**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-1720 of 2013
Date of Decision: September 16th, 2015**

Madan Singh and another ...Petitioner

Versus

U.T. Chandigarh and others ...Respondents

CRM-M-1526 of 2015

Raman Uppal ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM:HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Athwal, Advocate
for the petitioners.(In CRM-M-1720 of 2013).

Ms. Reeta Kohli, Addl. A.G. Punjab.

Mr. J.S. Toor, Advocate for U.T. Chandigarh.

Mr. J.S. Bedi, Senior Advocate with Sh. P.S. Ahluwalia & Ms. Diya Sodhi, Advocate for the petitioner (in CRM-M-1526 of 2015) and for respondent No.2 (in CRM-M-1720 of 2014).

Mr. Karanvir Singh Khehar, Advocate
for applicant-Intervenor.

FATEH DEEP SINGH, J.

Since both these petitions, one preferred by accused-petitioners Madan Singh and Harshvinder Pal Singh seeking quashment of FIR No.69 dated 19.4.2012 under Sections 420, 465, 467,468, 471, 120-B IPC registered with Police Station Division No.3, Chandigarh, Annexure P/1 and another a transfer petition preferred by complainant (accused in FIR No.125 dated 10.6.2014) Raman Uppal praying for transfer of the investigations of this case under Sections 406, 420, 419, 465, 467, 468, 471 and 120-B IPC registered with Police Station Phase No.1, SAS Nagar, Mohali got registered by one Narinder Singh being conducted by Punjab Police at Mohali to Chandigarh Police who are already investigating FIR No.69 dated 19.4.2012 under Sections 420, 465, 467,468, 471, 120-B IPC registered with Police Station, Division No.3, Chandigarh are so intertwined and inextricably inseparable on account of consanguinity of facts as well as being determinable by similar law points deserves to be disposed off together as it will not only facilitate brevity but as well as for clarity. Since there has been disconcordant claims and counter-claims by the multiple litigants and, thus, to facilitate better understanding of the real issues involved and for their judicious and comprehensive adjudication it is necessitated to take a recourse down the very origin and how it led to such a multifarious litigation.

A company by the name and style of M/s International Customers Related Management Services Private Limited (in short, 'ICRMS'/Company) was incorporated on 18.6.2001 as a Private Limited Company with original corporate office situated at H. No.768, Phase 3B1, Mohali which is depicted initially at the time of its incorporation, though at times it is claimed that it was situated in plot No.C1-126 Industrial Area, Mohali but now is claimed claim to have shifted to premises at B-101, ELTOP, Phase VIII Industrial Area Mohali. It is claimed on behalf of the Raman Uppal that he along with his friend's mother (now deceased) Promila Rani were the founding promoters directors of this Company. Factually, not disagreed that Promila Rani was appointed on 5.9.2001 and died on 22.4.2002 and some funds have also been secured from her son Parveen Nayyer. It is the claim of the opponents that in fact this company was founded and Mr. Itinderjit Singh and Jagbir Singh were its founding promoters directors and, thereafter, their place was taken over by the couple Sukhbir Singh Shergill and his wife Gurbir Kaur Shergill who happens to be ex-friends of Mr. Gurnihal Singh Pirzada an Ex-IAS officer. Subsequent during the course of events, Jatinder Singh Dua and his son Sagar Singh Dua the latter one present intervenor were also made directors on 15.11.2005. It is worthwhile to refer here that in fact Itenderjit Singh and Jagbir Singh who are alleged to be the ghost directors resigned on 24.6.2001 and meanwhile, Sukhbir Singh Shergill introduced his brother-in-law Jagbir Singh as director promoter in place of Promila Rani on her death. It deserves to be highlighed here that Jatinder Singh Dua and Sagar Singh Dua were assigned task of signatories of the Company by Mr. Gurnihal Singh Pirzada. Now it is the claim of Mr. Raman Uppal that he read a public notice purported to have been issued by Sukhbir Singh Shergill and Gurbir Kaur Shergill throwing Jatinder Singh Dua and Sagar Singh Dua out of the Company in a news paper and which as per him in his complaint which forms ditto replica by way of Annexure A-1 was on 19.4.2012 was the date of his knowledge of bungling in the company i.e. almost after 11 years of the incorporation of the company. It is pertinent to mention here that between 1.10.2010 to 29.9.2011 Dua's are alleged to have allotted shares to themselves and their close ones totalling 900,000/- shares which were approved by Dr. Raj Singh, the then, Registrar of Companies (in short, 'ROC') and in pursuance of this dominance the Dua's are further alleged to have introduced two new directors present petitioners-Madan Singh from Chandigarh and Harshvinder Singh from U.P.

