



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR**

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

MISC. CRIMINAL CASE No. 4578 of 2025

RAMU @ MANVENDRA SINGH GURJAR

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri Atul Gupta – Advocate for applicant.

Shri Ankur Mody- Additional Advocate General for respondents/State and Shri Mayank Awasthi, the then SP, Datia.

Shri Anil Kumar Mishra- Advocate for respondent No.2/Shri Yatendra Singh Bhadoriya, the then SHO, P.S. Deepar, District Datia.

Shri Pratip Visoriya- Advocate for complainant.

Reserved on: 04.04.2025

Pronounced on :16.04.2025

ORDER

This application, under Section 482 of Cr.P.C. has been filed against order dated 18.09.2024 passed by I Additional Sessions Judge, Seondha, District Datia (M.P.) in ST No.2/2018, by which an application filed by applicant under Section 233 of Cr.P.C. for production of record was rejected on the ground that Police, in spite of order dated 07.09.2018, has failed to get the record preserved and in absence of record, no direction can be given to



the Police to produce the record pertaining to the CDR and mobile locations of multiple mobile numbers and SIM numbers, as mentioned in the order dated 7/9/2018.

2. Facts necessary for disposal of present application, in short, are that applicant is facing trial for offences under Sections 147, 148, 149, 294, 307, 336 and 302 of IPC for committing murder of Kailash and making an attempt to cause murder of complainant. An application was filed by applicant on 13.08.2018 on the ground that according to the prosecution case the incident is alleged to have taken place on 24.09.2017 at about 3-4 pm, whereas at that time deceased and injured were in Amayan, District Bhind (M.P.) but the Investigating Officer, by suppressing the material fact, has shown that the incident took place within the territorial jurisdiction of Police Station Deepar, District Datia (M.P.) and accordingly, it was prayed that call details and mobile locations of (i) Sim No.8991787115031 6357829H5 and SIM No.89917867075799256; (ii) Mobile No.9977033721; (iii) Mobile No.8120139823; (iv) Mobile No.9009713629; (v) Mobile Nos.9516372435 and 9754312246; (vi) Mobile No.9516717908; (vii) Mobile No.9754681363 (viii) Mobile No.9977935931 (ix) Mobile No.9977178454 and (x) Mobile No.9009715901 may be preserved to show that the injured and witnesses were not present at the place where the incident is alleged to have taken place. Accordingly, the Trial Court by order dated 07.09.2018 directed that the call details and mobile location of aforesaid mobile numbers and SIM numbers be preserved. It was also observed that this order would not give rise to any vested right in favour of accused persons and the use of aforesaid call details shall be subject to order passed by the Trial Court and the



aforesaid data shall not be shared with the applicant or any other person without the leave of the Court. Thereafter, the case was fixed for framing of charges. Later, it appears that another application was filed on 20.09.2018 for production of compliance report of order dated 07.09.2018. A reply was submitted by SHO, Police Station Deepar, District Datia on 01.10.2018 that in compliance of order dated 07.09.2018, action has been taken for preserving the call details and in the light of aforesaid reply, the Trial Court by order dated 04.10.2018 disposed of the application filed by applicant. It appears that thereafter, the evidence of witnesses were recorded and later on an application was filed under Section 233 of Cr.P.C. for production of call details and locations of mobile numbers and SIM numbers which were directed to be preserved by the Trial Court by order dated 07.09.2018. In reply to the said application, it was submitted by the Police that letter dated 08.09.2018 was sent to the Cyber Cell for preserving the aforesaid record. Thereafter, information was sought from Cyber Cell, Datia, which has informed that since the CDRs of mobile numbers and SIM numbers are more than two years' old, therefore, the same cannot be provided and accordingly, it was observed by the Trial Court that since the SHO has opined that the information sought to be produced under Section 233 of Cr.P.C. is older than two years, therefore, the same cannot be produced and accordingly, application submitted by applicant before the Trial Court was rejected.

3. Challenging the order passed by the Trial Court, it is submitted by counsel for applicant that incident is alleged to have taken place on 24.09.2017 and on 13.08.2018 application was filed for directing the Investigating Agency to preserve the call records and accordingly by order



dated 07.09.2018 direction was given. Later on, on 20/9/2018, when applicant filed an application for calling the compliance report of order dated 7/9/2018, then on 01.10.2018 a reply was given by the Investigating Agency that action has been taken for preservation of the aforesaid record and accordingly the aforesaid application filed by applicant was disposed of by order dated 04.10.2018. The direction to preserve the call details and details of location of mobile numbers and sim numbers was issued within a period of two years. Although the police had assured the Court that action has been taken for preserving the aforesaid record, but deliberately did not take any action thereafter and now, the rejection of application under Section 233 of Cr.P.C. on the basis of statement made by SHO, Police Station Deepar, District Datia (M.P.) that as the wanted information is older by more than two years therefore it cannot be produced, is erroneous and therefore, the Trial Court should have initiated proceedings under the Contempt of Court Act and should have observed that since the prosecution has failed to produce the record in spite of directions given to preserve the same, therefore, an adverse inference will be drawn against witnesses with regard to their presence on spot.

4. Counsel for complainant submitted that it is a clear case where prosecution agency is out and out protecting the interests of accused and in spite of clear order dated 07.09.2018 has failed to produce the call details and mobile locations of mobile numbers and SIM numbers as already mentioned above. Therefore, it is clear that the then SHO, Police Station Deepar, District Datia and the then Superintendent of Police, Datia are guilty of dereliction of their duty as they have deliberately not filed the record of



mobile numbers and SIM numbers mentioned above and therefore, it is submitted that serious action should be taken against the then SHO, Police Station Deepar, District Datia and the then Superintendent of Police, District Datia. It is further submitted that the then S.P., Datia and the then SHO, Police Station, Deepar, District Datia have deliberately created a situation, where the accused may pray for drawing an adverse inference with regard to presence of witnesses on the spot.

5. *Per contra*, it is submitted by counsel for the then Superintendent of Police, Datia that on 8/9/2018, the then SHO, Police Station, Deepar, District Datia sent a letter to the then Superintendent of Police, Datia who forwarded it to Cyber Cell for preserving the record. Thereafter, the then Superintendent of Police, Datia was transferred out of District Datia on 08.02.2019 and now he has no direct access or authority. However, in order to ensure the compliance of order dated 07.09.2018 passed by the Trial Court as well as of this Court, the then Superintendent of Police, Datia requested the present Superintendent of Police, Datia to retrieve the data from State Crime Records Bureau (SCRB) Server because all the crime related data of the State and all the official Zimbra E-mail I.Ds. of all District Cyber Cells and supervisory officers is maintained and preserved by the SCRB and E-mail storage of all the E-mails to and from district official E-mail IDs are preserved by SCRB. Accordingly, the present Superintendent of Police, wrote a letter on 25.03.2025 for restoration of data of September, 2018 from official E-mail ID of Cyber Cell, Datia. All the E-mails sent and received from official E-mail ID of Cyber Cell, Datia have been retrieved from the SCRB server and now it is available on the official E-mail ID of Cyber Cell, Datia. By letter



dated 29.03.2025, present Superintendent of Police, Datia, gave point-wise response to the request made by the then Superintendent of Police, Datia for retrieval of data and it has been informed that the data which was directed to be preserved by the Trial Court by order dated 07.09.2018 has been retrieved and it shall be made available to the Court and now the data is in possession of present Superintendent of Police, Datia.

