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

CRM-M-2454-2014
Date of Decision:24.09.2019

Rachpal Singh

...Petitioner

Versus

Union of India and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Deepak Verma, Advocate for the petitioner.
Mr.Bhupinder Beniwal, AAG, Punjab.

ANIL KSHETARPAL, J.

The present petition has been filed under Section 482 Cr.P.C. for directing respondent No.5 to file status report in FIR No.67 dated 24.10.2012.

This Court has been monitoring the investigation from time to time and issuing directions. A fresh affidavit dated 05.08.2019 has been filed by Deputy Inspector General of Police, Ludhiana Range, Ludhiana, wherein it has been stated as under:-

> I. *That case/FIR No. 67 dated 24.10.2012 under sections 406/420/120-B IPC and u/s 66-A of I.T. Act was registered at Police Station Kathgarh, District SBS Nagar against John Clifford, Kapil Mehra, Ishpreet Singh, Sumit Verma , Manish Sharma, Ritl Carlton, Aded Kumarh Hunk Bi Khullen, Linda Shmary Hung Bi Khullan, Jonathan Vashi, Loverpreet Singh, Huaineilung Gangmei, Lanhunlian, Lalpiangthara Varte, Gaurav Gupta and Gaiguiruangmeii after preliminary inquiry into the complaints bearing No. 183-PTM dated 08.02.2012 and No. 1018/Peshi dated 24.08.2012 received in the office of SSP, District S.B.S.*

Nagar from Rachpal Singh (Petitioner) by the Incharge E.O. Wing, legal opinion obtained from the Ld. DA Legal and after approval of the same by the SSP, District S.B.S.Nagar into the allegations of fraud and cheating to the tune of Rs. 80.00 lacs on the pretext of winning a lottery worth 5,00,000 U.K. Pounds.

II. *That pursuant to the registration of case/FIR No. 67 [supra], the investigation was commenced by Lakhvir Singh, the then Deputy Superintendent of Police, Sub Division Balachaur, District Shaheed Bhagat Singh Nagar. During the course of investigation, the statements of the witnesses were recorded u/s 161 Cr.P.C. Efforts were made to arrest the accused by conducting raids at their stated addresses, however, the accused were not found residing at the stated addresses. Thereafter, different police parties were deputed for the investigation of the present case/FIR and to trace out the whereabouts of the accused persons. The bank account details of all the accused were verified from the respective banks in order to trace out the accused and to verify the details of the transactions made from the said accounts. The addresses given in the bank by the accused persons at the time of opening the respective bank accounts were raided by the different police parties, however, the accused persons were not found to be residing at the said addresses. It is pertinent to mention here that all the said addresses were the rented accommodations by the said accused persons and stood vacated by the accused persons and the whereabouts of the accused persons were not known to the landlords or the neighbourers. The related bank record was taken into police possession and examined.*

III.That despite the strenuous efforts made by the then DSP, Sub Division Balachaur, S.B.S. Nagar to trace out the accused of the present case/FIR, the accused persons could not be arrested and their whereabouts could not be traced out. Consequently, the then SSP, District S.BS. Nagar *constituted a Special Investigation Team comprising of the then Deputy Superintendent of Police [Detective], Shaheed Bhagat Singh Nagar [Incharge], the then Station House Officer, Police Station Kathgarh, District Shaheed Bhagat Singh Nagar [Member] and the then Station House Officer, Police Station Sadar Banga, District Shaheed Bhagat Singh Nagar [Member] vide order No. 136/38/R/SSP dated 24.01.2013 to conduct a thorough investigation of the present case/FIR No. 67[supra].*

IV.That in pursuance thereof, the Special Investigation Team commenced with the investigation by thoroughly perusing the case file and considering the investigation already conducted by the then DSP, Sub Division Balachaur, District S.B.S. Nagar. The SIT made strenuous efforts to trace out the real identity of the accused as well as addresses, however, the real identity of the accused persons could not be traced out and their addresses were found to be bogus. Accordingly, the Special Investigation Team had recommended for filing the untraced report in the present case/FIR. Consequently, the untraced report was prepared on 25.04.2013. The then SSP, District SBS Nagar perused and considered the untraced report, however, finding that the SIT had not sought the help of technical expert in cyber crime during the course of investigation to trace out the accused of the present case/FIR, the untraced report was not approved by the then SSP, District S.B.S. Nagar and a new Special Investigation Team comprising of the then DSP, District S.B.S. Nagar, SHO, P.S. Balachaur and SHO ,P.S. Kathgarh to conduct the investigation of the present case/FIR vide office order dated 05.12.2014. It is pertinent to mention here that in the meantime, the complainant approached the Hon'ble Punjab and Haryana High Court, Chandigarh by way of filing Criminal Misc. No. M-2454 of 2014.