Mr. Raman Uppal in his complaint dated 23.1.2012 through one Deepinder Singh Dhaliwal son of Rajinder Singh Dhaliwal as attorney has alleged that in fact during the course of expanding his business in the area of Chandigarh he had come across Sukhbir Singh Shergill and developed intimacy and had entrusted him with the duties for incorporating this company and had paid him money but Sukhbir Singh Shergill instead had deceived him and had forged his signatures on Form 1-A pertaining to application for allocation of name and by forging and making Jagbir Singh and Itinderjeet Singh founding promoter directors. He has further alleged that accused instead of buying properties in the name of company had purchased so from the funds of the company either in their own names or in the names of their acquaintance individuals. The complainant in FIR No.69 dated 19.4.2012 has alleged that Jatinder Singh Dua has forged NOC and dislodged Raman Uppal from the company and that on 31.3.2005 Sukhbir Singh Shergill has unilaterally transferred 45,000/- equity shares to himself and his wife to facilitate taking over of the company and during this another lot of 5000/- equity shares were got transferred to Shergill's from Jagbir Singh and Itinderjit Singh in which Gurwinder Singh Sarin, Company Secretary colluded with Shergills and, thus, misused the funds of the company from its banks namely Punjab National Bank, Sector 17, ICICI Bank, Sector 9 and HDFC Bank, Sector 17 all at Chandigarh.

The petitioners have sought quashment of this FIR and has sought to portray the entire story of the complainant as figment of lies based on forged and fabricated photostat copies of the alleged documents, original of which have never been put forth till date so as to achieve a sinister design at the hands of Gurnihal Singh Pirzada, who is the real person at the back of this FIR and that the petitioners have been falsely implicated to force and compel them to accede to the ingenuine demands of the complainant side and there is no attribution of any criminal offence much less any intent and they are only pure directors of the company and if there is any allegation of oppression or mismanagement they are at liberty to move appropriate forum under the Companies Act, 1956. Going through the various allegations and counter-allegations an impression has sought to be made that the company is tried to be taken over by Gurnihal Singh Pirzada who is bent upon misusing the process of law and which is the precise motive for their false implication, thus, claimed that they have done nothing wrong and that there is neither any allegations against them in the FIR much less having come up during the investigations or even in the challan presented on 9.12.2013 and thus being a pure misuse of process of law and the complainant being a stooge of Gurnihal Singh Pirzada the same needs to be quashed qua them.

The respondents in their response though have denied the allegations of the petitioners claiming that there has been fraud through forgery of valuable security and there has been fabrication of the records of the company and that the company funds were being moved from the company accounts to personal accounts of the accused and that the investigations have established the involvement of each and every accused in the entire scandal and sought to term the averments of the petitioners to be without any basis and sought dismissal of the petition.

The main grounds raked up by the petitioner Raman Uppal in the transfer petition are that the Chandigarh police is already seized of the matter their investigations being first in point of time where the bank accounts of the company were located the investigations needs to be transferred to Chandigarh police. There has been levelling of insinuations against Investigating Agency for not having properly investigated the entire gamut of the allegations as the officials of the Mohali police were hand in glove with the opposite party and that the course of justice was being subverted to attain the sinister design and, thus, frustrate the endeavours of the complainant and has sought to claim malafidesness of the Investigating Agency at the behest of Jeet Mohinder Singh Sidhu, MLA, one of the players in this saga who has been instrumental in joining hands with Shergills as they both were running Adesh foundation which runs Engineering and Technology Colleges at Bathinda, Faridkot and Muktsar, Sarbat foundation and so many organisations and, thus, it is claimed that this MLA who was instrumental in change of Government by shifting political loyalty with the ruling party was exerting its influence through the present ruling party in changing the course of investigation and, therefore, necessitates transfer of the investigations. The stand of the respondents is of total denial claiming that as the concerned police authorities are legitimately and sincerely carrying on the investigations and the allegations of bias and malafide are ill-founded.

