IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 20th OF MARCH, 2025

MISC. CRIMINAL CASE No. 48206 of 2022

MAHENDRA KUMAR SHARMA AND OTHERS

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Nitin Agrawal – Advocate for applicants.

Dr. Anjali Gyanani – Public Prosecutor for respondent/State.

ORDER

This application, under Section 482 of Cr.P.C., has been filed for quashment of FIR in Crime No.179 of 2022 registered at Police Station Isagarh, District Ashoknagar (M.P.) for offence under Sections 3, 7 of Essential Commodities Act, as well as subsequent proceedings pursuant to the FIR.

2. Challenging the FIR, it is submitted by counsel for applicants that applicant No.1 is the manager of Sewa Sahakari Samiti, Pipariya and applicant No. 2 is the salesman of the fair price shop, which is being run and managed by Sewa Sahakari Samiti, Pipariya. On 13/5/2022, an FIR in Crime No.179 of 2022 has been registered against applicants on the written complaint/correspondence of the SDO (Revenue) dated 13/5/2022 submitted by Junior Supply Officer, Isagarh. As per the complaint, it was alleged that the Naib Tahsildar and Junior Supply

Officer visited the fair price shop, and the shop was found closed. Thereafter, applicant No.2 was called and physical inspection of the shop was carried out. During physical inspection, the stock register was not produced, the notice board was not displayed and on physical verification 42 kilograms of rice and 536 kilograms of gram were found short. Accordingly, a request was made to register an FIR under Section 3/7 of the Essential Commodities Act for violation of Clauses 10(3)(4), 11(1)(3)(9), 13(1)(2), 15(4) and 18 of the Madhya Pradesh Public Distribution System (Control) Order, 2015 (for short "Control Order, 2015").

3. It is submitted by counsel for applicants that a show-cause notice dated 9/5/2022 was issued by the SDO (Revenue), Isagarh to the applicants alleging violation of the Control Order, 2015. The said show-cause notice was duly replied by applicants denying contravention/violation of any of the conditions mentioned in the Control Order, 2015.

4. It is submitted that sub-clause (2) of Clause 14 of the Control Order, 2015 provides that in case of violation under Clause 13 for quantity more than 10% monthly allocation or repetition of violation under the same clause, a person shall mandatorily be prosecuted under Section 7 of the Essential Commodities Act. However, it is submitted that there is no finding with regard to the shortage of more than 10%. It is submitted that the SDO (Revenue) had directed for registration of FIR without considering the defence of applicants, and accordingly, the opportunity of hearing should have been given to applicants before registration of FIR.

5. It is submitted that the police has also filed a charge sheet. It is further submitted that as per the Control Order, 2015, an FIR can be lodged only on the report of the Collector, which has not been done, and accordingly, not only the FIR but even the charge sheet is liable to be quashed.

6. Heard learned counsel for the applicant.

7. The main question for consideration is as to whether the FIR can be lodged only on the recommendation of the Collector or not?

8. The aforesaid question is no more *res integra*.

9. This Court, by order dated 19/01/2017, passed in the case of **Jagdish Kushwah Vs. State of MP** in **MCRC No.2643/2011 (Gwalior Bench)**, has held that in the absence of the word "only," it cannot be said that no other person can put the criminal investigating agency into motion except the Collector and it has been held as under:

> Thus, it is clear that the insertion/addition of word "Only" in Clause 11.5 of M.P. Public Distribution System (Control) Order, 2009 would limit the meaning of word "Cognizable" used in Section 10-A of the Essential Commodities Act, 1955, which is not permissible. Thus, if the word "Only" is inserted in Clause 11.5 of the M.P. Public Distribution System (Control) Order, 2009, then the said provision would come directly in conflict with Section 10-A of the Essential Commodities Act, 1955 and therefore, the interpretation of Clause 11.5 of the M.P. Public Distribution System (Control) Order, 2009 as suggested by the Counsel for the applicant is not permissible.
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> Therefore, it is clear that the word "**Only**" cannot be read in Clause 11.5 of M.P. Public Distribution System (Control) Order, 2009 so as to quash the F.I.R. on the ground that since, the complaint has not been made by the Collector, therefore, the Police cannot register the F.I.R. on the basis of the complaint made by any other person, even if the same discloses the Commission of Cognizable Offence.

