisfaction and the Magistrate cannot assume the role of a trial Judge.

44. Similarly, in **Mehmood Ul Rehman v. Khazir Mohammad Tunda** , (2015) 12 SCC 420, the Hon'ble Apex Court held that the order issuing process must disclose application of mind but cannot record findings amounting to determination of disputed questions. The Court observed that ***"The Magistrate has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and determine whether sufficient grounds exist for proceeding."*** The emphasis throughout remains on *proceeding*, not *convicting*.

45. Again, in **Birla Corporation Ltd. v. Adventz Investments** , (2019) 16 SCC 610, the Hon'ble Supreme Court reiterated that although reasons must exist for issuance of summons, the Magistrate cannot evaluate the evidentiary value of materials as if recording findings after trial. The distinction between prima facie satisfaction and adjudication of guilt was once again emphasized in this case.

46. After carefully going through all these judgements, this Court finds that the impugned order unfortunately departs from the well-settled limits governing enquiry under Sections 200 and 202 Cr.P.C. A careful reading of

the order dated 11.05.2026 reveals that the Special Judge has not merely examined whether sufficient grounds existed for issuance of process. Instead, the Judge has undertaken an elaborate appreciation of evidence extending over several pages. The impugned order evidently discusses regarding credibility of witnesses, corroborative value of documentary material, investigation records, replies furnished by police authorities and significance of CCTV footage along with legal effect of alleged non-preservation of electronic evidence, culpability of superior police officers, existence of criminal conspiracy, admissibility of surrounding circumstances, applicability of Section 197 Cr.P.C. and ultimately records categorical findings that the complainant's version stands corroborated. Such an exercise clearly transcends the jurisdiction contemplated by Chapter XV of the Code.

47. What particularly concerns this Court is that the Special Judge has repeatedly employed expressions indicating final conclusions rather than tentative satisfaction and the impugned order records findings to the effect that the complainant's allegations stand corroborated by surrounding circumstances, destruction of CCTV footage establishes complicity of superior officers, failure of the S.P. to preserve electronic evidence demonstrates participation in conspiracy, conduct of police officials supports the prosecution version and each of these observations involves adjudication of disputed questions of fact.

48. But, whether CCTV footage was intentionally destroyed, whether data was automatically overwritten, whether any petitioners had custody of

the server, whether there existed conspiracy, whether superior officers possessed knowledge, whether money was actually paid, whether the complainant is truthful, whether witnesses are reliable, all these questions necessarily require appreciation of evidence during trial. None could legally have been concluded at the stage of Sections 200 and 202 Cr.P.C.

49. The impugned order further reveals that the Special Judge summoned records of the criminal case pending against the complainant, examined the investigation papers and proceeded to draw substantive inferences therefrom. While the Court conducting enquiry may undoubtedly look into materials produced before it for the limited purpose of deciding whether process should issue, such materials cannot become the basis for recording findings virtually determining culpability. The distinction between ***looking into a document*** **and** ***adjudicating upon its evidentiary value*** appears to have been overlooked.

50. The Hon'ble Supreme Court has repeatedly cautioned against converting the stage of cognizance into a "mini trial". In **GHCL Employees Stock Option Trust v. India Infoline Ltd.**, (2013) 4 SCC 505, it was held that detailed evaluation of evidence at the stage of issuance of process is legally impermissible. Similarly, in **Sunil Bharti Mittal v. CBI**, (2015) 4 SCC 609, the Hon'ble Supreme Court observed that criminal courts must refrain from entering into questions reserved for trial while considering issuance of process. The same principle has been reiterated in **Sonu Gupta v. Deepak Gupta**, (2015) 3 SCC 424.

51. One of the principal reasons assigned in the impugned order is that

CCTV footage of Police Station Thatipur was not preserved despite judicial directions and, therefore, an adverse inference deserves to be drawn against the petitioners. The Special Judge has proceeded further to hold that such non-preservation itself lends assurance to the complainant's allegations. At this stage, this Court is unable to approve such reasoning. because it requires evidence and cannot constitute the sole basis for recording a judicial finding corroborating allegations of robbery and conspiracy even before commencement of trial.

