IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

W.P.A. No. 17617 of 2025

Swami Vivekananda University & Anr.
-versus-
The State of West Bengal & Ors.

For the Petitioners	:	Mr. Sandipan Ganguly, Sr. Adv., Mr. Srijib Chakraborty, Mr. Pinak Mitra, Mr. Debdut Banerjee,
For the State- Respondents	:	Mr. Suman Sengupta, Ms. Amrita Panja Moulick.
Hearing Concluded On	:	**29.08.2025**
Judgement On	:	**03.09.2025**

Tirthankar Ghosh, J. :

Petitioners have challenged the notice under Section 94 of BNSS issued by the Investigating Officer of Mohanpur Police Station Case No. 110/25 dated 03.07.2025 which inter alia, directed the Registrar of Swami Vivekananda University (Petitioner No.2) to provide the records of all

students who received government scholarships from the institution for last five academic years (2020 to 2025).

Learned Senior Advocate appearing for the petitioners submitted that the petitioner no. 1 is a Private University established under the Swami Vivekananda University Act, 2019 situated at Barrackpore, North 24 Parganas and the petitioner no. 2 is the Registrar of the petitioner No. 1.

The genesis of the case relates to a complaint addressed to the Officer-in-Charge Mohanpur, Police Station by one Gopi Bondhu Ganguly, wherein it was alleged that the Centre-in-Charge for Exams organized mass use of unfair means, organized leakage of question paper of the Exam during May, 2025 and also Semester Examinations of West Bengal State Council of Technical and Vocational Education and Skill Development at Regent Institute of Science & Technology at Bara Kanthalia, Telini Para, Barrackpore.

The letter of complaint dated 18th June, 2025 which has been treated to be the First Information Report, is hereby reproduced verbatim as under:

> "**1**. I submit this complaint seeking registration of a cognizable-offence FIR and a prompt investigation into large-scale examination malpractice, criminal conspiracy and corruption that vitiated the May 2025 even-semester examinations conducted by the West Bengal State Council of Technical & Vocational Education and Skill Development (Technical Education Division) at Regent

Institute of Science & Technology, Bara Kanthalia, Telini Para, Barrackpore - 700 121 (Centre Code -RIS).

2. The facts herein disclose offences punishable, inter alia, under -

a. *Sections -112,406,409,318 of the BNS coupled with the wilful violation of government laws enacted to combat the evils of unauthorized trade in the educational field toying with the future of innocent students.*

b. *Sections 7, 13(1)(a), 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988; and*

C. *Sections 3, 4 and 5 of the Public Examinations (Prevention of Unfair Means) Act, 2024 (cognizable, non-bailable).*

3. The Council's binding examination guidelines (Memo No. WBSCTVESD/TED/2025-26/0150 dated (06-05-2025) require timed opening of sealed question papers, mandatory presence of an observer, continuous CCTV recording and an absolute ban on mobile-phone use.

4. Contrary to those directions, at Centre Code - RIS:

a. *Sealed packets were opened prematurely and not in the observer's presence.*

b. *The observer attended only on Day 1 and was wilfully absent thereafter without substitution.*

c. *Question papers were circulated on WhatsApp/Telegram groups, enabling organized leakage.*

d. *The Centre-in-Charge instructed faculty to prepare written answers and supply them to examinees.*

e. *These acts occurred despite CCTV coverage; tampering or deletion of footage is now imminent.*

5. The above conduct squarely attracts Sections 3 to 5 of the Public Examinations (Prevention of Unfair Means) Act, 2024, which criminalise unauthorised possession, leakage or dissemination of" question papers and provision of ready answers.

6. Because the Centre-in-Charge, observer and assisting staff are public servants performing a statutory duty, their acts constitute criminal misconduct by public servants under the Prevention of Corruption Act, 1988.

7. During the examination period, approximately 7 reams of A4-size paper (each ream containing about 500 sheets) were requisitioned and subsequently issued by the Store In-Charge, Mr. Milton Ghosh. These papers were allegedly used for typing and writing out answers to the examination questions, indicating a premeditated effort to facilitate organized malpractice.

8. The Hon'ble Supreme Court in Krishna Yadav v. State of Haryana (1994) 4 SCC 165 has underscored that the integrity of public examinations forms part of the fundamental rights under Articles 14 and 21 of the Constitution of India.