V. That the new Special Investigation Team commenced with *the investigation by thoroughly perusing and considering the case file as well as the earlier investigation conducted in the present case/FIR. The verification of the bank account details of the accused and the investigation conducted based upon the said verification by the earlier investigation officer/Special Investigation Team was verified. The mobile phone numbers used in the commission of the offences of the present case/FIR were verified and the addresses mentioned at the time of obtaining the said numbers were raided, however, no clue with regard to the actual identity or actual address of the accused came to fore. The e-mail IDS used in the commission of the offences of the present case/FIR were investigated with the help of technical expert of cyber crime, however, the domain names and its server were found to be registered in foreign country. The Special Investigation Team also tried to find the accused through cases registered on similar modus operandi and found that one FIR No. 238/12 u/s 420/468/471 IPC and Section 66-A, 66-C IT Act, Police Station Bharat Nagar, Delhi was registered on the same modus operandi.*

VI.That the members of Special Investigation Team inspected all bank accounts of Kapil Mehra, Ishpreet Singh, Sumit Verma, Manish Sharma, RITL Carlton, Kumrah Hung Bi Khullen Chingai Ukhrul, Linda Shimray Hung Bi Khullen Chingai Ukhrul, Jonathan Vashi, Lovepreet Singh, Huaineilung Gangmei , Lanhunlian, Lalpiangthara Varte, Gaurav Gupta and Gaiguiruangmei, by visiting personally at the respective branches of different banks, where it is found that the alleged accounts of banks are correct but they were open by the accused with their fake names viz. PAN Card, Reliance Phone Bills and these identities are made on the rented house. All the bank accounts, in which the payments have been made, were found to be existing however, the account holders were found to be fake and fictitious. Although the account No's were correct but the *same were opened by using the address of rented accommodation.*

VII.That during the investigation, the transactions of all the bank accounts in which amount had been deposited were analyzed wherein, one Bank Account bearing No. 910010018491385 in the Axis Bank, Guwahati was found to be the account of accused Huaineilung Gangmei. Accordingly, efforts were made to trace out the accused Huaineilung Gangmei through the said bank account, however, it transpired that the accused Huaineilung Gangmei had got the said account transferred to Nagaland, where the said account was closed in the year 2011. The Axis bank at Nagaland was also visited by the SIT members, however, the accused Huaineilung Gangmei was not found to be residing at the given address of Nagaland.

VIII.That the accused have prepared their bogus PAN Cards by giving the bogus address of their rented premises. The record of the above said PAN Cards have been taken from the Income Tax Department and found that the accused persons have never filed any income tax return from their above said Pan Cards.

IX.That the Senior Superintendent of Police, SBS Nagar has written a letter to the Deputy Inspector General of Police, Cyber Crime, Mohali for providing technical Aid to trace the culprits from their E-mail ID's and the DIG/Cyber crime, Mohali has sought the assistance from the Legal Cell, 11 Mail & Media Inc., Chester brook, PA, USA vide letter dated 11.12.2014 regarding the date and time of creation of the Email IDs alongwith the IP address, complete login details of the Email IDs with details of IP addresses and the details of Password change activities with IP Address and the report is still awaited despite issuance of reminders. However, the Deputy Inspector General of Police, Cyber Crime, Mohali provided the information regarding the servers used in this fraud that all the servers are operating *in the foreign countries and out of these servers one is operating in Hyderabad. On this Special Investigation Team arrived in Hyderabad and found that on such person is residing there on that address.*

X. *That the members of Special Investigation Team visited Ropar [Punjab], Gauhati[Assam], Dimapur[Nagaland], Lajpat Nagar and Mehrauli [South], Delhi [Delhi], Gurgaon, Jagadhri [Haryana], Rudrapur [Uttrakhand], IT Centre, Wanzara Gill Road-2, Madhur Nagar, SR Nagar, Hyderabad [Andra Pradesh], Chingai Ukhrul, Manipur, Noida [U.P] to trace out the accused but no positive information was received by the members of Special Investigation Team and no clue about the accused came to fore.*

XI.That since the complainant had received the phone calls on his mobile number from phone number +447024008419 and for this the then Senior Superintendent of Police, SBS Nagar had written to the Director General of Police, Punjab to seek the information of the International number, wherein the phone No. +447024008419 was found to be of United Kingdom. Accordingly, the matter was taken up with the office of Director, Bureau of Investigation, Punjab, Chandigarh to further take up matter with International police co-operation cell (IPCC) of CBI, New Delhi being nodal agency of State for conducting investigation beyond the national boundaries but no such information has been provided by the CBI so far.