The intervenor on the basis of the facts brought to the notice of the Court how there has been manipulation and creation of false evidence by the investigators who are trying to help Gurnihal Singh Pirzada and Raman Uppal and their associates to usurp the properties of the company and prays for handing over the investigations to CBI.

Upon hearing learned counsel for the parties and perusing the exceptionally voluminous records, it transpires that as a consequence of this imbroglio there has been concerted efforts by every quarter to duly and unduly pressurise the other side and evidently as an upmanship at every point of time there has been forum haunting for motivated investigations, apparently a pre-conceived dubious plan as institutional tampering of the evidence by recording multiple FIRs each sharply contradicting the other one. As history of this litigation shows following FIRs have come up till date as has been brought to the notice of this Court:-

1. **FIR No.69 dated 19.4.2012** under Sections 420,465, 467, 468, 471, 120-B IPC registered at Police Station Sector 3, Chandiagrh by Raman Uppal through his attorney Deepinder Singh Dhaliwal against Sukhbir Singh Shergill, and others.
2.**FIR No.175 dated 16.9.2013** under Sections 464, 466, 467, 468, 471, 472, 474, 212, 420 and 120-B IPC registered at Police Station Sector 3, Chandiagrh by Raman Uppal through his attorney against Jeet Mohinder Singh Sidhu, MLA, and others.
3 **FIR No.193 dated 20.9.2013** registered at Police Station Luhdiana against Shergills by Narinder Singh.
4.**FIR No.125 dated 10.6.2014** under Sections 406, 420 and 419, 465, 467, 468, 471 and 120-B (subsequently added) registered at Police Station SAS Nagar, Mohali by Narinder Singh against Raman Uppal.
5.**FIR No.1246 dated 30.11.2014** under Sections 406 and 34 IPC registered at Police Station New Usmanpur, Delhi made by Narinder Singh against the Company Secretaries.
6.**FIR No.286 of 2012** registered at Police Station Sector 11, Chandigarh made by Gurnihal Singh Pirzada against Jatinder Singh Dua.
7.**FIR No.69 of 2014** registered at Police Station Kurali (Mohali) against Gurnihal Singh Pirzada and others by DLF.

The crux of all these FIRs what one comes across is that it is the same series of transactions/acts of the players of the company regarding the company and thus could have been conveniently and comprehensively investigated in one case. Rather it appears that their very purpose is to only undo the other case and create confusion and by such distortions to make case all the more murkier to facilitate not only the escape of the real culprits but also to put off the authorities from the trial of the ill gotten black money which is the very back bone of this war and in which all the present sets of Investigating Agencies have played a dubious role thus loosing their credibility and worth to investigate such a sensitive issue which runs into hundreds of crores by this "fly by night" Company.

Furthermore, under the umbrella of ICRMS following companies have also mushroomed as its subsidiaries:-

