IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. CRM-M No.42777 of 2017

Rajdeep Singh & others

… Petitioners

Versus

CBI & others

… Respondents

2. CRM-M No.42795 of 2017

Sukhbir Singh Shergill & others

… Petitioners

Versus

CBI & others

… Respondents

3. CRM-M No.42797 of 2017

Raman Uppal

… Petitioner

Versus

CBI & others

… Respondents

Date of decision: 25th January, 2018

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Pradeep Virk, Advocate
(for the petitioners in CRM-M-42777 & 42795 of 2017)
(for respondents No.7 & 8 in CRM-M-42797-2017).

Mr. S.S. Panag, Advocate
(for respondent No.5 in CRM-M-42777-2017)
(for respondent No.6 in CRM-M-42795-2017)
(for petitioner in CRM-M-42797-2017).

Mr. R.S. Athwal, Advocate
(for respondents No.6, 9 & 10 in CRM-M-42797-2017).

Mr. Sumeet Goel, Standing Counsel for CBI with
Inspector Rupesh Srivastava.

Mr. Satya Pal Jain, Addl. Solicitor Gen. of India with
Mr. Dheeraj Jain, Sr. Counsel Govt. of India
for Directorate of Enforcement, Chandigarh (ED)
and Serious Fraud Investigation Office, New Delhi (SFIO).

Mr. Rajiv Sharma, APP for UT Chandigarh.

Ms. Urvashi Dhugga, Advocate for Income Tax Department.

Mr. J.S. Walia, Sr. Dy. Advocate General, Punjab for State.

FATEH DEEP SINGH, J.

The above detailed three petitions, all under Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C.') have been preferred seeking quashment of cases bearing different numbers. In CRM-M-42777-2017, petitioners Rajdeep Singh, Gurdeep Singh, Sukhbir Singh Shergill and Gurbir Kaur Shergill have sought quashment of case bearing FIR No.175 dated 16.09.2013 under Sections 464, 466, 467, 468, 471, 472, 474, 212, 420 and 120-B IPC pertaining to Police Station Sector 3, Chandigarh (Annexure P1) subsequently re-registered as Case No.RC 2202016E0008 dated 13.06.2016 Police Station EOU-V/EO-II, New Delhi (Annexure P2); whereas in CRM-M-42795-2017, petitioners Sukhbir Singh Shergill, Gurbir Kaur Shergill and Itinderjit Singh Kaleka have sought quashment of earlier case FIR No.69 dated 19.04.2012 under Sections 420, 465, 467, 468, 471 and 120-B IPC pertaining to Police Station Sector 3, Chandigarh (Annexure P1) subsequently re-registered as Case No.RC 2202016E0005 dated 13.06.2016 Police Station EOU-

V/EO-II, New Delhi (Annexure P2); and in CRM-M-42797-2017, petitioner Raman Uppal has prayed for quashing of case bearing FIR No.125 dated 10.06.2014 under Sections 406, 420, 419, 465, 467, 468, 471 and 120-B IPC pertaining to Police Station Phase-I, Mohali (Annexure P1) subsequently re-registered as Case No.RC 2202016E0009 dated 13.06.2016 Police Station EOU-V/EO-II, New Delhi (Annexure P2); along with all consequent proceedings including those initiated by the respondent-Departments, on the basis of compromise (Annexure P3) praying further that the Special Investigation Team (SIT) so constituted by this Court be disbanded.

Since all these petitions though in respect of different FIRs, almost same set of persons/departments are involved where common question of facts and law are involved and therefore for the sake of brevity necessitates their disposal through this common order.

The undisputed factual background stems from filing of CRM-M-1720 of 2013 titled as 'Madan Singh and another v. U.T. Chandigarh and others' and CRM-M-1526 of 2015 titled as 'Raman Uppal v. State of Punjab and others' whereby this Court while disposing off these two petitions through orders dated 16.09.2015 had passed the following directions:

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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.