It is submitted that in compliance of the directions given by the Trial Court on 07.09.2018, the then SHO, Police Station Deepar, District Datia wrote a letter on 08.09.2018 to the then Superintendent of Police, Datia which was delivered to Cyber Unit, District Datia. The said letter was received by Cyber Unit, Datia on 09.09.2018 which was recorded by the Cyber Cell in the CDR requisition register. Upon receipt of letter from SHO Deepar by Cyber Cell, details of numbers and E-mail Ids were sent to concerned Telecom Service Provider on 09.09.2018. A reminder was also sent on 12.09.2018 and a second reminder was sent on 16.09.2018 along with copy of order of trial Court dated 07.09.2018. The communications were also made from the official E-mail ID of the then Superintendent of Police, Datia. **CDRs and required information about all ten mobile numbers mentioned in the court order were provided by the Service Provider on the official E-mail ID of Superintendent of Police, Datia on 17.09.2018.**

6. It is submitted that since the then Superintendent of Police, Datia (M.P.), Shri Mayank Awasthi was transferred from Datia on 08.02.2019 whereas while deciding the application filed under Section 233 of Cr.P.C, the Trial Court had sought production of aforesaid record by order dated 16.07.2024, therefore, the then Superintendent of Police, Datia had no



authority and information to produce the record which was already received by him on his official E-mail ID on 17.09.2018. It is submitted that in fact the SHO Deepar District Datia has wrongly stated before the Trial Court that the record which was directed to be preserved was not received and for the said misstatement, the then Superintendent of Police, Datia, namely, Shri Mayank Awasthi is not responsible.

7. Heard learned counsel for the parties.

8. By order dated 03.03.2025, this Court had passed the following order:

“Shri Jitendra Sharma - Advocate for the petitioner.

Smt. Padamshree Agarwal- PL for respondents/State.

Counsel for the State requests for grant of time to seek instructions from SHO of Police Station Dipar, District Date with regard to proceedings undertaken by them in compliance with the order dated 7/9/2018 (Annexure P/3).

Let SHO, Police Station Dipar remain present alongwith the relevant communications sent for preservation of call detail record in compliance with order dated 7/9/2018.

List the matter in the week commencing 17th March, 2025.”

9. Thereafter, by order dated 20.03.2025, the following order was passed by this Court:

“Shri Atul Gupta - Advocate for applicant.

Shri Ankur Mody - Additional Advocate General and Shri Yogesh Parashar - Public Prosecutor for State.

This Court by order dated 03.03.2025 had directed the SHO Police Station Dipar, District Datia to inform this Court about the steps undertaken by the then SHO for compliance of order dated 07.09.2018.

2. In compliance of said order, Shri Amar Singh Gurjar, SHO Police Station Dipar District Datia is present in person.

3. By order dated 07.09.2018, the Trial Court had directed the police to protect certain digital record. It is submitted by Shri Gurjar



that in compliance of order dated 07.09.2018, a letter was sent by the then SHO Shri Yatendra Singh Bhadouriya to the then Superintendent of Police Shri Mayank Awasthi for protection of digital record. Shri Mayank Awasthi the then Superintendent of Police in his turn forwarded a letter to cyber cell Datia. It is submitted that police woke up only in the year 2024 when compliance report was sought by Trial Court. Thus, it is submitted by Shri Gurjar that after writing a letter on 08.09.2018, nothing was done by police to preserve the digital record which was directed to be preserved by Trial Court by order dated 07.09.2018.

4. It appears that an application under Section 233 of Cr.P.C. was filed by the accused for production of the said data alongwith certificate under Section 65- B of Evidence Act. In reply thereto, statement was made by State that record could not be collected and since record has been destroyed after two years, therefore, record cannot be produced and in the light of aforesaid statement, Trial Court has rejected the application filed under Section 233 of Cr.P.C.

5. The moot question for consideration as to whether the data which was sought to be preserved by accused persons is of any importance or not?

6. It is the case of applicant that witnesses, who have been relied upon by the prosecution, were not present on the spot. Once Trial Court by order dated 07.09.2018 had directed the police authority to preserve data which is mentioned in the said order, then it was boundant duty of the then Superintendent of Police as well as SHO Police Station Dipar District Datia to ensure that said data is preserved. Furthermore, it appears that police was aware of the fact that order dated 07.09.2018 has been passed, therefore, they are required to preserve the data. On 04.10.2018 a statement was made by Public Prosecutor that steps have been taken to preserve the data, therefore, at least on 04.10.2018 Superintendent of Police Datia as well as the then SHO, Police Station Dipar District Datia were reminded of the fact that data is to be preserved and therefore, they should have checked their record and in spite of the fact that no information was received from cyber cell, still sat very conveniently on the matter and did not ensure the compliance of order dated 07.09.2018.



7. Now, the only question for consideration is that what action should be taken against the then Superintendent of Police, Datia-Shri Mayank Awasthi and Shri Yatendra Singh Bhadouriya the then SHO Police Station Dipar District Datia?

8. Accordingly, Shri Yogesh Parashar, Public Prosecutor was requested to call Shri Ankur Modi, Additional Advocate General for assistance to this Court.

9. It is submitted by Shri Ankur Modi that it has been verified from the concerning telecom companies and now they have also expressed their inability to retrieve the digital record and thus, it is submitted that record which was directed to be preserved cannot be produced now.

10. Accordingly, this Court sought the suggestion from Shri Modi with regard to the steps which should be taken against the erring police officers. However, Shri Modi left it to the discretion of the Court.

11. Accordingly, issue notices to Shri Mayank Awasthi the then Superintendent of Police, Datia who according to Shri Gurjar is posted as DIG PHQ and Shri Yatendra Singh Bhadouriya the then SHO Police Station Dipar District Datia who according to Shri Gurjar is posted as Junior Sub-Inspector at Police Station Civil Lines, Datia.

12. It is directed that in order to avoid any further delay, notices to both the officers shall be served through the Director General of Police. Shri Ankur Mody shall also send a copy of this order to DGP for necessary compliance.

13. The officers are directed to file their response on the following issues:-

(i) Why a departmental enquiry should not be directed to be initiated against them for violating the order dated 07.09.2018 by not taking any steps to protect the digital record.

(ii) Why this Court should not draw an inference that non-action on the part of officers was with deliberate intention to hide illegality in their investigation.