52. It is trite that an order issuing process need not be elaborate. Equally, it should not become an adjudicatory judgment. The impugned order unfortunately falls into the latter category. Instead of recording prima facie satisfaction, it virtually adjudicates upon credibility, corroboration, conspiracy, destruction of evidence and culpability of each proposed accused. Such findings have the tendency of prejudging the issues which properly fall for determination by the Trial Court after recording evidence. Criminal jurisprudence does not countenance such premature adjudication.

53. Consequently, this Court is constrained to hold that the Special Judge travelled substantially beyond the limited jurisdiction contemplated under Sections 200 and 202 Cr.P.C. The enquiry ceased to remain a preliminary judicial scrutiny and assumed the character of an adjudicatory exercise akin to a trial. The impugned order, therefore, suffers from a manifest jurisdictional error inasmuch as it records definitive findings on disputed factual issues which could legally be determined only after parties

had an opportunity to adduce evidence during trial.

54. However, before examining the legality of the impugned orders, it is necessary to recapitulate the settled legal principles governing the exercise of inherent jurisdiction under Section 528 of the BNSS.

55. The inherent jurisdiction of the High Court is not an appellate jurisdiction. Equally, it is not so narrow that the Court must remain a silent spectator where continuation of criminal proceedings itself amounts to abuse of the process of law. The inherent power exists to prevent miscarriage of justice, to secure the ends of justice, and to ensure that criminal law is not employed as an instrument of harassment.

56. The learned Constitution Bench and subsequent decisions of the Hon'ble Supreme Court have consistently held that where the complaint, the material placed before the Magistrate, or the order taking cognizance suffers from patent legal infirmity, jurisdictional error, non-application of mind, or abuse of criminal process, the High Court is duty bound to interfere.

57. In **R.P. Kapur (supra)**, the Hon'ble Supreme Court recognized that criminal proceedings deserve to be quashed where continuation of prosecution would amount to abuse of process or where the allegations, even if accepted, do not disclose commission of an offence.

58. The judgement passed in the case of **State of Haryana v. Bhajan Lal** catalogued illustrative categories where interference is justified, including cases where the allegations do not constitute any offence, where proceedings are manifestly attended with mala fides, or where the criminal process has been maliciously instituted.

59. Subsequently, **Amit Kapoor** it is emphasized that though the High Court ordinarily does not appreciate evidence at the initial stage, it is fully empowered to examine whether the order of cognizance itself is legally sustainable. Likewise, **Neeharika Infrastructure Pvt. Ltd.** clarified that while investigation ordinarily should not be interdicted, the inherent jurisdiction remains available where continuation of proceedings itself constitutes abuse of process. The same principle runs through **Pepsi Foods Ltd.**, **Zandu Pharmaceutical Works Ltd.**, **Indian Oil Corporation**, **Madhavrao Jiwajirao Scindia**, and **Anand Kumar Mohatta**.

60. Hence, the High Court is competent to examine whether the Magistrate has exercised jurisdiction in accordance with law. A criminal complaint cannot be permitted to proceed merely because allegations have been levelled, the Court must examine whether the essential ingredients of the alleged offences are disclosed. An order issuing process must demonstrate judicial application of mind and cannot be founded upon conjectures or assumptions. Criminal law cannot be permitted to become a weapon for wreaking vengeance or exerting pressure in collateral disputes. These principles constitute the legal framework within which the present petitions are required to be examined.