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Thus, in compliance of these directions the authorities had constituted a Special Investigation Team (SIT) which had entered into the investigations and have re-registered these three cases which are elaborated in the foregoing paragraph. It would not be out of place to mention here that during the course of monitoring of the investigations by this Court, the SIT had been repeatedly submitting periodic reports to this

Court in a sealed cover. It is in the light of this very background, these three petitions by different sets of petitioners have come about where similar grounds have been raked up seeking quashment of the respective re-registered FIRs. The precise grounds are that with the intervention of well-wishers, family and friends, the misunderstandings due to which these FIRs had been registered, were got resolved amongst the petitioners and private respondents and as a consequence of which, settlement agreement dated 17.08.2017 (Annexure P3) was entered into between the parties to these petitions. It is further claimed that on the basis of this settlement, Civil Court decree was passed putting to rest all the inter-se disputes among the Directors and Shareholders of the company namely M/s International Customers Related Management Services Private Limited (in short, 'ICRMS') and have relied upon judgment and decree dated 11.09.2017 (Annexure P7 in CRM-M-42777-2017). It is further agitated that the funds for the functioning of ICRMS were neither collected nor received and neither any Govt. subsidies or money was got utilized in the case of ICRMS, claiming that further investigations in the light of this settlement between the various sets of claimants, would be a futile exercise not leading to any conclusive and tangible results.

Raman Uppal, one of the respondents in CRM-M-42777-2017 had also moved an application dated 14.10.2017 in the Court of learned Chief Judicial Magistrate & CBI Special Court, Chandigarh for closing of proceedings against the accused persons in case bearing No.RC 2202016E0005 dated 13.06.2016 on the basis of compromise settlement. The petitioners have claimed that since the matter was more of civil nature where no criminality was involved and had overtones of a civil dispute between the shareholders and directors, the matter having amicably resolved, continuation of the criminal proceedings was unwarranted and hence the relief in question.

On behalf of respondents, three sets of replies were filed on behalf of respondent Nos.1, 2 and 3 whereas on behalf of the Income Tax Department and State of UT Chandigarh no reply was filed. Since private respondents who are themselves petitioners in the connected matters, they do not feel it necessary to file replies.

The official respondents, after canvassing and pleading at length the brief facts of the case and the allegations in brief chronologically have laid virulent attack on the petitioners in their parawise replies and have taken the plea that the investigations were underway and at crucial stage and that any such agreement/settlement inter-se between the accused side (petitioners before this Court) does not absolve them of their criminal liability and any such plea cannot prevent the SIT to proceed ahead into the matter as the SIT headed by CBI have registered six regular criminal cases bearing Nos. RC 2202016E0005 to 2202016E0010. Claiming further that the investigations conducted so far have revealed criminal acts on the part of concerned persons, taking a strong plea that inherent powers of this Court under Section 482 Cr.P.C., which need to be sparingly used, cannot be put to use in the present scenario together with the number of cases and their heinousness and thus, sought dismissal of the petitions, submitting further that ICRMS has failed to submit requisite documents so sought for by the various constituents of the SIT and there are instances which should come to light, names of certain directors are there showing them to be debtors/creditors at the instance of related/interested parties. It is the specific case of the Enforcement Directorate in their reply that violation of the Prevention of Money Laundering Act, 2002 (PMLA) was prima facie made out where instances of obtaining funds to the tune of several crores of rupees were revealed in respect of ICRMS by way of unsecured loans/advances for their personal benefits. Precisely taking the plea that by such an agreement/settlement the petitioners cannot be allowed to bye-pass and hoodwink the law which is taking its due course and in the light of the same they sought dismissal of the petitions.

Heard Mr. Pradeep Virk, Advocate for the petitioners in CRM-M-42777 & 42795 of 2017 and for respondents No.7 & 8 in CRM-M-42797-2017; Mr. S.S. Panag, Advocate for respondent No.5 in CRM-M-42777-2017, for respondent No.6 in CRM-M-42795-2017 and for petitioner in CRM-M-42797-2017; Mr. R.S. Athwal, Advocate representing respondents No.6, 9 & 10 in CRM-M-42797-2017; Mr. Sumeet Goel, Standing Counsel for CBI assisted by Inspector Rupesh Srivastava; Mr.Satya Pal Jain, Addl. Solicitor Gen. of India assisted by Mr. Dheeraj Jain, Sr. Counsel Govt. of India on behalf of Directorate of Enforcement, Chandigarh and Serious Fraud Investigation Office, New Delhi; Mr.Rajiv Sharma, APP for UT Chandigarh; Ms. Urvashi Dhugga, Advocate for Income Tax Department and Mr. J.S. Walia, Sr. Dy. Advocate General, Punjab for the State of Punjab and perused the records of the case.