(iii) How much compensation has to be paid to the accused persons for violation of their fundamental rights because right to free and fair investigation as well as free and fair trial is the fundamental right of an accused and now police authorities have



expressed that they are not in a position to produce the record which was directed to be preserved by order dated 07.09.2018.

(iv) Why a direction should not be issued to the Trial Court to make a reference for contempt of court for violating the order dated 07.09.2018.

14. The “aforesaid questions are not exhaustive in nature, therefore, this Court may also seek further explanation on any other issue which may crop up at the time of hearing.

15. It is submitted by Shri Atul Gupta that trial is at the stage of final arguments. Since an important question of law has arisen, therefore, Trial Court is directed not to hear the case finally till next date of listing.

16. Notices are made returnable within a period of two weeks.

17. List this case on 04.04.2025.”

10. In response to the order dated 20.03.2025, the then Superintendent of Police, Datia, namely, Shri Mayank Awasthi, District Datia and the then SHO, Police Station Deepar, District Datia, namely, Shri Yatendra Singh Bhadoriya have filed their response. The response filed by Shri Mayank Awasthi, the then Superintendent of Police, Datia, has already been reproduced in detail. From his response, it is clear that he had already received the call details and the location of mobile phones on his official E-mail ID on 17.09.2018, but he deliberately did not disclose it to anybody, even to the Court. When an application was filed by applicant for compliance of order dated 7/9/2018, then on 01.10.2018, the then SHO Police Station Deepar, District Datia had informed the Court that action has been taken for preserving the call details whereas call details and mobile locations of mobile numbers and SIM numbers were already received by Shri Mayank Awasthi, the then Superintendent of Police, Datia on his official E-mail I.D. on 17.09.2018. Therefore, it is clear that on 01.10.2018, Shri Mayank Awasthi,



the then Superintendent of Police, Datia, deliberately suppressed the call details and details of locations of mobile numbers and SIM numbers from the Court which were already directed by the Court to be preserved. Thus, Shri Mayank Awasthi, the then Superintendent of Police, Datia has played fraud on the Court by getting a wrong reply filed on 01.10.2018 that action has been taken for preserving the call details and locations of mobile numbers and SIM numbers but deliberately did not disclose that the aforesaid information has already been received and deliberately did not produce the same before the Trial Court in spite of application filed by applicant.

11. So far as the stand of Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar, District Datia (M.P.) is concerned, it is his case that the order to preserve the call details and mobile locations was passed on 07.09.2018 and accordingly he wrote a letter to the then Superintendent of Police, Datia for preserving the aforesaid record on 08.09.2018. Thereafter, on 01.10.2018, a reply was filed before the Trial Court which reads as under:

कार्यालय पुलिस थाना डीपार जिला दतिया (म0प्र0)

थाना / डीपार / 1044 / 2018

दनांक-01 / 10 / 2018

प्रति,

माननीय अपर सत्र न्यायाधीश महोदय,

न्यायालय सेंवढा जिला दतिया (म0प्र0)

विषय – कॉल डिटेल् सुरक्षित किये जाने हेतु आवश्यक कार्यवाही बाबत ।

संदर्भ – श्रीमानजी के पत्र क्रमांक / 556 / 18 सेंवढा दिनांक 07.09.18 के पालन में ।

महोदय,

उपरोक्त विषयान्तगत संदर्शित पत्र का अवलोकन करने पर कष्टे करे जिसके माध्यम से थाना डीपार के अप.क.73 / 17 धारा 341, 147, 148, 149, 294, 336, 325, 307, 302 भा.द.वि.से उदभूत सत्र प्रकरण क्रमांक 2 / 2018 शासन बनाम मानवेन्द्र उर्फ रामू आदि में (1) घटनास्थल से जात मोबाईल इटेक्सन कंपनी का जिसमें दो सिमे आइडिया की लगी है सिम न.- 89917871150316357829 सिम



नं.2-89917867075799256 (2) M.L.C के लिए पुलिस को भेजी गयी सूचना पत्र में फरियादी का अंकित आइडिया कं. का मोबाइल नं. 9977033721 (3) मृत्यु जाँच में क्रमांक-1 में दर्ज अरिदमन का मो.क्र.8120139820 (4) फरियादी कुलदीप का मो.नं. 9009713629 (5) मृतक कैलाश का मो. नं. 9516372435 एवं 9754312246 (6) ओमकार मोबा. नं. 9516717908 (7) ध्रुव का मोबा.नं. 9754681363 (8) आरोपी जनक सिंह का मोबाइल नं. 9977935931 (9) पान सिंह का मोबाइल नं. 9977178454 (10) परमाल का मोबाइल नं. 9009715901 की कॉल डिटेल की जानकारी विभिन्न सर्विस प्रोवाइडरों से प्राप्त कर सुरक्षित करने हेतु निर्देशित किया गया है।

पत्र क्रमांक क्रमांक/556/18 सेंवढा दिनांक 07.09.18 के निर्देशन में पत्र में दर्शाये नंबरों की सी.डी.आर. दिनांक 24.09.17 के पूर्ववर्ती एवं पथातवर्ती अवधि की विभिन्न संचार कंपनियों से प्राप्त करने बाबत पत्र श्रीमान पुलिस अधीक्षक महोदय दतिया के माध्यम से सायबर सेल दतिया को पत्र क्रमांक/थाना डीपार/988/18 दिनांक 08.09.18 को भेजा गया है जिसकी प्राप्ति छायाप्रति संलग्न है।

अतः श्रीमानजी की और पालन प्रतिवेदन सादर प्रेषित है।

संलग्न- श्रीमान पु0अ0 महोदय दतिया को

लिखे पत्र की छायाप्रति -02

सही/-

थाना प्रभारी

थाना डीपार जिला दतिया

On 17.11.2018, he was transferred from Police Station Deepar and was sent to Police Lines Datia and, accordingly, he recorded his departure in Roznamcha Sanha dated 17.11.2018. It is submitted that since the then SP Datia did not provide him the records of call details and mobile locations and also did not inform that the said information has already been received by him on his official E-mail ID, therefore, he was not aware of the aforesaid fact and later on once he was transferred from Police Station Deepar, District Datia, he lost all his jurisdiction and control over the matter and therefore, there is no error on his part and he has not suppressed any fact.

12. Heard learned counsel for the parties.



13. The arguments advanced by counsel for applicant as well as complainant have already been reproduced. Counsel for applicant has alleged *mala fides* against the prosecution agency in not producing the record on the allegations that in fact they wanted to spoil the defence of applicants that the witnesses were not present on the spot, whereas it is the allegation of counsel for complainant that by not preserving the records of call details and mobile locations of different mobile numbers and SIM numbers as mentioned in the order dated 07.09.2018, respondents are trying to give an opportunity to accused persons to raise an argument to draw an adverse inference, whereas now it is the case of Police that the then Superintendent of Police, Datia had already received the entire record on his official E-mail ID on 17.09.2018, now which is in the possession of present SP Datia and according to the stand taken by Shri Mayank Awasthi, the then SP Datia, the same shall be filed before the Court.