1. Fateh Softech Private Limited (FSPL).
2. Fateh Resort Private Limited (FRPL).
3. Fateh Home Private Limited (FHPL)

As has been the contentions in all these companies, Gurnihal Singh Pirzada and his wife Gurveen Kaur Pirzada also hold prominent positions as directors which subsidiaries came into being after the Dua's entered into the parent company ICRMS. As a prelude to the goings on it would facilitate better understanding if it is highlighted as has been brought to the notice of this Court that one Pawan Jot Kaur Gill who in fact was an employee of the Shergills was appointed as director of the company and authorised to sign on behalf of the company and at one point of time had been working on the dictates of Gurnihal Singh Pirzada and who resigned in the year 2005 and tendered her resignation to Sukhbir Singh Shergill and that the petitioners Madan Singh and Harshvinder Singh were appointed as directors on 29.9.2011 during the course of squabbles inter se between the previous directors over the dominance in the company which Raman Uppal claims was with a view to dislodge him from the company. Akinness of Raman Uppal to the company which as per the allegations of the counsel for the petitioners is a ghost director acting at the behest and for Gurnihal Singh Pirzada and his status in the company has been set to knot in the light of the statement of Nipana Vilas Gajanan, Assistatnt Registrar of Companies made through his letter dated 9.5.2012 Annexure P/2 who has stated that Raman Uppal has no role to play in the company and further it is brought to the notice of this Court that neither during the investigations nor till date the application for allocation of name by way of Form 1-A dated 21.5.2001 in his name has ever been brought on the records by way of original. Though, it is claimed that the records of the Registrar of Companies stood destroyed under the rules but it could not be disputed by any of the counsel that the computerisation of the office of Registrar of Companies took place in the year 2006 and till date the Investigating Agencies are totally in dark as to the contents of the records of the Registrar of Companies. What needs to be highlighted that Raman Uppal claims that he prior to the present company owned 08 companies but to the very query of the Court, his counsel could not point out any of the documents of these companies to show mention of the present company or any of the returns filed before the Registrar of Companies or the Income Tax or other authorities. Though, in a separate proceedings under Section 340 Cr.P.C. Court of learned JMIC had given a definite finding that Raman Uppal is not a promoter of the company and even Pawanjot Kaur has denied having any knowledge of this which cannot be accepted as being a director she ought to be aware of the functioning of the company and its matters. It is during the course of arguments with much vehemence and force learned counsel for the petitioners has sought to bring to the notice of this Court that Gurnihal Singh Pirzada who actually has *benami* interests in the company and who was on deputation with the State of Punjab was working as Managing Director of Punjab State Electronics Development Corporation Limited as well as of PCL from 27.10.1999 till 28.10.2001 and during that period he was chairman of a private company opened by him and his wife under the name and style M/s Mitgart India Limited, Mohali to whom he himself exercising powers of Managing Director has allotted industrial plot at Mohali on lease for a period of 99 years and in pursuance of his power as Managing Director this corporation has made it free hold and which industrial plot in Mohali stood transferred in the name of ICRMS are matters which could not escape judicial attention. It is further submitted that on account of his misconduct in discharge of his official duties he remained suspended from October 2001 to March 2011 when vide orders dated 31.8.2013 a Vigilance enquiry was ordered against him. It is as a consequence of writ petition No.24248 of 2012 by way of Public Interest Litigation the authorities had ordered detailed investigations against Gurnihal Singh Pirzada and it is during this very period he was arrested in FIR No.2 of 2004 registered with Police Station, Vigilance Bureau, Phase-1 Mohali and his resignation stood accepted on 13.3.2011. Though, for obvious reasons nothing tangible is sought to be reflected from this enquiry, finding of which is on records of this case but the call details between Gurnihal Singh Pirzada and the Chandigarh Police which are on the records of this case, a letter from DGP, Chandigarh dated 30.4.2012 against DIG Chandigarh Annexure P/5 shows that there has been some sort of contrivance to attain a predetermined goal of the Pirzada to take control of the company and its properties and as a shadow complainant, his own application moved before the trial Court on 28.8.2012 for permission to represent Raman Uppal in that very case for which he was authorised by him by virtue of authorisation dated 27.8.2012 are matters which show that he has a definite interest in the company.

The bias which is sought to be compounded in the investigations is further highlighted by the learned counsel from the fact that finding dated 11.2.2013 by the Police Complaint Authority has indicted police for partial investigations.