61. Having examined the impugned orders in their entirety, this Court finds that the Special Judge travelled far beyond the limited jurisdiction available at the stage of taking cognizance. The statutory scheme under Sections 200 and 202 Cr.P.C. is well settled. At the pre-process stage, the Magistrate is required only to determine whether sufficient grounds exist for

proceeding against the proposed accused. The inquiry contemplated under Section 202 is limited in nature. It is neither a trial nor a substitute for investigation. The Magistrate is not expected to record findings on disputed questions of fact or to adjudicate upon the truthfulness of rival versions. Contrary to these settled principles, the impugned order demonstrates that the Special Judge embarked upon an elaborate adjudicatory exercise wholly alien to the jurisdiction vested at the stage of cognizance.

62. The record reveals that the Court summoned the records of Sessions Trial No.172/2024 and examined materials collected during police investigation in an entirely different criminal case. The Special court relied upon recovery memos prepared during investigation and referred to documents collected by the investigating agency, examined correspondence regarding CCTV footage, drew adverse inferences from alleged non-preservation of CCTV recordings, returned findings suggestive of criminal conspiracy on the part of senior police officers; and virtually accepted the complainant's allegations as established facts. Such an exercise is legally impermissible.

63. The Supreme Court in **Pepsi Foods Ltd.** observed that summoning an accused in a criminal case is a serious matter and the Magistrate must carefully scrutinize the material placed before him. However, such scrutiny does not authorize the Magistrate to conduct a mini trial. Similarly, **Mehmood Ul Rehman** held that the order issuing process must disclose application of judicial mind to the allegations in the complaint itself and not to disputed matters requiring trial.

64. In **Sunil Bharti Mittal**, the Supreme Court reiterated that criminal liability cannot be inferred merely because the Court entertains suspicion. There must exist legally admissible material satisfying the statutory requirements. Likewise, **Birla Corporation Ltd.** held that the Magistrate cannot travel beyond the permissible scope of Sections 200 and 202 by undertaking an adjudicatory appreciation of disputed evidence. The impugned order, however, repeatedly records conclusions such as the allegations of the complainant **"stand corroborated"**; the role of the Superintendent of Police **"clearly indicates complicity"**; destruction of CCTV footage **"establishes involvement"**; non-action by superior officers **"shows conspiracy"**. These are findings which can arise only after a full-fledged trial based on legally admissible evidence subjected to cross-examination. Recording such conclusions at the threshold amounts to prejudging the entire controversy.

65. The Special Judge also relied extensively upon records pertaining to the investigation of Crime No.787/2023 and treated those investigative materials as corroborative evidence against the present petitioners. Such an approach fundamentally overlooks that investigation records collected in another criminal case cannot be treated as substantive evidence while considering issuance of process in an independent private complaint. The jurisdiction under Sections 200 and 202 Cr.P.C. does not authorize the Magistrate to convert himself into an investigating agency or a trial court. The exercise undertaken in the impugned order is therefore wholly beyond jurisdiction.

66. Another glaring illegality is the reliance placed by the Special Judge upon the records of Sessions Trial No.172/2024 arising out of Crime No.787/2023. The impugned order repeatedly refers to the investigation conducted in that case, recoveries allegedly made therein, statements recorded during investigation, seizure memos, and other materials forming part of the police papers. It is trite law that a Magistrate, while deciding whether process should issue in a private complaint, cannot import evidence from another pending criminal proceeding and employ the same as corroborative material. The criminal trial arising from Crime No.787/2023 is still pending. The evidence therein has not attained finality. The accused therein continue to enjoy the presumption of innocence. The materials collected during investigation are yet to be tested by cross-examination. By relying upon those untested investigative materials, the learned Special Judge effectively prejudged issues which are directly in issue before another competent criminal court. Such an exercise not only exceeds jurisdiction but also has the potential to prejudice the pending sessions trial itself. The Hon'ble Supreme Court has consistently held that investigative materials cannot be elevated to the status of substantive evidence before trial. They merely form the basis upon which investigation proceeds. The truthfulness of such material is a matter to be determined during trial and not while issuing process in another complaint. The reliance upon the pending sessions record, therefore, vitiates the impugned order and constitutes a jurisdictional error warranting interference under Section 528 BNSS.