10. Furthermore, police after concluding the investigation has already filed charge-sheet.

11. The Supreme Court in the case of **H.N. Rishbud Vs. State of Delhi (AIR 1955 SC 196)**, has held as under :

> 9**.** The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now, trial follows cognizance and cognizance is preceded by

investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the Court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial. No doubt a police report which results from an investigation is provided in Section 190 of the Code of Criminal Procedure as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the Court to take cognizance. Section 190 of the Code of Criminal Procedure is one out of a group of sections under the heading "Conditions requisite for initiation of proceedings". The language of this section is in marked contrast with that of the other sections of the group under the same heading i.e. Sections 193 and 195 to 199. These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (*a*), (*b*) and (*c*) of Section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (*a*) or (*b*) of Section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation Section 537 of the Code of Criminal Procedure which is in the following terms is attracted:

"Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice."

If, therefore, cognizance is in fact taken, on a police report vitiated

by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the Court for trial is well settled as appears from the cases in *Prabhu* v. *Emperor AIR 1944 PC 73 (C)* and *Lumbhardar Zutshi* v. *King AIR 1950 PC 26 (D)*. These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the Court. We are, therefore, clearly, also, of the opinion that where the cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been caused thereby.

10. It does not follow, however, that the invalidity of the investigation is to be completely ignored by the Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such reinvestigation as the circumstances of an individual case may call for. Such a course is not altogether outside the contemplation of the scheme of the Code as appears from Section 202 under which a Magistrate taking cognizance on a complaint can order investigation by the police. Nor can it be said that the adoption of such a course is outside the scope of the inherent powers of the Special Judge, who for purposes of procedure at the trial is virtually in the position of a Magistrate trying a warrant case. When the attention of the Court is called to such an illegality at a very early stage it would not be fair to the accused not to obviate the prejudice that may have been caused thereby, by appropriate orders, at that stage but to leave him to the ultimate remedy of waiting till the conclusion of the trial and of discharging the somewhat difficult burden under Section 537 of the Code of Criminal Procedure of making out that such an error has in fact occasioned a failure of

> justice. It is relevant in this context to observe that even if the trial had proceeded to conclusion and the accused had to make out that there was in fact a failure of justice as the result of such an error, explanation to Section 537 of the Code of Criminal Procedure indicates that the fact of the objection having been raised at an early stage of the proceeding is a pertinent factor. To ignore the breach in such a situation when brought to the notice of the Court would be virtually to make a dead letter of the peremptory provision which has been enacted on grounds of public policy for the benefit of such an accused. It is true that the peremptory provision itself allows an officer of a lower rank to make the investigation if permitted by the Magistrate. But this is not any indication by the Legislature that an investigation by an officer of a lower rank without such permission cannot be said to cause prejudice. When a Magistrate is approached for granting such permission he is expected to satisfy himself that there are good and sufficient reasons for authorising an officer of a lower rank to conduct the investigation. The granting of such permission is not to be treated by a Magistrate as a mere matter of routine but it is an exercise of his judicial discretion having regard to the policy underlying it. In our opinion, therefore, when such a breach is brought to the notice of the Court at an early stage of the trial the Court have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Act. It is in the light of the above considerations that the validity or otherwise of the objection as to the violation of Section 5(4) of the Act has to be decided and the course to be adopted in these proceedings, determined.

12. Thus, in the light of the judgment passed by the Supreme Court in the case of **H.N. Rishbud (Supra)**, when the charge sheet has been filed and the cognizance has been taken, then under these circumstances whether the investigating officer was competent to investigate the matter or not is of no importance. Thus, the contention raised by the Counsel for the applicant with regard to the incompetency of the investigating officer to investigate the offence

in the light of clause 11(5) of Madhya Pradesh Public Distribution System (Control) Order 2009 is rejected. Once the charge-sheet is filed, then it is a matter between the accused and the Court.

13. So far as the question of non-grant of an opportunity of hearing to the applicants before the registration of FIR is concerned, it is suffice to mention here that the accused/suspect has no right of pre-audience.