9. The Hon'ble Supreme Court, in Director (Studies), Dr. Ambedkar Institute of Hotel Management, Nutrition & Catering Technology, Chandigarh & Ors. vs. Vaibhav Singli Chauhan, reported in (2009) 1 SCC 59, emphatically observed in paragraph 12:

> *"We are of the firm opinion that in academic matters there should be strict discipline and malpractices should be severely punished. If our country is to progress, we must maintain high educational standards, and this is only possible if malpractices in examinations in educational institutions are curbed with an iron hand."*

This authoritative pronouncement underscores the judiciary's firm stance that examination-related malpractices must be met with uncompromising legal and institutional action in order to uphold the sanctity of the educational system and ensure national progress.

10. CCTV footage from every examination hall, entry corridor, strong-room and control room for the entire exam period (including metadata) is the best electronic evidence. Unless preserved immediately under your supervision, there is a grave risk of its destruction, defeating the ends of justice.

11. It is urgently apprehended that the original CCTV recordings from every examination hall, corridor, strong-room and control room at Centre Code - RIS may be deleted or tampered with to obliterate evidence; I therefore request that the entire DVR/NVR hardware

and all raw footage (with hash values) be forthwith seized, sealed and preserved.

12. I also bring to your notice the Department of Technical Education, Training & Skill Development's Notification Memo No. WBSCTVESD/TED/2025-26/0150 dated 06-05-2025, which expressly directs all institutes to circulate the complete text of the Public Examinations (Prevention of Unfair Means) Act, 2024 to every enrolled student to prevent malpractices- an obligation that was willfully ignored at Regent Institute, of Science & Technology for malafide intentions.

13. The foregoing facts disclosing cognizable offences warrants for immediate registration of FIR and to make seizure of valuable documents including all electronic records data which carrying the sign and active role of the miscreant for committing such offence for their wrongful gain by using their dominance over the administration as well as each part of the department.

14. Mr. Santanu Sadhukhan, Centre-in-Charge of Examinations, having had his services utilized by a public authority in connection with the conduct of examinations, clearly falls within the ambit of the definition of 'public servant' under Section 2(c)(xi) of the Prevention of Corruption Act, 1988. As per Section 2(c)(xi), any individual- whether a Vice-Chancellor, governing body member, professor, lecturer, or employee of a University or

any person engaged by a University or public authority specifically for organizing or conducting examinations, is designated as a public servant. Consequently, Mr. Sadhukhan is liable to prosecution under the Prevention of Corruption Act, 1988, for his involvement in leaking examination answers.

15. The Centre-in-Charge, Mr. Santanu Sadhukhan, while entrusted with the public duty of supervising examinations, conspired with the private Trust to orchestrate the organized leakage and unauthorized distribution of examination questions and answers. In return, the Trust provided undue financial advantage to Mr. Sadhukhan by significantly and disproportionately increasing his salary.

16. I possess ample documentary evidence supporting my contention, which will unquestionably become evident upon investigation, provided the relevant electronic records and documents are promptly seized. Any delay or failure in securing this evidence may allow the perpetrators to destroy or alter critical information, thereby leading to miscarriage and denial of justice.

17. The deliberate conspiracy to leak question papers and facilitate mass cheating in a public examination constitutes a grave threat to equity, public confidence, and institutional credibility, ultimately shaking the very foundation of the State's educational system. The erosion of public trust resulting from such organized

> malpractice-especially when orchestrated by teachers entrusted with the sacred duty of supervising examinations- undermines the integrity, reliability, and fairness of the entire assessment process. If left unchecked, this conduct sets a perilous precedent, corrupting future generations and severely devaluing education as a pillar of societal progress and national development".