XII.That thereafter, the office of Senior Superintendent of Police, Shaheed Bhagat Singh as per the letter of Director General Police, Intelligance, Punjab, Chandigarh gave representation/letter bearing No. 6560 dated 02/02/2018 to the office of Director Bureau of Investigation, Punjab, Chandigarh for obtaining information of International Phone number +447024008419.

XIII.That thereafter the Director Bureau of Investigation, *Punjab, Chandigarh gave representation/ letter bearing No. 2652/CR-E(V) dated Chandigarh dated 13/02/2018, to the office of The Assistance Director, Central Bureau of Investigation, National Central Bureau-India, Interpol,5-B, CGO Complex, Lodhi Road, New Delhi, for obtaining information of International Phone number +447024008419 but till date no such further information has been received on it.*

XIV.*That thereafter the office of The Assistance Director, Central Bureau of Investigation, National Central Bureau-India, Interpol, 5-B, CGO Complex, Lodhi Road, New Delhi gave representation/ letter to the office of NCB, Manchester for obtaining information of International Phone number +447024008419. Despite the issuance of reminder, the response is awaited.*

XV.That thereafter, a reminder no. E-UK/3/2018/364 dated 12-04-2018 was written to NCB Manchester (England) for obtaining information of International Phone no. +447024008419 by Assistance Director CBI New Delhi, however, the response in this regard is awaited.

XVI.*That during investigation, the investigation police party visited the main branches of Punjab National Bank, HDFC Bank LTC. And ICICI Bank at Ropar and came to know that complainant Rashpal Singh made 44 transactions in the above said three bank accounts. Copies of the receipts of transactions have already been taken into the police possession. No account was opened by the accused in the above said banks at Ropar.*

XVII.*That during investigation, the SIT verified the role of bank employees in the opening of accounts of the accused in South Delhi, Lajpat Nagar, Chintranjan Park, Darya Ganj, Panchsheel Park and Nehru Place branches of Axis Bank, HDFC Bank and ICICI, however, the accused were found to have opened their account by giving their address of rented premises besides giving the Pan Card along with Mobile Bill* *of Reliance Mobile for identification. The bank employees after verifying the said documents found the accused to be residing on their stated address and after matching their Pan Card with the system, the bank employees opened the bank accounts of the accused persons. Thereafter, finding suspicious transactions in the said accounts, the FIU Unit of Bank again verified the credentials of the accused persons and finding the accused persons to be not residing at their rented premises, seized the said bank accounts in the year 2011. From the investigation conducted, the bank employees were not found to be involved in the commission of the offences of the present case/FIR either directly or indirectly.*

XVIII.That a letter No. 116/CR-E(4) dated 20/04/2018 wrote to Director, National Crime Records Bureau [NCRB], New Delhi regarding furnishing the detail of FIR's, if any, registered against the accused of the present case/FIR, however, no other case has been found to be registered against the accused of the present case/FIR.

XIX.That a letter No. 23174 dated 20/04/2018 written to the Directorate General of Income Tax[Systens], ARA Centre, Ground Floor, Jhande walan Extension, New Delhi for verifying that the nominated accused have ever filed any Income Tax Return on the basis of their Pan Cards and the report is still awaited.

XX.*That the IP address of email ID reservebankonline@mail.com is in the foreign country on Domain of mail.com. Thus, letter no. 22671 dated 18-04-18 was written to the Deputy Inspector General of Police, Investigation and Cyber Crime, SAS Nagar to provide details, however, the report is awaited.*

XXI.That the Bank account records of all the accused were obtained again and examined from which it transpired that the accounts of the accused were frozen by bank in the year 2011, however, at the time of freezing, the balance of Rs.7,96,183 /- in Jonthan Vashi A/C No.910010046647428 *with Axis Bank, I-Ring Road, Lajpat Nagar, New Delhi and Rs. 56,875/- in Hauaineilung Gangmi A/C No. 91001008491385 with Axis Bank, Dimapur, Nagaland, Rs. 29005.95 in Ishpreet Singh A/C No. 08721530006798 with HDFC Bank Jagadhri and Rs. 33,713/- in Sumit Verma A/C No. 911010024300676 with Axis Bank, Nehru Place, New Delhi were found lying.*

XXII.That on 17.05.2018, three teams were again sent to Delhi for verifying the cases registered against the accused Jonarthan Bashi, Zissavaru, Maish Sharma, Samit Verma, Gourav Gupta from SCRB New Delhi and to verify the location of mobile phone number 78389-21703 of Zissavaru. In pursuance thereof, the location of the phone no. was stated to be Khirkidulla, District Gurgaon and accordingly, raid was conducted but the said phone no. was found to be in use by Ravi Roshan @ Raj Kumar, who stated to have bought the said mobile number on dated 03.09.2017. Ravi Roshan @ Raj Kumar was not found to be in knowledge about Zissavaru nor was he involved in any criminal case. As per the report received from SCRB, no case has been registered against accused Jonarthan Bashi, Zissavary, Maish Sharma, Samit Verma, Gourav Gupta.