14. The Supreme Court in the case of **Romila Thapar and others vs. Union of India and others** reported in **(2018) 10 SCC 753** has held as under:-

> "24. Turning to the first point, we are of the considered opinion that the issue is no more res integra. In Narmada Bai v. State of Gujarat, in para 64, this Court restated that it is trite law that the accused persons do not have a say in the matter of appointment of investigating agency. Further, the accused persons cannot choose as to which investigating agency must investigate the offence committed by them. Para 64 of this decision reads thus: (SCC p. 100)
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> > "64. … It is trite law that the accused persons do not have a say in the matter of appointment of an investigating agency. The accused persons cannot choose as to which investigating agency must investigate the alleged offence committed by them."
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> > (emphasis supplied)
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> 25. Again in Sanjiv Rajendra Bhatt v. Union of India, the Court restated that the accused had no right with reference to the manner of investigation or mode of prosecution. Para 68 of this judgment reads thus: (SCC p. 40)
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> > "68. The accused has no right with reference to the manner of investigation or mode of prosecution. Similar is the law laid down by this Court in Union of India v. W.N. Chadha, Mayawati v. Union of India, Dinubhai Boghabhai Solanki v. State of Gujarat, CBI v. Rajesh Gandhi, CCI v. SAIL and Janata Dal v. H.S. Chowdhary."
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> > (emphasis supplied)
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> 26. Recently, a three-Judge Bench of this Court in E. Sivakumar v.

Union of India, while dealing with the appeal preferred by the "accused" challenging the order of the High Court directing investigation by CBI, in para 10 observed: (SCC pp. 370-71)

> "10. As regards the second ground urged by the petitioner, we find that even this aspect has been duly considered in the impugned judgment. In para 129 of the impugned judgment, reliance has been placed on Dinubhai Boghabhai Solanki v. State of Gujarat, wherein it has been held that in a writ petition seeking impartial investigation, the accused was not entitled to opportunity of hearing as a matter of course. Reliance has also been placed on Narender G. Goel v. State of Maharashtra, in particular, para 11 of the reported decision wherein the Court observed that it is well settled that the accused has no right to be heard at the stage of investigation. By entrusting the investigation to CBI which, as aforesaid, was imperative in the peculiar facts of the present case, the fact that the petitioner was not impleaded as a party in the writ petition or for that matter, was not heard, in our opinion, will be of no avail. That per se cannot be the basis to label the impugned judgment as a nullity."

27. This Court in Divine Retreat Centre v. State of Kerala, has enunciated that the High Court in exercise of its inherent jurisdiction cannot change the investigating officer in the midstream and appoint an investigating officer of its own choice to investigate into a crime on whatsoever basis. The Court made it amply clear that neither the accused nor the complainant or informant are entitled to choose their own investigating agency, to investigate the crime, in which they are interested. The Court then went on to clarify that the High Court in exercise of its power under Article 226 of the Constitution can always issue appropriate directions at the instance of the aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide.

28. Be that as it may, it will be useful to advert to the exposition in State of West Bengal and Ors. Vs. Committee for Protection of Democratic Rights, West Bengal and Ors.13 In paragraph 70 of the said decision, the Constitution Bench observed thus:

> "70. Before parting with the case, we deem it necessary to

> emphasise that despite wide powers conferred by Articles 32 13 (2010) 3 SCC 571 38 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

29. In the present case, except pointing out some circumstances to question the manner of arrest of the five named accused sans any legal evidence to link them with the crime under investigation, no specific material facts and particulars are found in the petition about mala fide exercise of power by the investigating officer. A vague and unsubstantiated assertion in that regard is not enough. 39 Rather, averment in the petition as filed was to buttress the reliefs initially prayed (mentioned in para 7 above) – regarding the manner in which arrest was made. Further, the plea of the petitioners of lack of evidence against the named accused (A16 to A20) has been seriously disputed by the Investigating Agency and have commended us to the material already gathered during the ongoing investigation which according to them indicates complicity of the said accused in the commission of crime. Upon perusal of the said material, we are of the considered opinion that it is not a case of arrest because of mere

dissenting views expressed or difference in the political ideology of the named accused, but concerning their link with the members of the banned organization and its activities. This is not the stage where the efficacy of the material or sufficiency thereof can be evaluated nor it is possible to enquire into whether the same is genuine or fabricated. We do not wish to dilate on this matter any further lest it would cause prejudice to the named accused and including the co-accused who are not before the Court. Admittedly, the named accused have already resorted to legal 40 remedies before the jurisdictional Court and the same are pending. If so, they can avail of such remedies as may be permissible in law before the jurisdictional courts at different stages during the investigation as well as the trial of the offence under investigation. During the investigation, when they would be produced before the Court for obtaining remand by the Police or by way of application for grant of bail, and if they are so advised, they can also opt for remedy of discharge at the appropriate stage or quashing of criminal case if there is no legal evidence, whatsoever, to indicate their complicity in the subject crime.