Mr. Ganguly, learned senior advocate appearing on behalf of the petitioner submitted that the complaint which has been treated to be the First Information Report of the instant case alleges of large-scale examination malpractice, criminal conspiracy and corruption that vitiated the May 2025 even-semester examination conducted by the West Bengal State Council of Technical & Vocational Education and Skill Development (Technical Education Division) at Regent Institute of Science & Technology, Bara Kanthalia, Telini Para, Barrackpore- 700 121. The case which has been registered is under Sections 112/238/316(2)/316(5)/318(4)/344 of the BNS, 2023. It was contended that on 25.07.2025 the Respondent No. 3 issued a notice under Section 94 of BNSS, 2023 to the petitioners thereby seeking records of all students who received government scholarships from the petitioner No. 1 for the period 2020 to 2025. It was submitted that petitioner No. 1 is the University which was established in 2019 by way of the Swami Vivekananda University Act, 2019 being notified by the Government of West Bengal on 09.12.2019 and came into force with effect from 05.12.2019. The petitioner No.2 is a Registrar of the petitioner No. 1 University.

On the other hand Regent Institute of Science and Technology (RIST) was founded in 2012 and it provides diploma courses. The said institute is affiliated to West Bengal State Council of Technical Education, Kolkata and the courses are approved by All India Council for Technical Education (AICTE). The said institute is neither affiliated to petitioner No. 1, University nor do the Petitioner No. 1 have any role involved in the internal affairs/management of RIST.

The composition of the governing board of Swami Vivekananda University is laid down in Section 13 of the Swami Vivekananda University Act, 2019. The provisions of Section 30 of the same Act specifically lays down the purposes for which the general fund of the university is to be utilized. The University do not offer any scholarship of its own. Scholarship programs are offered by Government of West Bengal under different names such as Aikyashree, Swami Vivekananda Merit Cum Means Scholarship etc. Any interested candidate may apply for such scholarship and the application form is presented to the University. If the application form satisfies the eligibility criteria and is in order, the same after being duly verified are forwarded to the nodal officers appointed by the State, at the district and state level, and after the verification is conducted by the district nodal officer and the state nodal officers of the State Government, the same is processed and the scholarship amount is disbursed to the applicant's/student's bank account directly by the government. As such there is three-tier verification process and all records and data are with the Government of West Bengal.

Learned Senior Advocate thereafter, made a comparison of Section 94 of the BNSS, 2023, along with Section 91 of the Code of Criminal Procedure, 1973 thereby emphasizing on the phrase "is necessary or desirable for the purpose of any investigation". It was argued that a notice under Section 94 of BNSS, 2023 for production of any documents can be sent only when its production is necessary or desirable for the purpose of any investigation.

According, to the petitioners, there is no nexus and or link between the institute where the alleged offence has taken place and the University. The investigating agency cannot make roving inquiry by misusing powers under Section 94 of BNSS, thereby seeking information/documents which are not at all connected with the case registered, as such the impugned notice under Sections 94 of the BNSS should be quashed.

In order to fortify his submissions reliance was placed by the petitioners on ***Ajay Mukherji -versus- The State and others reported in 1971 SCC OnLine Cal 133*** and attention of the Court was drawn to paragraph to 4 which reads as follows:

> *"**4.** There is much force also behind the second submission regarding the non-conformance to the provisions of Section 94. Criminal P.C. As has been observed before, the order dated the 12th December, 1970 is an amalgam order directing the petitioner to produce certain accounts, receipts, vouchers and minutes as referred to therein and also issuing summons on him to give evidence. The said order passed by the learned Chief Presidency Magistrate, Calcutta is quite a laconic one and one looks in vain thereto for ascertaining the grounds of his satisfaction or even a consideration as to why he thought it necessary or desirable for the purposes of*

the trial, that the documents in question should be called for. The sine qua non of an order under S. 94, Cri. P.C. is a consideration by the court that the production of the documents concerned was desirable for the purposes of the trial and on being satisfied in that behalf, to issue summons thereunder. A failure on the part of the court to do so would result in a non-conformance to the provisions of S. 94, Cri. P.C. A reference in this context may be made to the case of Hussenbhoy Abdoolabhoy Lalji v. Rashid B. Vershi, reported in AIR 1941 Bom 259 (FB) Chief Justice Beaumont delivering the judgment of the court observed at page 260 that:

> *"We think the true view is that when an application is made to a court or to a police officer in the mofussil, under Section 94 for production of documents, the court is bound to consider whether there is a prima facie case for supposing that the documents are relevant".*

Petitioners also relied upon the judgment of the Hon'ble Supreme court in ***Om Prakash Sharma -versus- CBI, Delhi reported in (2000) 5 SCC 679*** and referred to paragraphs 6 and 7 of the said judgment:

> *"**6.** The powers conferred under Section 91 are enabling in nature aimed at arming the court or any officer in charge of a police station concerned to enforce and to ensure the production of any document or other things "necessary or desirable" for the purposes of any investigation, inquiry, trial or other proceeding under the Code, by issuing a summons or a written order to those in possession of such material. The language of Section 91 would, no doubt, indicate the width of the powers to be unlimited but the inbuilt limitation inherent therein takes its colour and shape from the stage or point of time of its exercise, commensurately with the*

nature of proceedings as also the compulsions of necessity and desirability, to fulfil the task or achieve the object. The question, at the present stage of the proceedings before the trial court would be to address itself to find whether there is sufficient ground for proceeding to the next stage against the accused. If the accused could produce any reliable material even at that stage which might totally affect even the very sustainability of the case, a refusal to even look into the materials so produced may result in injustice, apart from averting an exercise in futility at the expense of valuable judicial/public time. It is trite law that the standard of proof normally adhered to at the final stage is not to be insisted upon at the stage where the consideration is to be confined to find out a prima facie case and decide whether it is necessary to proceed to the next stage of framing the charges and making the accused to stand trial for the same. This Court has already cautioned against undertaking a roving inquiry into the pros and cons of the case by weighing the evidence or collecting materials, as if during the course or after trial vide Union of India v. Prafulla Kumar Samal [(1979) 3 SCC 4 : 1979 SCC (Cri) 609] . Ultimately, this would always depend upon the facts of each case and it would be difficult to lay down a rule of universal application and for all times. The fact that in one case the court thought fit to exercise such powers is no compelling circumstance to do so in all and every case before it, as a matter of course and for the mere asking. The court concerned must be allowed a large latitude in the matter of exercise of discretion and unless in a given case the court was found to have conducted itself in so demonstrably an unreasonable manner unbecoming of a judicial authority, the court superior to that court cannot intervene very lightly or in a routine fashion to interpose or impose itself even at that stage. The reason being, at that stage, the question is one of mere proprieties involved in the exercise of judicial discretion by the court and not of any rights concretised in favour of the accused.

> ***7.*** *Therefore, it is to be only seen as to whether the trial court has judiciously and judicially exercised its discretion. The trial court as also the High Court, seem to have properly applied their minds by going into the nature of the documents sought to be summoned, their bearing and relevance for the nature of consideration to be made at that stage of the proceedings before the Special Judge as well as the necessity and desirability whereof. The consideration so made by the courts below in rejecting the claim of the appellant, could not be held to be either condemnable or constitute any gross or improper failure to exercise their jurisdiction and consequently, it does not call for any interference in our hands. Therefore, the appeal fails and shall stand dismissed".*

Petitioners also referred to ***Asha Mukherjee -versus- The Union of India & Ors, reported in 2020 SCC Online Cal 1717*** and referred to paragraphs 29,37, 40-44, 46,48 of the said judgment:

> ***"29.*** *Coming to the impugned notices, apart from the first, dated August 27, 2020, all the notices carried the same tenor and were specifically given under Section 91 of the Criminal Procedure Code. Section 91, as set out above, clearly envisages only the production of documents and "things", which cannot, by any stretch of imagination, extend to intangible information. That apart, the CrPC specifically provides for the method and ambit of investigation by the Police, as found in Chapter XII, containing Sections 154 to 176. Despite the scope of investigation being wide enough to enable the Police to gather relevant information in accordance with law, such power of the Police cannot be interpreted to extend beyond the contours provided in the statute itself, which would border on the harassive.*

37. *There is ample scope within the periphery of Chapter XII of the Code of Criminal Procedure for the Police Officer to investigate and collect information from witnesses or persons present at the spot. Even further developments during investigation could necessitate the interrogation of the petitioner if she had a semblance of nexus with the complaint of respondent no. 5. However, the details sought by the respondent no. 4 were beyond the scope of his charter and not only unorthodox but de hors the law. Section 161 of the CrPC clearly formulates that mode of examination of witnesses by the police. Sub-section (2) of Section 161 mandates the person being questioned to answer truly all questions relating to such case put to him by such Officer "other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture". Sub-section (1), on the other hand, specifies that such examination has to be conducted orally in respect of any person "supposed to be acquainted with the facts and circumstances of the case". None of the tests, as mentioned above, are satisfied by the several questions posed in the impugned notices.*