The perusal of the challan filed before the trial Court reflects that there is no worthwhile investigations undertaken by the police as to the very source of this money which obviously had come from Delhi and apparently appeared to be by way of *benami* transactions and which were invested by way of subsidiary companies as a camouflage and, thus, give them an appearance of legitimacy. The police either in the State of Punjab at Mohali or at Chandigarh did not had the audacity to collect the relevant records as to the share certificates, letters of transfer of shares, memorandum of articles of association, list of directors which are kept in the office of company and so on and so forth. The provisions of the Companies Act, 1956 (in short, 'the Act')mandates under Section 110 transfer of shares and Section 112 provides for issuance of certificate of transfer, whereas, Section 35 deals with the very certificate of incorporation to be conclusive and, thus, in terms of Section 16 of the Act whenever there is alteration of the memorandum of articles of association and the agreement of the agent in terms of Sections 31,33,40 and

39 ought to be subject matter of documentation before the Office of Registrar of Companies and which documents have never seen the light of the day during the investigations into this ugly episode. Rather as is highlighted from the various sets of FIRs which though invariably pertains to the same very company in a same very series of acts and purpose could easily have been investigated by a single agency in the same very FIR but what has sought to be created is a multiple number of cases and it is squarely accepted by learned counsel that net result leads the Court nowhere and rather highlights another endeavour to give a decent burial to this ill- gotten wealth in the hands of businessmen, bureaucrats, politicians and their stooges. As has been remarked by the propagator of Realism famous novelist Balzac "***behind every great fortune there is a crime"***and which was even quoted by Mario Puzo in the literary masterpiece **"The God Father"** aptly applies to this case before this Court. No doubt under the very provisions of Sections 235, 237, 239 of the Act, power vests in the Courts, the Central Government or Company Law Board for investigating affairs of the company but for obvious reasons best known to the Registrar of the Companies who too seems to be hand in glove with the perpetrators of this crime nothing has come to the fore and rather helped them in propagating it. Even if it is assumed

that there has been oppression and mismanagement in terms of Section 397 and 398 of the Act their rights can be adequately determined in terms of Section 399 of the Act.

With the invent of Director Identification Number (DIN) Rules, 2006 each of the director is provided with a identification code and which is nowhere there in the investigation to pinpoint the very locus standi of each of these claimants to the company and whenever there is retirement of previous director and introduction of new one the same has to be in compliance of the provisions of the Act regarding which a definite amount of fees is paid in the Office and which is also not forthcoming before this Court through the Investigating Agency. Even the letters dated 9.5.2012 and 24.5.2012 lack credibility and genuineness why the police did not insist on taking into possession original documents which could have facilitated impartial and proper investigations are matters which leads to the only conclusion that all was not well with the police investigating either in Chandigarh or in Mohali and rather reply of the State admitting that Itinderjeet Singh and Jagbir Singh were the founding promoters of the company is in sharp contradiction to the claim of the complainant and which is certainly a distressing feature for the prosecution in this case. The resolve of the players to this squabble to share the spoils of this either by hook or crook is evident from the manner in which they have tried to overawe the judicial process not only by levelling allegations against the subordinate judicial officer but even judges from this Court have sought to recuse are matters which cannot be taken lightly and rather reflects an immense greed which has been there to achieve material gains. From this all evidence direct and corroborative one can gather that investigations are not being carried in the right earnest are tainted, partisan to obviate the truth by both the police forces and having regard to the fact that it is even admitted by the two sides that hundreds of crores of money is involved in these transactions and which has its inter-State ramification necessitates that there need to be a fair, impartial and comprehensive investigations from all angles as to the evaders of income tax, money laundering and source of this ill-gotten wealth which is the root cause of this eruption of dispute and which apparently appears to be much more than what meets the eye.

Though, on behalf of the applicant-petitioner in the transfer application the learned counsel has sought to impress upon this Court by citing ***Sakiri Vasu vs. State of U.P. 2008(1) RCR 392; Divine Retreat Centre vs. State of Kerala and others 2008(2) RCR 373; Ramesh Chandra Nand Lal Parekh vs. State of Gujarat 2006(1) RCR 675;***

Anju Chaudhary vs. State of U.P. 2013 (1) RCR 686 and ***Ram lal Narang vs. State (Delhi Admn.) 1979 (2) SCC 322*** to hammer home the point that no one can insist that offences to be investigated by a particular agency and that this Court in exercise of its inherent powers either cannot change the investigations and that different and distinct FIRs can be lodged for independent offences. As there is distinct occurrence and it is the statutory right and duty of the police in terms of Section 156 Cr.P.C. to investigate into any cognizable offence and the same is sought to be further strengthened by placing reliance on ***Central Bureau of Investigation and another vs. Rajesh Gandhi and another 1997 AIR (SC) 93*** to embolden that the accused have no right to seek transfer of case from one investigating agency to another.