67. This court further finds that having examined the complaint, the

statements recorded under Sections 200 and 202 Cr.P.C., the documents produced before the Special Judge, and the reasoning assigned in the impugned order, this Court is of the considered opinion that the Court below has proceeded on assumptions rather than on the legal ingredients constituting the offences alleged.

68. At the stage of taking cognizance, although meticulous appreciation of evidence is neither expected nor permissible, the Court is nevertheless duty-bound to satisfy itself that the factual allegations, if accepted at their face value, disclose the essential ingredients of the offences alleged. Mere suspicion, conjecture or moral conviction cannot substitute the statutory requirements constituting a criminal offence.

69. The Supreme Court in **Mohd. Ibrahim** has held that before criminal process is issued, the Court must ascertain whether the basic ingredients of the alleged offence exist. Similarly, in **Vesa Holdings Pvt. Ltd.**, it was reiterated that criminal prosecution cannot continue merely because allegations have been levelled; the ingredients of the penal provision invoked must be demonstrably satisfied.

70. Robbery is defined by reading Sections 390 and 392 IPC together. To constitute robbery, there must be dishonest removal of movable property from the possession of another by voluntarily causing or attempting to cause death, hurt, wrongful restraint, or fear of instant death, instant hurt or instant wrongful restraint. The gravamen of the complaint is that the complainant allegedly handed over money while under pressure and threats extended by the investigating officer during investigation of another criminal case.

71. Even assuming these allegations to be true solely for the purpose of examination under Section 528 BNSS, the complaint itself indicates that the alleged payments were made over a period of time, on different dates, and in connection with settlement discussions arising from Crime No. 787/2023. The allegations do not depict a single contemporaneous act of violent dispossession or forcible removal of property, which is the hallmark of robbery. Whether such allegations ultimately constitute extortion, criminal intimidation, abuse of official position, corruption, or any other offence is not the question presently before this Court. The question is whether the foundational ingredients of robbery, as understood in criminal jurisprudence, are prima facie disclosed in the complaint so as to justify issuance of process under Section 392 IPC. The Special Judge has not undertaken any such analysis. The impugned order merely reproduces the allegations and proceeds directly to record satisfaction regarding commission of robbery without discussing how the statutory ingredients stand fulfilled. Such an approach falls short of the legal standard expected while exercising criminal jurisdiction.

72. Equally unsustainable is the finding regarding criminal conspiracy. ***Conspiracy*** is an independent substantive offence. The sine qua non of Section 120-B IPC is an agreement between two or more persons to commit an illegal act or a legal act by illegal means. The agreement itself is the gravamen of the offence.

73. The Hon'ble Supreme Court in **Kehar Singh**, **State (NCT of Delhi) v. Navjot Sandhu**, and **Esher Singh** has repeatedly held that conspiracy

cannot be presumed merely because several persons are alleged to have acted in proximity. There must exist material indicating a meeting of minds. In the present complaint, the allegation against the Superintendent of Police and the Station House Officer essentially rests upon the assertion that despite receipt of complaints, no action was taken against the investigating officer. From such omission, the learned Special Judge has inferred criminal conspiracy. Such reasoning is legally impermissible.

74. Administrative inaction, negligence, delay in acting upon a complaint, or even erroneous exercise of supervisory powers cannot, by themselves, constitute proof of a criminal conspiracy. To accept such a proposition would expose every supervisory authority to criminal prosecution whenever disciplinary action is not initiated against a subordinate officer. The complaint contains no allegation of any meeting, communication, prior arrangement, sharing of alleged illegal gratification, or concerted design between the petitioners. In the absence of such foundational allegations, invocation of Section 120-B IPC is wholly unsustainable.