40. *As such, although the police have wide powers to collect information in connection with an investigation, such questions and the persons to whom those are addressed have to have a visible connection, either evident from the complaint or the FIR or from subsequent developments or materials, with the subject-matter of the information. Plenary and blanket powers cannot be said to have been conferred on the Police to abuse the proposition as laid down in the judgments cited by the State, inasmuch as the collection of evidence and the ensuing examination of various persons, followed by reduction into writing, has to relate or be relevant to the commission of the offence-inquestion.*

41. *That apart, the written answers sought by respondent no. 4 from the petitioner could very well militate against the specific*

boundaries of Section 161, sub-sections (1) and (3) in the absence of any scope of supposition that the petitioner is acquainted with the facts and circumstances of the case, thereby having a tendency to expose the petitioner unnecessarily to a criminal charge or penalty or forfeiture by fishing out evidence against her in the garb of collection of information.

42. *Undoubtedly, the Investigating Officers of both the Case Nos. 112 of 2020 and 113 of 2020 are empowered to question of the petitioner if there is any reason to suspect that the petitioner has a connection with the case. However, although the defence under Article 20(3) of the Constitution is not available in terms to the petitioner, who is not an accused in either of the cases, the general import of Section 161 of the CrPC, read in conjunction with the right to liberty contemplated in Article 21 of the Constitution, as well as the restrictions inbuilt in Sections 161 and 164, would come in the way of asking reckless questions, having no nexus either with the petitioner's complaint or any case with which she has been showed to be associated, lavishly, let alone under Section 91 of the CrPC (which pertains to documents and not information) but under any provision of the CrPC, however liberally those are interpreted. Even if an ongoing and updated interpretation of the CrPC is to be adopted, taking it to be an exhaustive code, the law does not permit the Investigating Officer of an unconnected case to ask questions repeatedly, that too in writing, to the petitioner, seeking to elicit information patently in favour of the accused in her own complaint, which may go against the petitioner as well.*

43. *Any written reply to the notices impugned herein might tantamount to an admission on the part of the petitioner in writing, with her own signature, which might very well be used against the petitioner in respect of her own complaint and is thus impermissible in the backdrop of the facts discussed above.*

> ***44.*** *As such, although there is no fetter in the investigation of Case No. 112 of 2020 and 113 of 2020 going on simultaneously, the Investigating Officers in charge of those cases have to act responsibly and within the bounds of law, as per the course charted out in Chapter-XII of the CrPC.*
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> ***46.*** *The right of the Police to investigate into a cognizable offence was held to be a statutory right, over which the court does not possess any supervisory jurisdiction under CrPC, in T.T. Antony (supra); however, it was clarified by the Supreme Court that such plenary power of the Police to investigate a cognizable offence is not unlimited and is subject to certain well-recognized limitations.*
>
> ***48.*** *Keeping in view the aforementioned well-settled propositions of law, as applied to the facts of the instant case, respondent no. 4 acted patently de hors his powers as conferred by law in sending the impugned notices, as annexed at pages-36 to 41 and page-45 of the writ petition, to the petitioner to extract unwarranted information in the form of an intended written admission by adopting a modus operandi unknown to law."*

Mr. Sengupta, learned advocate appearing on behalf of the State submitted that on the basis of a specific complaint by Gopi Bondhu Ganguly a preliminary enquiry was conducted by Mohanpur Police Station and thereafter, on specific materials having surfaced Mohanpur Police Station Case No. 110 of 2025 was registered for investigation under the relevant provisions of BNS, 2023.

On behalf of the State it was contended that during the course of investigation, it revealed that large-scale educational scam was carried out under the guise of educational scholarships to undeserving students. It

further revealed in course of investigation, that Regent Institute of Science and Technology and Swami Vivekananda University are run by the same Trustee as such the malpractice which is the basic allegations for obtaining government scholarships by undeserving students are being worked out by the investigating agency. Another angle which is being investigated by the investigating agency is towards assessing whether any financial benefit in the name of scholarships is derived by the College and University.

