

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

CRM-M No.18479 of 2017
Date of decision: 31st May, 2017

Jatinder Singh Dua

... Petitioner

Versus

CBI and others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Athwal, Advocate for the petitioner.
Mr. Sumeet Goel, Advocate for respondents No.1 to 3.
None for respondent No.4.

FATEH DEEP SINGH, J.

This is a petition preferred under Section 482 Cr.P.C. by petitioner Jatinder Singh Dua wherein he has sought relief for quashment of FIR No.69 dated 17.05.2014 under Sections 406/420 IPC registered at Police Station Kurali (Mohali) (in short, 'the FIR') which has been subsequently re-registered as RC 2202016E0006 dated 13.06.2016 with Police Station EOU-V/EO-II, New Delhi (Annexures P1 and P2 respectively) on the grounds that the same was unwarranted and abuse of the process of the Court and in the consequence has sought an order of restraint to the official respondents for summoning the petitioner or his family members to their office for that very case.

The precise grounds that have come about are that the FIR in question was a pure contractual dispute between the petitioner side and

respondent No.4-M/s Rosalind Builders and Constructions Pvt. Ltd. and has no relevance whatsoever with the orders of this Court earlier passed in CRM-M No.1720 of 2013 and CRM-M No.1526 of 2015 dated 16.09.2015 whereby Special Investigation Team (in short, 'SIT') was constituted to look into the intra-dispute amongst the Directors of the Company known and styled as M/s International Customers Related Management Services Private Limited (in short, 'ICRMS') and does not applies to third party dispute and further has raked up the plea that the dispute with ICRMS is already being investigated by the SIT of the official respondents and thus, the present dispute falls outside the purview of the SIT as it was a pure dispute which has arisen out of the memorandum of understanding between the petitioner side and respondent No.4 M/s Rosalind Builders and Constructions Pvt. Ltd. and which has been referred to the Arbitrator and to undo the affects of the same, respondent No.4 had got registered a false FIR against the petitioner which has a dispute over transfer of 14.25 acres of land.

Upon notice, reply has been filed on behalf of the official respondents being represented by Mr.Sumeet Goel, Advocate. The stand on behalf of the SIT which is being headed by the CBI is that the factual dispute as to the constitution of the SIT on the orders of this Court that different FIRs so registered inter-se amongst the Directors of the ICRMS and so the present FIR being a dispute between the complainant M/s Rosalind Builders and Constructions Pvt. Ltd. respondent No.4 and the

petitioner. The stand of the respondents is to the effect that during the investigations they will not adopt any coercive steps against the petitioner, his family members and relatives and their Companies beyond the orders of this Court dated 16.09.2015 by which SIT was constituted.

Heard Mr. R.S. Athwal, Advocate for the petitioner, Mr.Sumeet Goel, Advocate for the respondents and perused the records of the case.

It is by no means differed by learned counsel for the two sides that the present FIR has been got registered by one Sh.Amit Malhotra representative of M/s Rosalind Builders and Constructions Pvt. Ltd. respondent No.4 against Jatinder Singh Dua and others on the allegations of some sort of fraud and not returning their money or in the alternative land which they had promised. It was in CRM-M No.1720 of 2013 and CRM-M No.1526 of 2015 whereby two petitions have come about one by Madan Singh and Harshvinder Pal Singh seeking quashing of another FIR also bearing No.69 dated 19.04.2012 under Sections 420/465/467/468/471/120-B IPC registered at Police Station Sector 3, Chandigarh and another was a transfer petition by complainant Raman Uppal who also happens to be one of the accused for the transfer of investigations of another case registered with Police Station Phase I, Mohali. It was as a consequence of these two petitions during the course of hearings and appreciating the relative stands of the contestants through a detailed order dated 16.09.2015 (Annexure P3) this Court holding the

opinion that there appears to be oppression/mismanagement of ICRMS whereby different persons claimed to be the Directors of this Company, has led the Court to hold that there was inter-se dispute between the Directors which needs to be thoroughly investigated as they were bent upon registering different FIRs against each other regarding operation of the ICRMS and wherein the investigating agencies have taken contradictory stands whereby this Court had passed orders, a part of which needs to be reproduced and reads as follows:

*“... .. 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... ..
...”*

It is thereafter another CRM No.37905 of 2015 was filed along with CRM-M No.1720 of 2013 in which orders dated 27.11.2015 were passed, relevant part of which reads as follows:

“... .. It is made clear that to bring about proper command and control over the investigations, it would be expedient in the interest of justice to direct that an officer, not below the rank of DIG, CBI, shall head the SIT to whom all the other officers shall report and the CBI shall look into the investigations to facilitate collection of evidence, recording of statements and similar functions to enable the SIT to collect and compile the evidence and to ensure that the same is speedily done, as it is holding expertise in investigating the criminal aspects of the crime. All these members of the SIT shall share the information amongst themselves to facilitate proper investigations and would follow rules of protocol as per those followed by the Union of India/Government.

Mr. S.P. Jain, Additional Solicitor General, Govt. of India shall be the link between these departments and shall ensure that full cooperation is given to each member of the SIT by the other members and to ensure expeditious investigations which could reach to its logical conclusion and may, if so deem it appropriate, these departments can seek legal advice from him from time to time, if deemed necessary by them. It is made clear that all the departments so part of the SIT shall ensure due compliance of these orders within one month from the date of receipt of a copy of these orders. However, the concerned Departments, if arrive at a conclusion that there has been violation of the provisions of Laws/Acts governing them, they are within

their rights to initiate appropriate actions under their respective Acts independent of this prosecution, if any
...” .

Thus as has been concurred by the two sides and in the light of statement of the counsel representing the SIT, Mr. Sumeet Goel before this Court as well as the stand in the written reply that the SIT would not summon the petitioner, his family or relatives regarding their own personal business Companies except ICRMS beyond what is enumerated in the orders of this Court dated 16.09.2015 and 27.11.2015, thus, by this undertaking and as is well elicited from the orders the SIT shall only investigate the dispute of ICRMS inter-se between their Directors looking into the aspects which have been well detailed in the earlier orders of this Court and shall not go beyond the orders of this Court. Furthermore, since the present FIR registered at Police Station Kurali (Annexure P1) pertains to third party dispute, it would be appropriate for the SIT to keep away from investigating the same as it would be not only putting off the SIT from its trail of investigations regarding ICRMS besides making its function more intricate and difficult which might result in going off the tangent and thus, defeat the very intent and purpose of the orders of this Court which to the mind of this Court would be rendered infructuous. Thus, in the light of the same the present petition stands disposed off with following directions:

(I) The SIT would not act beyond what has been assigned to it by virtue of orders dated 16.09.2015 and 27.11.2015 of this Court

and would thereby concentrate and investigate the dispute of ICRMS inter-se between its Directors and thus, attain the purpose for which it has been constituted;

(II) The SIT shall not plunge itself into third party dispute of the petitioner with respondent No.4, especially FIR in question which as has been brought to the notice of this Court is primarily a dispute over memorandum of understanding between the petitioner and respondent No.4, the latter an independent Company and is not inter-se the Directors of ICRMS;

(III) As per the stand of learned counsel representing the SIT before this Court in his statement and reply, they will not in any manner use any coercive means against the petitioner, his family members or relatives regarding their own personal business Companies and would strictly adhere to their assignment as per the orders dated 16.09.2015 and 27.11.2015.

Thus, the present petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

May 31, 2017
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No