75. The Special Judge has further taken cognizance under Section 201 IPC on the premise that CCTV footage was not preserved. This reasoning is equally flawed. Section 201 IPC is attracted only where there exists deliberate causing of disappearance of evidence of an offence with the intention of screening the offender from legal punishment. The provision contains three indispensable components that are (i) commission of an offence, (ii) knowledge or reason to believe that such offence has been

committed; and (iii) intentional disappearance of evidence with the object of screening the offender. The impugned order records no finding whatsoever regarding these statutory ingredients. There is no material indicating deletion, possession or preservation of the CCTV footate. Instead, the Special Judge has drawn an adverse inference solely because CCTV footage was unavailable. Such inference may at best constitute a matter for appreciation during trial if supported by legally admissible evidence. It cannot itself become the foundation for prosecuting persons for an independent offence under Section 201 IPC. The Hon'ble Supreme Court has consistently held that criminal intent cannot be presumed merely because evidence is unavailable. Mens rea must be established by legally admissible material and cannot arise from conjecture.

76. One of the principal questions argued before this Court concerns the applicability of Section 197 Cr.P.C. The Special Judge has held that sanction is unnecessary because the allegations disclose commission of criminal acts outside the scope of official duty. The proposition of law is unexceptionable. However, its application to the facts of the present case is legally unsustainable.

77. The law governing Section 197 Cr.P.C. stands authoritatively settled by the Constitution Bench in **Matajog Dobey**, followed in **P.K. Pradhan**, **Sankaran Moitra**, **Devinder Singh**, **D. Devaraja**, and **D.T. Virupakshappa**. These authorities uniformly hold that the test is whether the act complained of bears a reasonable nexus with discharge of official functions. The Court must examine the substance of the allegations rather

than the language employed by the complainant. In the present case, every allegation arises from investigation of Crime No. 787/2023. The alleged threats, interrogations, detention, summoning of witnesses, recovery proceedings and interaction with the complainant are all stated to have occurred during investigation of the said criminal case. Whether the officers exceeded their authority, abused their position, or committed criminal misconduct are questions requiring adjudication after evidence. However, it cannot be ignored that the acts alleged are inseparably connected with performance of investigative functions entrusted to police officers. The Special Judge has effectively concluded, even before trial, that the acts were wholly dehors official duty. Such conclusion itself requires appreciation of evidence and determination of disputed facts. The Supreme Court in **D. Devaraja** has categorically held that where there exists a reasonable nexus between the alleged act and official functions, the issue of sanction cannot be brushed aside merely because the allegations are serious. Consequently, the finding recorded in the impugned order that sanction is wholly unnecessary is premature and legally unsustainable.

78. A substantial portion of the impugned order proceeds on the assumption that non-preservation of CCTV footage itself establishes complicity of the petitioners.

79. This Court is unable to subscribe to such reasoning. The learned Special Judge has referred to the decisions in **Paramvir Singh Saini** and the decision of this Court in **Akhilesh Pandey v. State of Madhya Pradesh** to conclude that since CCTV footage was not preserved, the petitioners must

have intentionally destroyed evidence. The reliance is misplaced. The directions issued in **Paramvir Singh Saini** are administrative and procedural safeguards intended to improve transparency in police functioning. Non-compliance with those directions may, in an appropriate case, invite departmental action, administrative accountability or other legal consequences. However, mere non-preservation of footage does not automatically establish the commission of an offence under Section 201 IPC nor does it prove participation in the substantive offences alleged in the complaint. The Special Judge has, in effect, converted an adverse factual inference into conclusive proof of criminality. Such an approach reverses the settled burden of criminal jurisprudence and cannot be sustained.