On the basis of the materials so collected by the investigating agency, the Investigation Officer issued a notice under Section 94 of BNSS to Registrar of Swami Vivekananda University for production of certain documents. The statutory provisions do empower the investigating authority to issue such notices as would be transparent from the provisions of Section 94 of the BNSS.

In order to fortify his argument learned advocate relied upon ***J. Jayalalithaa -versus- State of Karnataka reported in (2014) 2 SCC 401*** and referred to paragraph 34 which is as follows:

> ***"34.*** *There is yet an uncontroverted legal principle that when the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. In other words, where a statute requires to do a certain thing in a certain way, the thing must be done in that way and not contrary to it at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim expressio unius est exclusio alterius, meaning thereby that if a statute provides for a thing to be done in a*

> *particular way, then it has to be done in that manner and in no other manner and following any other course is not permissible".*

It was lastly concluded by the learned advocate for the State that the investigation is at a stage when it is imminent that such documents are required for the sake of investigation, consequently, notices have been issued under Section 94 of the BNSS upon the appropriate authority and as such, the contention of the petitioners relating to "desirability of such documents in course of investigation" have no foundational fact to support.

I have considered the plea of the petitioners and the contentions advanced by the State. The subject before this Court which is to be decided is whether the investigating officer was justified in issuing the notice under Section 94 of the BNSS.

Therefore, it would be apt to the Court to analyse whether the act and action of the investigating officer in this case warranted the invocation of the powers under Section 94 of the BNSS.

Section 94 of the BNSS deals with the following foundational ingredients and characteristics:

(a) *Section 94 primarily serves as a procedural instrument enabling the issuance of summons for the production of documents or material evidence.*

(b) *The applicability of Section 94 extends across all procedural stages, including investigation, inquiry, trial and other proceedings contemplated under the BNSS, 2023.*

(c) *The structure and wording of Section 94 appear to confer the power of invocation upon the Court or the Officer-in-Charge of the police station having jurisdiction.*

(d) *The operational threshold for invoking Section 94 is the subjective satisfaction of the Court or the police authority that the production of materials serves a necessary or desirable function within the procedural framework of investigation, inquiry, trial or other statutory proceedings under the BNSS, 2023.*

(e) *The provision's applicability is strictly conditional upon the prior satisfaction of the Court or police authority that the production sought is essential or advantageous to the progress of proceedings.*

(f) *In accordance with the directive issued, the concerned document or item shall be submitted to the Court if ordered by the Court, or to the Officer-in-Charge if so instructed by the Police Officer.*

Thus, the ultimate object behind Section 94 of BNSS is to confer power in the hands of the Court or in case of pending investigation, inquiry, trial or other proceedings to produce document or other thing which the Court or the police authorities deems relevant and cogent for conducting of investigation, inquiry, trial or other proceedings and which are not already on record or are required for the purposes of investigation. Thus, it is a supplementary power available for unearthing truth in course of investigation/inquiry/trial or other proceedings for preventing failure of justice.

The petitioner has prayed for quashing and/or setting aside the notice dated 25.07.2025 under Section 94 of BNSS, 2023, issued to the Registrar of Swami Vivekananda University in connection with the Mohanpur Police Station Case No. 110/25 dated 03.07.2025. Another aspect which is to be

assessed for balancing the requirement of production of the documents vis-à-vis the powers of the Court to interfere with an ongoing investigation.

To substantiate the aforesaid contentions certain authorities and settled proposition of law are relevant for discussion.

The Privy Council in the case of ***King Emperor -versus- Khwaja Nazir Ahmad, AIR (1945) PC 18*** held as follows:

> ***3****."... Just as it is essential that every one accused of a crime should have free access to a court of justice so that he may be duly acquitted if found not guilty of the offence with which he is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes on them the duty of inquiry."*
>
> ***4****."... In India, as has been shown, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as Their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court. The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the court to intervene in an appropriate case when moved under Section 491, Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the court's functions begin when a charge is preferred before it, and not until then. It has sometimes been thought that Section 561-A has given increased powers to the court which it did not*

> *possess before that section was enacted. But this is not so. The section gives no new powers, it only provides that those which the court already inherently possesses shall be preserved and is inserted, as Their Lordships think, lest it should be considered that the only powers possessed by the court are those expressly conferred by the Criminal Procedure Code, and that no inherent power had survived the passing of that Act."*
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> (emphasis supplied)