14. It is really a shocking state of affairs where the Police has not risen upto the minimum level of duties expected from them. As already pointed out, Trial Court by order dated 07.09.2018 had directed the investigating agency to preserve the call details and locations of mobile numbers and SIM numbers as already mentioned in the earlier part of this order as well as in the order dated 07.09.2018. The entire details were already received by Shri Mayank Awasthi on his official E-mail ID on 17.09.2018. Thereafter, an application was also filed by accused for compliance of order dated 7/9/2018 but a false reply was submitted before the Trial Court that efforts are being made to preserve the record and when application under Section 233 of Cr.P.C. was filed, then a false stand was taken by the investigating agency



that call details and locations of mobile numbers and SIM numbers could not be preserved and now they cannot be produced and accordingly, the stand taken by Police was accepted by the Trial Court.

15. Before considering the conduct of Shri Mayank Awasthi, the then Superintendent of Police, Datia and Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar as well as the present SHO, Police Station Deepar, District Datia, this Court would like to consider the conduct of the Trial Court.

16. The Trial Court was well aware of the fact that by order dated 07.09.2018 direction was given to preserve the call details and locations of mobile numbers and SIM numbers. Thereafter, an application was filed for seeking compliance report of the aforesaid order and by order dated 04.10.2018 stand was taken by police that proceedings have been initiated for preserving the record and the same was accepted by the Trial Court. Under these circumstances, the Police was under an obligation to either produce the record or explain as to who is responsible for not complying the order dated 07.09.2018. Unfortunately, the Trial Court did not rise to the occasion and in a most casual manner permitted the Police to say that in spite of direction given by Trial Court on 07.09.2018, they have failed to preserve the record and exonerated them from all their liabilities. The Trial Court must realize that the trial is conducted to find out the truth by giving an opportunity of hearing to all the contesting parties i.e. accused and complainant. It is always expected from the prosecution that it shall produce all the documents before the Trial Court so that the Trial Court may reach to a correct conclusion. Suppression of documents for any good or bad reason is detrimental to the



justice dispensation system and when the suppression is conscious and in spite of order passed by the Court, then it becomes more serious not only for justice dispensation system but it also amounts to contempt of lawful authority of the Court.

17. Under these circumstances, the minimum which the Trial Court should have done was to send a reference for initiating the proceedings for Contempt of Court but unfortunately the Trial Court has failed in discharging its duty and has allowed the investigating agency to go scot-free for the negligence shown by them towards their duties as well as contemptuous act towards the order of the Court. Under these circumstances, instead of saying anything more against the conduct of Trial Judge, it is directed that the **Trial Judge shall initiate proceedings for Contempt of Court against Shri Mayank Awasthi, the then Superintendent of Police, Datia.**

Conduct of Shri Mayank Awasthi, the then Superintendent of Police, Datia (M.P.):

18. As already pointed out, on 07.09.2018, the Trial Court had directed for preservation of mobile locations and call details of mobile numbers and SIM numbers mentioned in the order. It is clear from the reply filed by Shri Mayank Awasthi, the then Superintendent of Police, Datia that he had already received the call details and mobile locations of aforementioned mobile numbers and SIM numbers on his official E-mail ID on 17.09.2018, but the affidavit which he has filed in response to order dated 20.03.2025 is completely silent as to why he did not forward the aforesaid information to the concerning Police Station or why he did not inform the then SHO, Police Station Deepar, District Datia with regard to receipt of call details as well as



locations of various mobile numbers and SIM numbers as mentioned in order dated 07.09.2018. Thus, it is clear that Shri Mayank Awasthi, the then SP Datia had deliberately suppressed and withheld the information which was directed to be preserved by the Trial Court by order dated 07.09.2018. Since Shri Mayank Awasthi, the then Superintendent of Police, Datia could not give any explanation for not forwarding the said information to the concerning police station or for not sending a letter to the concerning Police Station with regard to receipt of information on his official E-mail ID, it is clear that in absence of any bona fides on the part of Shri Mayank Awasthi, the then SP Datia, an adverse inference has to be drawn against him that either the information was withheld by him to facilitate the accused persons to pray for an adverse inference against the prosecution agency with regard to presence of their witnesses on the spot or to facilitate the complainant by hiding actual location of mobile numbers of various witnesses and the deceased. Be that whatever it may be. In absence of detailed enquiry in this regard, this Court is unable to hold as to whether the intentions of Shri Mayank Awasthi, the then SP., Datia was to facilitate the accused persons or to facilitate the complainant party. But one thing is clear that whatever the intention of Shri Mayank Awasthi, the then SP. Datia may be but he was acting with mala fide intention to facilitate one of the contesting parties. It is really shocking that on one hand one family has already lost one of his family member and on the other hand accused persons are facing trial for an offence for which capital punishment is the maximum sentence. Therefore, one person has already lost his life and accused persons are facing a situation where they can be awarded life sentence or even capital punishment and



therefore, it is clear that lives of several persons including their family members is at stake and Shri Mayank Awasthi, the then SP Datia was involved in his mala fide action to show undue favour to one party. This Court by order dated 20.03.2025 had already called a response from the erring officers as to why compensation may not be directed to be paid for not producing the record, but in the light of arguments advanced by counsel for complainant it is clear that Shri Mayank Awasthi, the then SP., Datia has tried to violate the fundamental rights of free and fair investigation as well as free and fair trial of atleast one of the parties. **Therefore, Shri Mayank Awasthi, the then SP, Datia is directed to deposit an amount of Rs.5,00,000/- (Rupees Five Lacs Only) by way of compensation before the Principal Registrar of this Court within one month from today, failing which the Principal Registrar shall not only initiate proceedings for recovery of the compensation amount but shall also register a separate case for Contempt of Court.** If the amount is deposited, then the Principal Registrar of this Court is directed to forward the said amount to the Trial Court. The Trial Court shall disburse the amount to the successful party i.e. in case if the accused persons are convicted then to the complainant party and in case if the accused persons are acquitted then to the accused party.

19. It is not out of place to mention here that Shri Mayank Awasthi has not shown disrespect to the law of land for the first time. In fact, he is habitual of doing the same. Earlier, when he was posted as Superintendent of Police, Datia, a Crime No.75/2017 was registered at Police Station Godan Distt. Datia for offence under Sections 307, 294, 34 of I.P.C.. On the request made by accused persons, Shri Mayank Awasthi, the then Superintendent of Police,



Datia directed the Additional Superintendent of Police, Datia to conduct a parallel enquiry and after obtaining the report from the then Additional Superintendent of Police, Shri Surendra Singh Gaur, also provided a copy of enquiry report to a local MLA and accordingly, after taking note of conduct of Shri Mayank Awasthi, the then Superintendent of Police, and Additional Superintendent of Police, Datia the following order was passed by this Court in the case of **Deepak alias Preetam Verma and Anr. Vs. State of MP & Anr.** decided on **11.09.2018** in **M.Cr.C. No.12592/2018**:

“Shri Ravi Ballabh Tripathi, counsel for the applicants

Shri B.P.S. Chouhan, Counsel for the respondent No. 1/State.