80. This Court finds considerable substance in the arguments that the Special Judge has not adhered to the provision of Section 531 of the BNSS. A careful perusal of the impugned order reveals that the Special Judge did not confine the inquiry to the averments contained in the complaint and the statements recorded during the preliminary inquiry but proceeded to summon departmental records, call for reports from police authorities, examine the issue relating to preservation of CCTV footage, and thereafter recorded elaborate findings touching upon the alleged complicity of the petitioners before directing issuance of process against them. Once the Court chose to proceed under the framework contemplated by the BNSS 2023 in relation to complaints against public servants, strict adherence to the safeguards incorporated under Section 223 of the BNSS thereof became imperative. The record unmistakably demonstrates that although reports from superior police

authorities were called for and considered, no notice was issued to the petitioners and no opportunity whatsoever was afforded to them to explain the circumstances emerging from the materials so collected before the order of cognizance came to be passed. The statutory requirement of hearing is not an empty formality but constitutes a valuable procedural safeguard intended by the legislature to protect public servants from unwarranted criminal prosecution arising out of acts alleged to have been committed in discharge of official duties. The Special Judge, in the considered opinion of this Court, fell in error in invoking the saving clause contained in Section 531 of the BNSS without examining whether the present complaint was an independent proceeding attracting the newly enacted procedural safeguards under the BNSS. The omission to follow the mandatory procedure prescribed under Section 223 of the BNSS has caused serious prejudice to the petitioners and has rendered the impugned order procedurally unsustainable.

81. This court carefully gone into the judgements passed in the case of **Mahendra Kumar Jain (Supra), Ajit Kumar Palit (supra), Parvinder Singh Khurana (supra)** and is of the considered opinion that this infirmity, when considered together with the other jurisdictional and legal defects already noticed hereinabove, furnishes an additional and independent ground warranting interference by this Court in exercise of its inherent jurisdiction.

82. After viewing the aforesaid illegalities cumulatively, this court finds that the impugned orders suffer from multiple jurisdictional infirmities such as the Special Judge exceeded the limited jurisdiction under Sections 200 and 202 Cr.P.C, the Court relied upon materials collected in an entirely

different pending criminal case, The order records findings on disputed facts which could arise only after a full-fledged trial, essential ingredients of Sections 392, 201 and 120-B IPC have not been analysed in accordance with law, the issue of sanction under Section 197 Cr.P.C. has been decided prematurely without applying the settled tests laid down by the Hon'ble Supreme Court. For all these reasons, this Court is satisfied that the impugned orders do not disclose the degree of judicial application of mind mandated by law and therefore cannot be permitted to stand.

83. Consequently, all the petitions succeed and are hereby **allowed** and accordingly, it is directed as under:

> (1). The common order dated **11.05.2026** passed by the Special Judge, Gwalior, whereby cognizance has been taken against the present petitioners for the offences punishable under Sections 392, 201 and 120-B IPC and Sections 11/13 of the MPDVPK Act, is hereby **quashed and set aside**.
> (2). Consequently, the complaint case registered pursuant to the said order, together with all consequential proceedings including issuance of process/summons against the petitioners, stands **quashed**.
> (3). It is clarified that this Court has not examined the truthfulness or otherwise of the allegations levelled by the complainant, nor has it expressed any opinion upon the merits of the allegations contained in Crime No.787/2023 or Sessions Trial No.172/2024, which shall proceed independently in accordance with law and shall remain uninfluenced by any observations contained either in the impugned order or in this judgment.
> (4). It is further clarified that the present judgment is confined solely to examining the legality of the cognizance order dated 11.05.2026 and the complaint proceedings arising therefrom. Pending interlocutory applications, if any, shall stand disposed of.

84. No order as to costs.

85. Before parting, this Court considers it appropriate to observe that criminal law cannot be permitted to become a weapon either for shielding official misconduct or for retaliating against investigating officers. Courts are

duty-bound to protect honest public servants from vexatious prosecutions while simultaneously ensuring that genuine allegations of abuse of authority are investigated strictly in accordance with law. The criminal process must remain a vehicle for the administration of justice and not an instrument of oppression. Where jurisdictional limits are transgressed at the very threshold, constitutional courts are not merely empowered but obligated to intervene to preserve the sanctity of the criminal justice system.

(RAJESH KUMAR GUPTA)
JUDGE

Vishal