In ***State of Bihar -versus- J.A.C. Saldanha*** a special Bench of the Hon'ble Supreme Court after referring to the principle set out ***Khwaja Nazir Ahmad (supra)*** held as follows:

> ***"25.*** *There is a clear-cut and well demarcated sphere of activity in the field of crime detection and crime punishment. Investigation of an offence is the field exclusively reserved for the executive through the Police Department, the superintendence over which vests in the State Government. The executive which is charged with a duty to keep vigilance over law and order situation is obliged to prevent crime and if an offence is alleged to have been committed it is its bounden duty to investigate into the offence and bring the offender to book. Once it investigates and finds an offence having been committed it is its duty to collect evidence for the purpose of proving the offence. Once that is completed and the investigating officer submits report to the Court requesting the Court to take cognizance of the offence under Section 190 of the Code its duty comes to an end. On a cognizance of the offence being taken by the Court the police function of investigation comes to an end subject to the provision contained in Section 173(8), there commences the adjudicatory function of the judiciary to determine whether an offence has been committed*

and if so, whether by the person or persons charged with the crime by the police in its report to the Court, and to award adequate punishment according to law for the offence proved to the satisfaction of the Court. There is thus a well-defined and well-demarcated function in the field of crime detection and its subsequent adjudication between the police and the Magistrate. This has been recognised way back in King Emperor v. Khwaja Nazir Ahmad [(1943-44) 71 IA 203 : AIR 1945 PC 18] ....

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26. *This view of the Judicial Committee clearly demarcates the functions of the executive and the judiciary in the field of detection of crime and its subsequent trial and it would appear that the power of the police to investigate into a cognizable offence is ordinarily not to be interfered with by the judiciary."*

In ***M.C. Mehta (Taj Corridor Scam) –versus- Union of India and Others reported in (2007) 1 SCC 110*** in paragraphs 26 which read as follows:

"26. ... that there is a clear-cut and well-demarcated sphere of activities in the field of crime detection and crime punishment. Investigation of an offence is the field reserved for the executive through the Police Department, the superintendence over which vests in the State Government. The executive is charged with a duty to keep vigilance over the law and order situation. It is obliged to prevent crime. If an offence is committed allegedly, it is the State's duty to investigate into the offence and bring the offender to book. Once it investigates through the Police Department and finds an offence having been committed, it is its duty to collect evidence for the purposes of proving the offence. Once that is completed, the investigating officer

submits report to the court requesting the court to take cognizance of the offence under Section 190 CrPC and his duty comes to an end."

In ***Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, reported in (2021) 19 SCC 401*** the Hon'ble Supreme Court in paragraph 11, 11.1 and 11.2 was pleased to observe as follows:

> ***"11.*** *While considering the issue involved, the rights and duties of the police to investigate into cognizable offences are also required to be considered.*
>
> ***11.1.*** *The powers of investigation into cognizable offences are contained in Chapter XIV of the Code of Criminal Procedure. Section 154 deals with information in cognizable offence and Section 156 with investigation into such offence and under these sections the police have the statutory right to investigate into the circumstances of any alleged cognizable offence.*
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> ***11.2.*** *The Privy Council in Khwaja Nazir Ahmad [King Emperor v. Khwaja Nazir Ahmad, 1944 SCC OnLine PC 29 : (1943-44) 71 IA 203 : AIR 1945 PC 18] observed that in India, there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities. It is further observed that it would be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the court. It is further observed that the functions of the judiciary and the police are complementary, not overlapping, and the combination*

of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function".

Having considered that the main emphasis of the petitioners were to justify that there was no requirement or desirability in calling for the records which were referred to in the notice under Section 94 of the BNSS, I am of the view that the materials which have been collected in course of the investigation, as is reflected from the case diary, prima facie satisfies the requirement in respect of the documents called for by the investigating officer of the case. To assign further reason relating to the cause of such justification would be interfering with the investigation itself, which would be transgressing to a domain which is not called for while exercise powers under Article 226 of the Constitution of India.

Having regard to the aforesaid observations, I am of the view that the petitioner has failed to make out any case for interference by this Court.

Consequently, WPA 17617 of 2025 is dismissed.

All concerned parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of the judgement, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)