Case diary is available in M.Cr.C.No.33002/2018, which is an application filed by co-accused Ladle Vanshkar for grant of bail and has been decided today itself.

This application under Section 482 of Cr.P.C. has been filed for quashing the F.I.R. in Crime No.75/2017 registered at Police Station Godan Distt. Datia for offence under Sections 307, 294, 34 of I.P.C. as well as for quashment of all the consequent criminal proceedings.

The prosecution story in short is that the complainant lodged a report against the applicants as well as the other co-accused persons alleging that the applicant no.2 and Dayashanker fired a gun shot causing injuries whereas all other accused persons were armed with weapons and had exhorted the applicant no.2 and Dayashanker to kill the complainant.

It is submitted that the Add. S.P. had conducted an independent parallel enquiry and had found that the applicants have been falsely implicated and, therefore, relying on the report of the Add. S.P., it is prayed that the F.I.R. registered against the applicants and all other consequential proceedings may be quashed.

Per contra, it is submitted by the Counsel for the State, that the investigating agency has not relied upon the enquiry report submitted by the Add. S.P., and the charge sheet has been filed against the applicants and they are still absconding.

Considered the submissions made by the Counsel for the parties as well as the documents filed in support of the same.



In the F.I.R., a specific allegation has been made against the applicant no.2 and co-accused Dayashanker that they had fired gunshots causing injuries.

Unfortunately, this case is a glaring example of interference by the political leaders in the investigation and unfortunately, the Superintendent of Police, Datia also fell pray to the pressure exerted by the local M.L.A., and without there being any provision of law, the Superintendent of Police has tried to please the local M.L.A. and has reported to the M.L.A. Such type of reporting by the Superintendent of Police in a criminal case is unknown to the criminal jurisprudence. It is true that free and fair investigation is the cardinal principle of criminal law, but interference by the politicians in the investigation, and twisting the investigation at the behest of the Superintendent of Police of a District is also really alarming. A time has come where, the Court cannot keep its eyes closed to such type of actions of the Superintendent of Police.

From the documents, which have been placed on record, it is clear that a typed application was made by one Amar Singh, the close relative of the accused persons, alleging that his son and grandson had gone to the Court of Tahsildar, Bhandar for attending a Court proceedings and a false report has been lodged against them. It appears that said Amar Singh, also approached local M.L.A. as a result of which, a letter was written by Ghanshyam Pironiya, M.L.A. to the Superintendent of Police, forwarding the letter of Amar Singh with a direction that justice may be done to Amar Singh, by conducting an impartial enquiry and the outcome of the said enquiry be reported to him. The letter dated 20-9-2017, written by the local M.L.A., which has been placed at page No.20 along with the application is reproduced as under :-

“विधायक
मध्यप्रदेश विधान सभा

दि. 20/9/2017

प्रति,
पुलिस अधीक्षक
दतिया।

विषय— प्रार्थी के लड़को के विरुद्ध झूठी रिपोर्ट करने बावत।
संदर्भ— श्री अमरसिंह वंशकार निवासी कर्रा भाण्डेर का आवेदन



उपरोक्त विषयक संदर्भित आवेदन मूल रूप में आपकी ओर संलग्न प्रेषित कर निवेदन है कि आवेदन की निष्पक्ष जाँच कराकर आवेदन को न्याय दिलाने की अनुशंसा की जाती है कृत कार्यवाही से अवगत कराने का कष्ट करे।

संलग्न— उपरोक्तानुसार।

भवदीय

घनश्याम पिरौनिया
विधायक”

It appears that in compliance of letter dated 20-9-2017, written by the local M.L.A., the Superintendent of Police, Datia, directed the Additional Superintendent of Police to conduct a parallel enquiry. The letter dated 26-9-2017, written by Superintendent of Police, Datia to the Additional S.P., Datia has been placed at page No. 19 and is reproduced as under :-

“विषय:— आवेदक / आवेदिका अमर s/o लूटेरे वंशकार निवासी करी

संदर्भ:— विधायक माण्डेर धनश्याम पिरौनिया पत्र दि 20-9-17 के तारतम्यमें

—00—

विषयांकित शिकायती आवेदन पत्र आपकी ओर भेज कर लेख है कि शिकायत पत्र की जांच निम्न बिन्दुओ पर की जा कर प्रतिवेदन आगामी 07 दिवस के अन्दर इस कार्यालय को भेजे।

1. शिकायत में उल्लेखित सभी बिन्दुओ की जांच बारीकी से की जावे तथा कथन एवं अन्य दस्तावेज प्रतिवेदन के साथ संलग्न कर भेजे।
2. जांच के दौरान आवेदक / अनावेदक, साक्षियो एवं स्वतंत्र साक्षियो के कथन लिये जावे एवं कथनो के उपर स्पष्ट रूप से उल्लेख करे कि यह कथन आवेदक पक्ष / अनावेदक पक्ष / स्वतंत्र साक्षी का है।
3. शान्ति व्यवस्था भग होने की दशा में प्रतिबंधात्मक कार्यवाही कर उसका उल्लेख प्रतिवेदन में करे।
4. प्रतिवेदन में जांच निष्कर्ष स्पष्ट रूप से लिखे एवं जांच निष्कर्ष से आवेदक को अवगत कराया जाकर प्रतिवेदन में उसका उल्लेख करे।



5. आवेदक नोटिस देने के उपरांत भी उपस्थित नहीं होने पर उसके निवास के पते पर जाकर कथन लेना सुनिश्चित करे।
6. शिकायत के संबंधित थाने से अभिलेख प्राप्त कर उसका उल्लेख प्रतिवेदन में किया जाये।
7. 22 बिन्दु के प्रोफार्मा अनुसार प्रतिवेदन देना सुनिश्चित करे।

संलग्न – मूल आवेदन पत्र एवं अन्य प्रपत्र विधायक पत्र सहित तीन पृष्ठ।

पुलिस अधीक्षक
जिला दतिया म0प्र0”

Thereafter, it appears that the Additional S.P., Datia, recorded the statements of certain witnesses, but did not even care to examine the complainant or other injured persons. Thus, the Additional S.P., Datia also ensure that an *ex parte* parallel enquiry is conducted, inspite of the fact that the investigation was already going on.