It needs to be stressed here that as has been cited at the bar on behalf of the learned Senior counsel Mr. Bedi who has placed reliance on ***Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi) 2010 AIR (SC) 2352*** and ***Deepak Aggarwal vs. Keshav Kaushik and others 2013(2) SCC (Cri) 978*** to impress upon this Court the very duties of the Investigating Agency and the role of public prosecutor is to assist the Court and though it is not mandatory for the Investigating Officer to record each and every statement that is made before him by a witness but it cannot be lost sight of the fact that in its endeavour to bring about truth in the investigations it mandates that Investigating Officer should record statement which do throw light on the crucial aspects of the case and cannot shrug off his shoulders from this onerous duty which law casts upon him. As has been detailed and discussed above it is beyond any doubt that a sinister design is being made to hide the truth from the Court as well as those concerned with it and the Court cannot shut its eyes to such misdoings of the Investigating Agency. This Court in exercise of its powers under Articles 226 and 227 of the Constitution of India as well as under Section 482 Cr.P.C. as has been laid down in ***Anita Malik vs. State of Haryana and others 2015(2) RCR (Criminal) 59*** though are to be exercised in rare and exceptional cases when the Court finds it necessary in order to do justice between parties and to instil confidence in the public and therefore, this Court has vast power to refer the matter to an independent agency and the present case is one of those cases which urgently and earnestly makes out it to be an exceptional case. Though, even after submission of challan by the police in order to secure ends of justice such a power needs to be exercised and similarly in the case of ***State of West Bengal and others vs. The Committee for***

Protection of Democratic Rights West Bengals and others 2010(3) SCC 571 a Constitutional Bench of Hon'ble Supreme Court of India has laid down the proposition while holding that no Act of the Parliament can exclude or curtail the powers of the High Court under Article 226 of the Constitution of India and rather has cautioned that the extra-ordinary powers of the High Court must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and confidence in investigation or where the incident may have national or international ramifications. Since in the present case both the police forces failed to carry out the investigations and, thus, to bring about justice something more than what has transpired needs to be done else the confidence of the people in the system would stand greatly eroded. As has been brought to the notice of this Court police by exercising its extra-jurisdictional power which learned counsel for any of the sides could not pinpoint under what provisions of law they have sealed suo moto the properties of the company and put to hold its functioning on their own without obtaining any orders of the Court are not only illegal but highly uncalled for rather speaks of the highhandedness of the local police who appears to be in league with one of the interested party and which order being illegal *void ab initio* needs to be struck down. The company is well within its right within the domain of the powers under the Act to deal with its properties/operations as per law. Similarly, in ***Vinay Tyagi vs. Irshad Ali @ Deepak and others 2013(2) RCR Criminal 197*** evaluating the powers of this Court in terms of Section 156 Cr.P.C. the Court can order the following investigations:-

1.Initial investigations.

2.Further investigations.

3.Fresh or de-novo or reinvestigations.