From the arguments of the various contesting parties, it permeates that it was petitioners Madan Singh and Harshvinder Pal Singh seeking quashment of FIR No.69 dated 19.04.2012 under Sections 420, 465, 467, 468, 471 and 120-B IPC pertaining to Police Station Sector 3, Chandigarh and transfer petition preferred by complainant Raman Uppal who also happens to be accused in case FIR No.125 dated 10.06.2014 and one of the petitioners/respondents in the present petitions seeking transfer of investigations of this very FIR so registered under Sections 406, 420, 419, 465, 467, 468, 471 and 120-B IPC pertaining to Police Station Phase-I, Mohali at the behest of one Narinder Singh, which has led to passing of the orders dated 16.09.2015 by this Court in the two petitions detailed at the very onset of this order.

As is the argument put forth by the official respondents' counsel to controvert the submissions of the respective petitioners' counsel that it was on the direction of this Court the matters were being thoroughly investigated by the SIT comprising of premier agencies including Central Bureau of Investigation, Directorate of Enforcement, Chandigarh and Serious Fraud Investigation Office. As is there in their replies which are duly supported by their sworn attested affidavits, there are prima facie allegations and evidence that have come about during the investigations of criminal involvement of the petitioners in various acts of omission and commission which has serious repercussions not only affecting their inter-se disputes but the public institutions as well involving violations of the stringent provisions of the PMLA, Income Tax Act and other various offences under the Companies Act as well as the Indian Penal Code.

To enliven their submissions on behalf of the official respondents, Mr.Sumeet Goel has placed reliance on **'Central Bureau of Investigation v. Hari Singh Ranka & others' 2018(1) RCR (Criminal) 336; 'Rajesh Kumar Aggarwal v. Central Bureau of Investigation & another' (CRM-M-27064 of 2009 decided on 06.12.2017); and 'Tilly Gifford v. Michael Floyd Eshwar & another' 2017 AIR (SC) 3823** to hammer home the point that in cases of financial fraud carrying criminal as well as civil liability is not a simple case and has sought to bring about the propositions that fictitious companies have been brought about by the persons where fictitious beneficiaries have found favour and the money is diverted through illegal means and a mere civil personal settlement between the shareholders/directors inter-se would not wipe out criminal liability and further that there cannot be misplaced sympathy where the accused have settled their dispute inter-se when otherwise their acts of omission and commission have larger criminal ramifications and stressing the fact that a criminal investigation, unless or until there are prima facie allegations of malafide, should not be foreclosed by the courts and that powers to interdict a criminal proceeding at the stage of investigations is something of a rarity. Further reliance is sought to be placed on **'Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another' 2017(4) RCR(Criminal) 523; 'Central Bureau of Investigation v. Maninder Singh' 2015(4) RCR (Criminal) 190; and 'State. Rep. by Inspector of Police, Chennai v. M/s Intek Eng. & Ser. P. Ltd. & others' 2016(2) RCR (Criminal) 357** on behalf of the official respondents to drive home the point that a settlement arrived at between the offender and the victim cannot be connected with the invocation of jurisdiction for the purposes of compounding of an offence and the courts have to keep in mind if the ends of justice require and justify exercise of inherent powers to quash an FIR, especially in cases where commercial, financial and mercantile partnership or similar transactions are there, the Courts need to be cautious of such exercise of powers keeping in view that there is every likelihood of commission of economic offence by the accused side and which is likely to cause repercussions on the financial health of the Company, where interests of other shareholders too may be involved.

These submissions are sought to be rebutted with much elance and force by learned counsel representing respective petitioners claiming that it is a pure and pure personal dispute which has been brought about by misunderstanding between the directors/shareholders of the company and which has been resolved, and being a pure civil misunderstanding the official respondents cannot come in the way of effecting a settlement between them and thus, have sought to seek the relief in question.