It appears that thereafter, the Additional Superintendent of Police, Datia on the basis of *ex parte* parallel enquiry gave a clean chit to the applicants and the Superintendent of Police, Datia, in its turn, and with a sole intention of pleasing the local politician, forwarded the copy of the enquiry report to the M.L.A. The covering letter of forwarding the copy of the enquiry report to the M.L.A. has been placed at serial no. 15 which is reproduced as under :-

“विषय:- आवेदक अमर सिंह पुत्र लटोरे वंशकार नि0 ग्राम करी जिला दतिया के शिकायती आवेदन पत्र की जाँच के संबंध में।
संदर्भ:- आपका पत्र दिनांक 20.09.2017 के पालन में।

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कृपया उपरोक्त विषयांतर्गत सदरभित शिकायती आवेदन पत्र का अवलोकन करने का कष्ट करे जिसके माध्यम से प्रार्थी के लडको के विरुद्ध झूठी रिपोर्ट करने बावत लेख किया है। उक्त आवेदन पत्र की जाँच अतिरिक्त पुलिस अधीक्षक जिला दतिया के द्वारा की गयी संपूर्ण जांच से प्रकरण के कथित आरोपीगण दीपक, लाडले, कोक सिंह की प्रातः 11:00 बजे से सायं 05:00 बजे तक माननीय न्यायालय जेएमएफसी भाण्डेर व न्यायालय नायब तहसीलदार वृत्त गोंदन तहसील भाण्डेर में एवं आरोपी दयाशंकर की उपस्थिती बलराम वंशकार, हरदयाल वंशकार व बाबूलाल वंशकार के साथ दिनांक 07.



09.2017 तक रामलीला मैदान पण्डाल कौंच जिला जालौन में पायी जा रही है उक्त घटना प्रथम दृष्टया राजकुमार सोनू अमरजीत चन्दू व हरविलास नाम व्यक्ति द्वारा बंदको से किए गये हवाई फायर से घटना घटित हुई दिनांक 04.09.2017 को राजकुमार जमादार चंदू कडेरा अमरजीत कडेरा, व कमलेश कडेरा, द्वारा आवेदक के पुत्र किशनलाल की मारपीट की गयी थी जिस पर से थाना गोदन में प्रकरण पंजीबद्ध किया गया है। उक्त रंजिश में अपराध पंजीबद्ध कराना प्रतीत है। उक्त तथ्यों को प्रकरण की विवेचना में शामिल कर प्रकरण का निराकरण करने हेतु कार्यालयीन पत्र क्र/पुअ/दतिया/शिजे/विधा0/प्रति/05-ए/14 दिनांक 30.12.2017 से थाना प्रभारी गोदन को निर्देशित किया गया।

जॉच प्रतिवदेन सादर अवलोकनार्थ प्रेषित है।

- संलग्न:-1 मूल आवेदन पत्र- एक पृष्ठ।
 2 जॉच प्रतिवेदन की छायाप्रति- तीन पृष्ठ।
 3. कथन छायाप्रति- बारह पृष्ठ।
 4 आदेश दि 12.09.17 JMFC प्रेषित

पुलिस अधीक्षक
जिला दतिया म0प्र0

छायाप्रति -एक पृष्ठ एवं थाना प्रभारी गोदन को प्रेषित किया जावे
 छायाप्रति- एक पृष्ठ।

प्रतिलिपि:- आवेदक अमर सिंह पुत्र लटोर वंशकार नि0 ग्राम केरों जिला दतिया की ओर सूचनार्थ थाना प्रभारी गोदन जिला दतिया को निर्देशित किया जाता है आवेदिका को सूचना पत्र तामिल करना सुनिश्चित करे।

पुलिस अधीक्षक
जिला दतिया म0प्र0

It is really surprising that the local politicians have not been assigned any role under any of the provisions of Criminal Procedure Code, but in spite of that, the Superintendent of Police, Datia, not only entertained the recommendation of the M.L.A., and directed for parallel enquiry but thereafter, also forwarded the copy of the enquiry report to the M.L.A., just in order to please the politicians. This act of



the Superintendent of Police, Datia, cannot be appreciated and is hereby deprecated.

Not only this, the Counsel for the State also could not point out any provision in Cr.P.C., which empowers the Superintendent of Police, to direct for an independent and parallel enquiry, specifically when the investigating officer was already conducting the investigation. Here, it is not out of place to mention that the investigation was never withdrawn from the investigating officer. No allegations of bias were ever made against the investigating officer.

Section 36 of Cr.P.C. reads as under :-

"36. Powers of superior officers of police.— Police Officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station."

The moot question for consideration in short is that whether the enquiry report given by the Additional S.P., Datia was in accordance with law and whether the same can be considered by the Trial Court while deciding the trial.

The police department has issued a circular dated 25.6.2010 under the signatures of Director General of Police, Madhya Pradesh and the said circular still holds field. The circular dated 25.6.2010 has been issued by the police department in order to ensure the compliance of the order passed by this Court in the case of **Sanjay Singh & Ors. vs. State of M.P. & Ors.** reported in **2006 (2) MPLJ 324**. The relevant portion of the circular dated 25.6.2010 reads as under:-

“उपरोक्त निर्देशों में यह स्पष्ट किया गया है कि आरोपी/संदेही के आवेदन पर अपराध की विवेचना प्रभावित नहीं होना चाहिए। अतः स्पष्ट किया जाता है कि:-

1— यदि विवेचना के दौरान इस प्रकार के आवेदन या शिकायत पत्र प्राप्त होते हैं अथवा समाचार पत्रों में कोई समाचार प्रकाशित होता है तो आवेदन या समाचार जॉच उचित माध्यम से विवेचक को भेजकर जॉच विवेचना के अंश के रूप में ही करना चाहिये किसी भी दशा में विवेचक से समानांतर अथवा भिन्न जॉच पृथक से प्रारम्भ नहीं करायी जानी चाहिये।”



Thus, it is clear that the police department itself is of the view that during the pendency of an investigation the parallel independent enquiry should not be conducted under any circumstance. Even otherwise there is no provision under the Code of Criminal Procedure which empowers the Superintendent of Police to hold the parallel independent enquiry during the pendency of an investigation.

Thus, it is clear that where the Director General of Police has also issued a circular, making it crystal clear that during the pendency of the investigation, a parallel and independent enquiry cannot be done, but it appears that flouting the instructions of the Director General of Police, the Superintendent of Police, Datia, had directed the Add. S.P., Datia to conduct a parallel and independent enquiry. Thus, the action of the Superintendent of Police is not only contrary to the provisions of Cr.P.C., but is also contrary to the circular issued by the Director General of Police, Madhya Pradesh, Bhopal.

Unfortunately, that is not the end of the matter. The Additional S.P., submitted his report on 8-12-2017 and the Superintendent of Police, by its letter dated 30-12-2017, directed the S.H.O., Police Station Godan, Distt. Datia to include the enquiry report as an evidence and to proceed and also to inform the Superintendent of Police, within 7 days. It appears that when the investigating officer did not agree to act upon the report of the Additional Superintendent of Police, Datia, then the Superintendent of Police, Datia, by letter dated 5-2-2018 forwarded the entire documents, including the enquiry report, statements of the witnesses, etc. to the M.L.A. Thus, it is clear that the Superintendent of Police, Datia, was well aware of the fact that he has already directed the S.H.O., Police Station Godan, Distt. Datia, to make the enquiry report and other documents as part of case diary in the form of evidence.