Since in the present set of circumstances the chargesheet has been filed but in view of the contradictory findings the investigations in all these different cases so registered and in such a situation to do justice between parties and to instil the confidence in public it has become necessary to ensure that in the present scenario where in the State of Punjab a ruling party's Legislator has his interest in the present case and further as is evident from the records placed before this Court levelling allegations against a senior functionary of the Chandigarh Police, ADC to Governor for interfering into investigations, this Court is satisfied that a drastic step needs to be undertaken at this juncture as there is every likelihood of obviating course of justice as it is not only to do justice but also to instil confidence in the system of the people at large. The police under the guise of carrying on investigations cannot be allowed to fretter away the evidence and, thus, act as an impediment and thereby obstruct the course of justice. More so, there has been gross dereliction of duties by the police and seeking support from ***Karan Singh Vs. State of Haryana 2013(4) RCR (Criminal) 205*** being a classical case of misconduct in carrying on the investigations by these two agencies against whom the State is bound to initiate disciplinary action which they have failed to do so and rather as the history of previous Investigation Officers who too have failed in their duties there is an urgent need for the authorities to wake up from their deep slumber and to act into the matter in accordance with law. Similar is the proposition laid down in ***Vipul Shital Prasad Aggarwal vs. State of Gujarat and another 2013(1) RCR (Criminal) 5*** and ***Subrata Chattoraj vs. Union of India and others 2014(3) RCR (Criminal) 419*** and in a recent view of the Hon'ble Supreme Court of India in ***Disha vs. State of Gujarat and others 2011(3) RCR 9Criminal) 694*** where the Hon'ble Apex Court had laid down the following as not exhaustive but illustrative grounds on the basis of which investigations can be transferred and, thus, in the exercise of these powers it would be desirable for this Court to issue directions to constitute a Special Investigating Team and to entrust them investigations consisting of two credible officers of repute each from the departments which have the necessary expertise i.e. the Serious Fraud Investigation Office (SFIO) of Company affairs under the Ministry of Corporate affairs, Government of India, Enforcement Directorate to look into the money laundering angle, Income Tax Department to ensure that there has been no escape from legitimate taxation as well as by the Central Bureau of Investigations which could ensure due exercise of powers in collecting such evidence as is necessary and which is essential integral part of investigations. The entire records shall be handed over to them and with directions to the Authorities concerned to fully cooperate with the SIT so formed.

In the light of the same the transfer applications of the intervenor-applicant as well as of Raman Uppal stands disposed off in those terms.

Though, On behalf of the State the arguments put forth from the side of the petitioners in the quashment petition is sought to be opposed tooth and nail however, having regard to the totality of the allegations contained in the FIR it no where figures out any definite role to these petitioners in the commission of any such offences. Merely because petitioners Madan Singh and Harshvinder Singh are amongst the thirteen accused in the present FIR No.69 dated 19.4.2012. Learned counsel for the petitioners have gone through the very FIR which does not assign any role or allegations in what respect these petitioners have committed any criminal offence mere fact that they were appointed as directors on 29.9.2012 ipso facto do not means or can be construed that they have connived or were part of conspiracy with the co-accused. Learned State counsel with all fairness after going through the challan has conceded the fact that till date nothing concrete has come in the evidence or their specific role in any crime or evidence of the Investigating Agency against these petitioners. Taking support from ***State of Haryana and others vs. Ch. Bhajan Lal and others 1991 (1) RCR (Criminal) 383*** whereby, Hon'ble Apex Court has laid down the following eventualities:-

1. Where the allegations made in the First Information Report or the complaint even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and made out a case against the accused.
4. Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.
6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code of the concerned Act, providing efficacious redress for the grievance of the aggrieved party.
7. Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused an with a view to spite him due to private and personal grudge.

and under which the Court in exercise of these powers to secure ends of justice can quash the proceedings and in the backdrop of interpretation to these provisions, thus, from this it is evident that allegations made in the FIR even if taken on the face and accepted in the entirety do not constitute any offence and thus to the mind of this Court the criminal proceedings instituted on the basis of such FIR needs to be quashed. Though, it is relevant to point out here that grouse, if any, regarding running of this company by any of the constituents of the company they are well within their rights to move the appropriate forum for any acts of oppression or mismanagement in terms of Sections 397 and 398 of the Act. Thus, the continuation of the criminal proceedings qua the present petitioners would not lead to any conclusive result and rather would only be a wastage of time of the Court as well as putting the petitioner to undue harassment and torture and, thus, the complainant cannot be allowed to have recourse against the present petitioners by such a means.

Thus, in the light of what has been discussed above the present FIR No.69 dated 19.4.2012 under Sections 420, 465, 467,468, 471, 120-B IPC registered with Police Station Division No.3 Chandigarh Annexure P/1 qua the present petitioners is hereby quashed with all consequential effects.

Copy of this be sent for due compliance by the quarter concerned.

(FATEH DEEP SINGH)
JUDGE

September 16th, 2015
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