Going through the respective submissions, records and evaluating each and every aspect of the same; Hon'ble the Supreme Court of India in **'Parbatbhai Aahir's case (ibid)** has laid down broad principles which are reproduced as below:

> *"15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :*
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> *(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new*

powers. It only recognises and preserves powers which inhere in the High Court;

(ii) *The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.*

(iii) *In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;*

(iv) *While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;*

(v) *The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;*

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the

continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

16. Bearing in mind the above principles which have been laid down in the decisions of this Court, we are of the view that the High Court was justified in declining to entertain the application for quashing the First Information Report in the exercise of its inherent jurisdiction. The High Court has adverted to two significant circumstances. Each of them has a bearing on whether the exercise of the jurisdiction under Section 482 to quash the FIR would subserve or secure the ends of justice or prevent an abuse of the process of the court. The first is that the appellants were absconding and warrants had been issued against them under Section 70 of the Code of Criminal Procedure, 1973. The second is that the appellants have criminal antecedents, reflected in the chart which has been extracted in the earlier part of this judgment. The High Court adverted to the modus operandi which had been followed by the appellants *in grabbing valuable parcels of land and noted that in the past as well, they were alleged to have been connected with such nefarious activities by opening bogus bank accounts. It was in this view of the matter that the High Court observed that in a case involving extortion, forgery and conspiracy where all the appellants were acting as a team, it was not in the interest of society to quash the FIR on the ground that a settlement had been arrived at with the complainant. We agree with the view of the High Court. The present case, as the allegations in the FIR would demonstrate, is not merely one involving a private dispute over a land transaction between two contesting parties. The case involves allegations of extortion, forgery and fabrication of documents, utilization of fabricated documents to effectuate transfers of title before the registering authorities and the deprivation of the complainant of his interest in land on the basis of a fabricated power of attorney. If the allegations in the FIR are construed as they stand, it is evident that they implicate serious offences having a bearing on a vital societal interest in securing the probity of titles to or interest in land. Such offences cannot be construed to be merely private or civil disputes but implicate the societal interest in prosecuting serious crime. In these circumstances, the High Court was eminently justified in declining to quash the FIR which had been registered under Sections 384, 467, 468, 471, 120-B and 506(2) of the Penal Code."*

Their Lordships have concluded that if the allegations in the FIR are of such a nature which affect vital societal interests, especially when in the present case as is contended on behalf of the official respondents, there has been serious violation of the provisions of PMLA 2002, Companies Act, the Income Tax Act and the Indian Penal Code, and therefore to the mind of this Court such offences cannot be considered to be mere private one or of civil nature whereby they could be resolved by the parties inter-se through some sort of settlement.

Even in an earlier decision in **'State of Haryana and others v. Ch.Bhajan Lal and others' 1992 AIR SC 604**, their Lordships of Hon'ble the Apex Court have dealt at length the principles of law enunciated by the Court in exercise of extraordinary inherent powers under Section 482 Cr.P.C. or under Article 226 of the Constitution of India which though not exhaustive, are being enumerated as below:

(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 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 make 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 or 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 and with a view to spite him due to private and personal grudge."

From this all, it becomes crystal clear and none of the counsel representing various petitioners could convince this Court how continuation of such an investigation would tantamount to miscarriage of justice necessitating intervention by this Court or it has been an outcome of malicious intent or for an ulterior motive to wreak vengeance. The counsel could not highlight how the ends of justice require for this Court to interfere. As is there the position canvassed before this Court, the investigation by these three agencies is moving towards some tangible results and at this stage interfering in the fair investigations being relentlessly and restlessly carried out by these premier agencies would not only stifle the investigations but would also jeopardize larger interests of the State. Keeping in view the heinousness and seriousness of allegations and the gravity of offences, which involve economic as well as societal aspects, it would certainly desist the Court from taking any step towards such a prayer and as has been the law laid down in the ratio cited on behalf of the official respondents, no case to show indulgence is evidently made out in the exercise of powers under Section 482 Cr.P.C. together with the position of law laid down in **'Parbatbhai Aahir's case (ibid)** as well as another ratio in **'Hridaya Ranjan Pd. Verma and others v. State of Bihar and another' 2000(2) RCR (Criminal) 484,** none of the principles laid down therein stands attracted and it would be too preposterous to circumvent such a recourse to dispensation of justice during the investigations when it is by now the well settled proposition of law that courts need to be slow in interfering in the investigations and which in the present case is certainly at a crucial stage. Apparently the petitioners are making repeated valiant efforts before all forums including the courts below to undo the effects of the orders of this Court whereby SIT has been constituted, rather shows and highlights their utter desperation in getting rid of their acts which they have done in the past. In the light of what has been detailed and discussed above, none of the petitions carry any merit and as such all the three petitions are hereby dismissed.

(FATEH DEEP SINGH)
JUDGE

January 25, 2018
rps

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