XXIII.*That during investigation, it transpired that Zissavaru was working as a doctor and in order to identify her, the records of Civiak Centre, Minto Road New Delhi, NDMC Palka Kendra, Sansad Marag New Delhi, Ram Manohar Lohya Hospital, Lady Harding Hospital, Chark Palika Hospital, Moti Bag, South Avenue Dispensary and North Avenue Dispensary were checked, however, she was not found to be working in any of the said hospitals.*

XXIV.That a number of time, reminders through proper channels have been issued to the NCB, Manchester [England] for supplying the information of International phone number +447024008419, however, no information has been provided till date. The international agencies are *not collaborating and not helping the Special Investigation Team to expose this scandal, thus, the matter is lingering on.*

XXV.That notice under section 91 CR.P.C has been issued to the Social sit "Facebook Ireland Ltd.," 4 Grand Canal Square, Grand Canal Harbour, Dublin-2, Ireland to furnish the IP Login Details of facebook id of http://www.facebook . com/Zissavaru [Including IP Address from 01-04-18 dates and timing and registered phone numbers since created] but Facebook denied the same and is not providing any details to the Special Investigation Team.

XXVI.*Thereafter, notice under section 91 CR.PC. had been issued to the Facebook Inc. 1601, Willow Road, Menlo Park, CA 94025,United States to furnish the IP Login Details of facebook id of http://www.facebook.com/100001396482043 of Linda Simray [Including IP Address from 01-04-18 dates and timing and registered phone numbers since created], however, the said request was declined by the facebook Inc., USA. The fresh notices were again sent to Facebook Authority, USA.*

XXVII.*That upon the thorough investigation of the Compact Disk of friend circle of Zissavaru provided by the Intelligence Wing, it has come to notice that Zissavaru is working in the ship of Carnival Cruise Line, Kurla West Mumbai. Thereafter, a letter number 897-R-DSP/NSR dated 05.07.2018 was written to Mr. Prashant Herla, Manager, Cernival Support Service India Pvt. Ltd., West Mumbai for providing the details of such employee along with all her documents and to help in arresting her as soon as possible. On this the Manager, Carnival Support Service India Pvt. Ltd., supplied all the information about Zissavaru and informed that she has to come to India from abroad at Indira Gandhi International Airport on 05.08.2017 in the evening.*

XXVIII.That finding the information to be reliable, the Arrest warrant of Zissavaru were obtained by the SIT from the Ld.

Illaqa Magistrate Balachour and raid was conducted at Delhi on the residing place of Zissavaru but she did not meet there. Thereafter, secret information has been received that one Layia Chen Horam D/o Prem Horam resident of Tungiri Tang, District Akhrool, Manipur 795142 who is known to Zissavaru is residing on a rented house at E-12/43, Chose Rani, Malvia Nagar, Back Side Bus Stand, New Delhi, then the Team raided there where Layia Chen Horam was found present, who stated that she is residing there since 2011 and doing a job at call center. She further stated that Zissavaru had not visited her but after seeing the photographs identified the accused Lindsey Shimarh as her friend Chan Shaiza.

XXIX.That thereafter secret information has been received that Zissavaru was present in Moti Bagh Gurudwara Market, New Delhi, on this the Investigation raided there and after showing the arrest warrant arrested her [Zissavaru] and presented her before the Illaqa Magistrate and the learned Illaqa Magistrate granted her police remand. During police remand she confessed that the accused Athoi and his brother Thing and Jonathan Vashi were residing in her adjoining room on rent besides stating that their real name of Jonathan Vashi to be M Aso Sepulgay [Mobile No.7640991427] and Lindsey Shimrah to be Chan Shaza. It had been further stated that the said persons had told her that they working in a call center.

She, however, denied having any knowledge of their present whereabouts.

XXX. That the efforts were made to trace the accused Jonathan Vashi alias M Aso Sepulgay by way of tracking the Moblie No 7640991427 through its tower location, however, he could not be traced out."

On reading the extract of the affidavit, which has been reproduced above, it is apparent that the investigating agency had been making its effort to conclude the investigation. This Court is of the considered view that since there has been sufficient supervision by this Court over the investigation for the last five years, hence, the present petition is disposed of, relegating the petitioners to the alternative remedy.

Disposed of, accordingly.

24.09.2019 **(ANIL KSHETARPAL)**
mks **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No