30. In view of the above, it is clear that the consistent view of this Court is that the accused cannot ask for changing the Investigating Agency or to do investigation in a particular manner including for Court monitored investigation.....”

15. The Supreme Court in the case of **Dinubhai Boghabhai Solanki v. State of Gujarat**, reported in **(2014) 4 SCC 626** has held as under:-

“50. In *W.N. Chadha* [*Union of India* v. *W.N. Chadha*, 1993 Supp (4) SCC 260 : 1993 SCC (Cri) 1171] , the High Court had quashed and set aside the order passed by the Special Judge in charge of CBI matters issuing the order rogatory, on the application of a named accused in the FIR, Mr W.N. Chadha. The High Court held that the order issuing letter rogatory was passed inbreach of principles of natural justice. In appeal, this Court held as follows: (SCC pp. 290-91 & 293, paras 89, 92 & 98)

> “*89*. Applying the above principle, it may be held that when the investigating officer is not deciding any matter except collecting the materials for ascertaining whether a prima facie

case is made out or not and a full enquiry in case of filing a report under Section 173(2) follows in a trial before the Court or Tribunal pursuant to the filing of the report, it cannot be said that at that stage rule of audi alteram partem superimposes an obligation to issue a prior notice and hear the accused which the statute does not expressly recognise. The question is not whether audi alteram partem is implicit, but whether the occasion for its attraction exists at all.

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92 More so, the accused has no right to have any say as regards the manner and method of investigation. Save under certain exceptions under the entire scheme of the Code, the accused has no participation as a matter of right during the course of the investigation of a case instituted on a police report till the investigation culminates in filing of a final report under Section 173(2) of the Code or in a proceeding instituted otherwise than on a police report till the process is issued under Section 204 of the Code, as the case may be. Even in cases where cognizance of an offence is taken on a complaint notwithstanding that the said offence is triable by a Magistrate or triable exclusively by the Court of Sessions, the accused has no right to have participation till the process is issued. In case the issue of process is postponed as contemplated under Section 202 of the Code, the accused may attend the subsequent inquiry but cannot participate. There are various judicial pronouncements to this effect but we feel that it is not necessary to recapitulate those decisions. At the same time, we would like to point out that there are certain provisions under the Code empowering the Magistrate to give an opportunity of being heard under certain specified circumstances.

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98. If prior notice and an opportunity of hearing are to be given to an accused in every criminal case before taking any action against him, such a procedure would frustrate the proceedings, obstruct the taking of prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd and self defeating. Further, the scheme of the relevant statutory provisions relating to the procedure of investigation does not

attract such a course in the absence of any statutory obligation to the contrary."

These observations make it abundantly clear that it would not be necessary to give an opportunity of hearing to the proposed accused as a matter of course. The Court cautioned that if prior notice and an opportunity of hearing have to be given in every criminal case before taking any action against the accused person, it would frustrate the entire objective of an effective investigation. In the present case, the appellant was not even an accused at the time when the impugned order was passed by the High Court. Finger of suspicion had been pointed at the appellant by independent witnesses as well as by the grieved father of the victim.

51. In *Rajesh Gandhi case* [*CBI* v. *Rajesh Gandhi*, (1996) 11 SCC 253 : 1997 SCC (Cri) 88] , this Court again reiterated the law as follows: (SCC pp. 256- 57, para 8)

"*8*. There is no merit in the pleas raised by the first respondent either. The decision to investigate or the decision on the agency which should investigate, does not attract principles of natural justice. The accused cannot have a say in who should investigate the offences he is charged with. We also fail to see any provision of law for recording reasons for such a decision. … There is no provision in law under which, while granting consent or extending the powers and jurisdiction of the Delhi Special Police Establishment to the specified State and to any specified case any reasons are required to be recorded on the face of the notification. The learned Single Judge of the Patna High Court was clearly in error in holding so. If investigation by the local police is not satisfactory, a further investigation is not precluded. In the present case the material on record shows that the investigation by the local police was not satisfactory. In fact the local police had filed a final report before the Chief Judicial Magistrate, Dhanbad. The report, however, was pending and had not been accepted when the Central Government with the consent of the State Government issued the impugned notification. As a result, CBI has been directed to further investigate the offences registered under the said FIR with the consent of the State Government and in accordance with law. Under Section 173(8) CrPC, 1973 also, there is an analogous provision for

> further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate."