Section 172 of Cr.P.C. reads as under :

“172. Diary of proceedings in investigation.—(1)

Every police officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places



visited by him, and a statement of the circumstances ascertained through his investigation.

1[(1-A) The statements of witnesses recorded during the course of investigation under Section 161 shall be inserted in the case diary.

(1-B) The diary referred to in sub-section (1) shall be a volume and duly paginated.]

(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial.

(3) **Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such police officer, the provisions of Section 161 or Section 145, as the case may be, of the Indian Evidence Act, 1872 (1 of 1872), shall apply.”**

Thus, it is clear that the accused is not entitled to call for such diaries nor shall he or they be entitled to see them. However, in the present case, not only the documents have been made available by the Superintendent of Police, to the applicants under the Right to Information Act, but has also provided the same to the local M.L.A. who had recommended in favor of the applicants. Thus, it is clear that at all stages, the Superintendent of Police, Datia was acting contrary to the provisions of law.

Further, it is mentioned in the application that on the date of incident, the applicant no.2 along with other persons, had attended the Court proceedings of the Court of Tahsildar Bhandar as well as the Court of J.M.F.C., Bhandar, Distt. Datia and the copy of the ordersheets have been placed on record.

It is fairly conceded by the Counsel for the State that the distance of Bhandar from the place of incident is just about 35 Kms.

From the order-sheet of the Court of Tahsildar, it appears that the applicants had appeared before the Court of Tahsildar, Bhandar,



Distt. Datia on 12-9-2017. If the order-sheet is considered, then it would be clear that below the signatures of the Tahsildar, the date is mentioned as 27-9-2017 and it was signed by the Tahsildar at 2 P.M. as the time is also specifically mentioned. Thus, it is clear that although the order sheet of the Court of Tahsildar, Bhandar is alleged to have been written on 12-9-2017, but from the date and time, mentioned below the signatures of the Tahsildar, it is clear that the said order-sheet was signed by the Tahsildar on 27-9-2017 at 2 P.M. Thus, it is a glaring example of ante dated and ante timed order sheets of the Court proceedings. Even otherwise, if it is presumed that the order sheet was signed by the Tahsildar on 12-9-2017 itself, it is clear that the said order sheet was signed at 2:00 P.M., whereas the incident took place at 12:45 P.M. and the distance of 35 Km.s can be covered within a period of 1:15 hours.

Similarly, the order sheet of the Court of J.M.F.C., Bhandar, Distt. Datia, has been placed on record to show that the applicant no.2 had appeared before the said Court on 12-9-2017. Since, the time of appearance of the applicant no.2 before the said Court is not mentioned in the ordersheet, therefore, considering the distance of Bhandar, Distt. Datia from the place of incident, it is clear that after committing the offence, the applicant no.2 can very well go to Bhandar, Distt. Datia within a short span of less than 1 hour.

Thus, it is clear that the plea of alibi which has been raised by the applicants cannot be accepted.

Considering the grounds raised in the application, along with the documents which have been placed on record by the applicants, as well as the case diary, coupled with the fact that the applicants are still absconding and the charge sheet has been filed, by showing them as absconding, as well as considering the political interference and the fact that the S.P. and Additional S.P. also succumbed to the said pressure, this Court is of the considered opinion, that this is not a fit case for quashing the F.I.R. as well as the Criminal proceedings.

As already pointed out that the Superintendent of Police, Datia as well as the Additional Superintendent of Police, Datia have acted in most irresponsible manner and *de hors* the provisions of law, therefore, the Director General of Police, Madhya Pradesh, Bhopal, is directed to keep a copy of this order, in their service book. The Director General of Police, Madhya Pradesh, Bhopal is directed to



inform the Principal Registrar of this Court within a month, about the compliance.

The application fails and is hereby **dismissed**.

Let a copy of this order be immediately sent to the Trial Court/Committal Court for placing the same on record.

Let a typed copy of the order be made available to Shri B.P.S. Chouhan, the Public Prosecutor for forwarding the same to the Superintendent of Police, Gwalior, who in its turn shall deliver the same within 3 days from thereafter, to the Director General of Police, Madhya Pradesh, Bhopal.

20. The said order was challenged before the Supreme Court by Shri Surendra Singh Gaur by filing SLP (Cri.) No.1345/2019 and by Shri Mayank Awasthi, the then Superintendent of Police, Datia by by filing SLP (Cri.) No.8982/2018. Both the SLPs were dismissed by order dated 18.01.2022 by passing the following order:

“Both the petitions have been preferred by the senior police officers of the State of Madhya Pradesh assailing the observations which has been made by the High Court under the impugned judgment dated 11th September, 2018 while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure, when the accused persons approached the High Court for quashing of the proceedings initiated against them in reference to the FIR in Crime No. 75/2017, registered at Police Station Godan, District Datia, for the offences punishable under Sections 307, 294 and 34 of the Indian Penal Code.

At the outset it may be noticed that the State of Madhya Pradesh also approached this Court by filing Special Leave Petition (Criminal) No. 10015 of 2018 and that came to be dismissed by an order dated 30th November, 2018.

The present petitioners have approached in their own rights to question the observations/remarks which have been recorded by the learned Judge in the order impugned in reference to the manner in which an inquiry was conducted parallel to the investigation which was



undertaken by the Investigating Officer in reference to FIR in Crime No. 75/2017.

We have heard the learned Counsel for the parties at length and we are of the view that neither Section 36 of the Code nor the circulars of which a reference has been made during the course of arguments in any way provides for holding an independent and parallel inquiry along with the investigation going ahead in reference to the FIR in Crime No. 75/2017.

In the instant case, a complaint was made for holding fair investigation in reference to the FIR in Crime No. 75/2017, we find no reason the officers under whose instructions an independent inquiry was initiated apart from the investigation which was going ahead in reference to the crime, in contravention of the procedure prescribed by law.

After the matter is examined at length by the High Court under the impugned judgment(s) for which reference has been made that an independent inquiry which was conducted in reference to the FIR in Crime No. 75/2017 was in no manner contemplated by law and in this reference observations have been made in regard to the conduct of the officers in holding an inquiry in reference to the FIR in Crime No. 75/2017.

The learned Counsel appearing on behalf of the State filed their counter affidavit and has placed on record a circular dated 26th June, 2010 under the instructions of the Inspector General of Police, Madhya Pradesh. We find that the circular of the State Government is in conformity with Section 36 of the Code, but the procedure which was followed by the officers in holding inquiry was not in consonance with the circular of which a reference has been made by the High Court under the impugned judgment.