The aforesaid observations would clearly support the course adopted by the High Court in this matter. We have earlier noticed that the High Court had initially directed that the investigation be carried under the supervision of the Special Commissioner of Police, Crime Branch, of the rank of the Additional Director General of Police. It was only when the High Court was of the opinion that even further investigation was not impartial, it was transferred to CBI.

52. Again in *Sri Bhagwan Samardha* [*Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj* v. *State of A.P.*, (1999) 5 SCC 740 : 1999 SCC (Cri) 1047] , this Court observed as follows: (SCC pp.742-43, paras 10-11)

> "*10*. Power of the police to conduct further investigation, after laying final report, is recognised under Section 173(8) of the Code of Criminal Procedure. Even after the court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. This has been so stated by this Court in *Ram Lal Narang* v. *State (Delhi Admn.)* [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] . The only rider provided by the aforesaid decision is that it would be desirable that the police should inform the court and seek formal permission to make further investigation.
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> *11*. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation."

These observations also make it clear that there was no obligation for the High Court to either hear or to make the appellant a party to the proceedings before directing that the investigation be conducted by CBI.

53. We had earlier noticed that the High Court had come to the

prima facie conclusion that the investigation conducted by the police was with the motive to give a clean chit to the appellant, in spite of the statements made by the independent witnesses as well as the allegations made by the father of the deceased. The legal position has been reiterated by this Court in *Narender G. Goel* [*Narender G. Goel* v. *State of Maharashtra*, (2009) 6 SCC 65 : (2009) 2 SCC (Cri) 933] : (SCC pp. 68-69, paras 11-13)

> "*11*. It is well settled that the accused has no right to be heard at the stage of investigation. The prosecution will however have to prove its case at the trial when the accused will have full opportunity to rebut/question the validity and authenticity of the prosecution case. In *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj* v. *State of A.P.* [*Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj* v. *State of A.P.*, (1999) 5 SCC 740 : 1999 SCC (Cri) 1047] this Court observed: (SCC p. 743, para 11)
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> > '*11*. … There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard.'
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> *12*. The accused can certainly avail himself of an opportunity to cross-examine and/or otherwise controvert the authenticity, admissibility or legal significance of material evidence gathered in the course of further investigations. Further in light of the views expressed by the investigating officer in his affidavit before the High Court, it is apparent that the investigating authorities would inevitably have conducted further investigation with the aid of CFS under Section 173(8) of the Code.
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> *13*. We are of the view that what is the evidentiary value can be tested during the trial. At this juncture it would not be proper to interfere in the matter."

16. This Court in the case of **Prabal Dogra vs. Superintendent of Police,**

Gwalior and State of M.P. by order dated **30.11.2017** passed in **M.Cr.C.No.10446/2017** has held that accused has no say in the matter of investigation.

17. So far as Clause 14(3) of PDS (Control) Order, 2015 is concerned, it merely provides that in case the variation is more than 10%, then the prosecution is mandatory, but that would not mean that if variation is less than 10%, then prosecution cannot be launched, as it does not prohibit the application of provisions of penal law. The Supreme Court in the case of **State of M.P. v. Rameshwar & Others** reported in **(2009) 11 SCC 424** has held as under:-

> "48. Mr Tankha's submissions, which were echoed by Mr Jain, that the M.P. Cooperative Societies Act, 1960 was a complete code in itself and the remedy of the prosecuting agency lay not under the criminal process but within the ambit of Sections 74 to 76 thereof, cannot also be accepted in view of the fact that there is no bar under the M.P. Cooperative Societies Act, 1960, to take resort to the provisions of the general criminal law, particularly when charges under the Prevention of Corruption Act, 1988, are involved."

18. Accordingly, in light of the judgment passed by the Supreme Court in the case of **H.N. Rishbud (supra)** and by this Court in **Jagdish Kushwah (supra)**, this Court is of the considered opinion that no case is made out warranting interference. Application fails and is hereby ***dismissed***.

(G.S. Ahluwalia)
Judge

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