After hearing the learned Counsel for the parties and taking note of the material on record, we find no error being committed by the High Court in the judgment impugned, which may call for our interference under Article 136 of the Constitution.

Consequently, both the petitions fail and are dismissed.
Pending application(s), if any, shall stand disposed of.”



21. Thus, it is clear that Shri Mayank Awasthi has no regards for the law of land and he is in habit of functioning as a Police Officer according to his own whims and wishes, thereby giving a complete go-by to the law of the land. Whether he has respect for fundamental and statutory rights of litigants or not is not required to be stated specifically, but the situation speaks for themselves.

22. Now, it is for the Director General of Police to decide as to whether such types of persons are to be retained in Police Department or not? If yes, then whether they can be assigned any field duty or not ?

23. Be that whatever it may be.

24. Since the conduct of Shri Mayank Awasthi, the then Superintendent of Police, Datia, at present posted as DIG, Bhopal is much below the standard which is expected from a senior police officer and is contrary to the law of the land, accordingly, this Court by order dated 20.03.2025 sought reply from Shri Mayank Awasthi, the then Superintendent of Police, Datia as to why departmental enquiry should not be directed to be initiated for violating the order dated 07.09.2018.

25. The Supreme Court in the case of **Union Territory Of Jammu And Kashmir & Ors. Vs. Abdul Rehman Khandey & Ors. decided on 07.03.2025 in SLP (Civil) No.5873/2025** has held that sometimes the officers of the department do not take action to comply with the orders passed by the Courts and they are required to be proceeded against departmentally and has held as under:

“4. In actuality, we consider the instant case fit for imposing exemplary costs on the delinquent officers, besides also recommending strong disciplinary actions against them.



However, we presently refrain ourselves from doing so, keeping in view the fact that the contempt proceedings are still pending before the learned Single Judge. We, consequently, request the learned Single Judge to take up the contempt proceedings on a weekly basis and ensure that majesty and sanctity of law is well maintained.”

26. Accordingly, the Director General of Police is directed to initiate departmental enquiry against Shri Mayank Awasthi, the then SP Datia, presently posted as DIG, Bhopal on the charges that he deliberately interfered with the investigation and order dated 07.09.2018 passed by Trial Court by not producing the record which was already received by him on 17.09.2018 and got a false reply submitted before the Trial Court on 01.10.2018 that action has been initiated for preserving the record whereas CDR and locations of mobile numbers and SIM numbers were already with Shri Mayank Awasthi but he deliberately withheld the same.

Thus, it is clear that not only Shri Mayank Awasthi, the then SP Datia, had violated the orders passed by the Trial Court but has also interfered with the investigation by withholding the material which was collected.

27. Let charge-sheet be issued within one month from today and the Director General of Police of the State of Madhya Pradesh is directed to intimate the Principal Registrar of this Court in that regard, latest by 20.05.2025.

28. Let certified copy of this order be also kept in the service record of Shri Mayank Awasthi, the then SP Datia, who is presently posted as DIG, Bhopal so that it can be taken note of by the department in future.



Conduct of Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar, District Datia (M.P.):

29. Shri Yatendra Singh Bhadoriya has filed his response, pleading *inter alia* that on 07.09.2018, the order was passed by the Trial Court and immediately on 08.09.2018, he wrote a letter to the then SP. District Datia (M.P.) for preserving the records and thereafter on 17.11.2018 he was transferred from Police Station Deepar, District Datia (M.P.). Thus, he did not waste even a single day for ensuring compliance of order dated 07.09.2018. However, it is not known that under what circumstances, the reply dated 01.10.2018 was filed by Shri Yatendra Singh Bhadoriya before the Trial Court in which he did not disclose that the record of mobile locations as well as call details of mobile numbers and SIM numbers has already been received. As already pointed out that it is Shri Mayank Awasthi, the then SP. Datia who was already in possession of information but it was deliberately suppressed. Therefore, looking to the post which Shri Yatendra Singh Bhadoriya was holding i.e. Junior SI, and the conduct of Shri Mayank Awasthi, it is clear that the information that record has already been received by Shri Mayank Awasthi might not be in the knowledge of Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar, District Datia (M.P.). Thereafter, within a short span of one month, he was transferred from Police Station Deepar District Datia. Thus, it is clear that after 17.11.2018, he lost all his control over the affairs of Police Station Deepar, District Datia.

30. Under these circumstances, this Court is not inclined to pass any stricture against Shri Yatendra Singh Bhadoriya. Therefore, without exonerating and subject to enquiry as to whether he had deliberately



suppressed the information from the Court, Shri Yatendra Singh Bhadoriya is exonerated for the time being. But this finding will not come in his favour in case if a detailed enquiry is conducted by the Trial Court with regard to the role of Shri Yatendra Singh Bhadoriya. Since this Court has already directed the Trial Court to initiate proceedings for Contempt of Court, therefore, this Court is not inclined to record any finding as to whether Shri Mayank Awasthi, the then Superintendent of Police, Datia has forwarded information to Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar, District Datia (M.P.) with regard to receipt of call details and mobile locations of mobile numbers or not and **it is left to the discretion of the Trial Court to decide as to whether it would like to proceed against Shri Yatendra Singh Bhadoriya, the then SHO, Police Station Deepar, District Datia (M.P.) under the Contempt of Courts Act or not, after giving a specific finding as to whether information with regard to receipt of information by Mayank Awasthi was forwarded to Yatendra Singh Bhadoriya or not ?**

Conduct of Shri Amar Singh Gurjar, Present SHO, Police Station Deepar, District Datia (M.P.):

31. As already pointed out that when an application under Section 233 of Cr.P.C. was filed, Shri Amar Singh Gurjar, Present SHO, Police Station Deepar, District Datia (M.P.) filed a reply that the record which was directed to be preserved by order dated 07.09.2018 could not be preserved, therefore the same cannot be filed, which is false. **Therefore, liberty is also granted to the Trial Court to consider as to whether it would like to proceed**



against Shri Amar Singh Gurjar, Present SHO, Police Station Deepar, District Datia (M.P.) for filing a false reply before the Trial Court or not.

32. Considering the fact that call details and locations of mobile numbers and SIM numbers which were directed to be preserved by the Trial Court by order dated 07.09.2018 are in possession of present Superintendent of Police, Datia, therefore, the impugned order dated 18.09.2024 passed by First Additional Sessions Judge, Seondha, District Datia (M.P.) in ST No.02/2018 is hereby set aside.

33. Superintendent of Police, Datia (M.P.) is directed to file the complete record of call details and locations of mobile numbers and SIM numbers which were directed to be preserved by the Trial Court by order dated 07.09.2018 within a period of 10 days from today, if not already filed. The Trial Court is directed to proceed further in accordance with law.

34. Petition succeeds and is hereby *allowed*.

**(G. S. AHLUWALIA)
JUDGE**

(and)