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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 31st August, 2022**Pronounced on: 12th September, 2022**

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**CRL.M.C. 3010/2021, CRL.M.A.Nos.18862/2021, 264/2022,
1717/2022, 10524-25/2022****MGF DEVELOPMENTS LTD****..... Petitioner**

Through: Mr.Siddharth Luthra and Mr.Vikas
Pahwa, Sr. Advocates with
Mr.Tanvir Ahmed Mir,
Mr.Yudhister Singh, Mr.Prabhav
Ralli, Mr.Saud Khan,
Mr.Kaustubh Seth and Mr.Ayush
Kaushik, Advocates.

versus

STATE OF NCT OF DELHI & ORS.**..... Respondents**

Through: Mr.Sunil Kumar Gautam,
Mr.Harpreet Singh Popli, and
Mr.Amit Sahni, APPs for the State
with Insp.Dharmendra Pratap
Singh, PS EOW, New Delhi.
Mr.Maninder Singh and Mr.Dayan
Krishnan, Senior Advocates with
Mr.Arshdeep Singh Khurana,
Mr.Sanjeevi Seshadri,
Mr.Shreedhar Kale, Mr.Ashish
Joshi, Ms.Kamakshi Chowdhry,
Mr.Harsh Mittal, Mr.Harsh
Srivastava, Mr.Rishabh Tiwari,
Mr.Prabhas Bajaj and Mr.Raghav
Tiwari, Advocates for R-2 & 3.

CORAM:**HON'BLE MR. JUSTICE YOGESH KHANNA****YOGESH KHANNA, J.**

1. This petition is filed with the following prayers:



a) Call for the records of the case titled - "MGF Developments Ltd. vs State & Ors. ", bearing Crl. Rev. 171/2021 from the court of Sh. Dharmender Rana, Ld. ASJ, New Delhi, Patiala House Courts, New Delhi

b) Quash and set aside the impugned order dated 23 .11.2021, passed by the court of Sh. Dharmender Rana, Ld. ASJ in Crl. Rev. 171/2021;

c) Call for the records of case titled "EMAAR India Limited vs. Shravan Gupta and Ors." bearing CC No. 280/2021, from the court of Dr. Pankaj Sharma, Ld. CMM, Patiala House District Courts, New Delhi;

d) Quash and set aside the order dated 16.04.2021 passed by the court of Dr. Pankaj Sharma, Ld. CMM, Patiala House District Courts, New Delhi, in case titled "EMAAR India Limited vs. Shravan Gupta and Ors" bearing CC No. 280/2021, and all the consequential proceedings emanating therefrom including the FIR so registered, if any;

2. The main grievance of the learned senior counsel for the petitioner is on 01.02.2021 a complaint under Section 200 Cr.P.C. was received by the learned MM upon which he called for an action taken report (ATR) from PS EOW, Mandir Marg. The said report was filed by the Investigating Officer before the learned MM alleging **a)** no evidence surfaced to establish culpability; **b)** the matter being pending before the NCLT; **c)** these are intra company post de-merger disputes and **d)** the allegations are within the domain of Companies Act.

3. It is alleged none of these facts **(a)** to **(d)** find mention either in the order dated 16.04.2021 passed in CC No.280/2021 and/or in the impugned judgment dated 23.11.2021 passed by learned Additional Session's Judge in CRL.REV.P.25/2021.

4. It is the grievance of the learned senior counsel for the petitioner the learned MM ought not to have proceeded without considering ATR. The revisional Court was also under an obligation to look into the ATR



since the complaint was *decade* old. The learned senior counsel for the petitioner submitted the law laid down was ignored by the learned MM.

5. Reliance was placed on *Krishna Lal Chawla & Ors. vs. State of Uttar Pradesh and Anr.* (2021) 5 SCC 435, where on delay of five years in lodging the complaint, the Court held as under:

*“15. The sum of the above circumstances and precedents leads us to what we see as an inevitable conclusion. That Respondent No. 2’s institution of the fresh complaint case in 2018 under Section 200 CrPC was a concerted effort to mislead the Magistrate with the oblique motive of harassing the Appellants with a frivolous and vexatious case against them. That the same was a counter-blast to the charge sheet dated 17.09.2017 filed against Respondent No. 2 and his wife in the case registered by the Appellant. The history of ill-will and malice between the parties leads further credence to Respondent No.2’s motivations for tying up the Appellants in frivolous and harrowing criminal litigation, long years after the alleged incident. Respondent No.2’s conduct in filing a **delayed complaint case, suppressing material facts, and utilising fresh proceedings to materially improve on his earlier version, in totality, amounts to gross abuse of the process of court.***

*19. xxxxxxx Thus, it is clear that, on receipt of a private complaint, the Magistrate must first, **scrutinise** it to examine if the allegations made in the private complaint, inter alia, smack of an instance of frivolous litigation; and second, **examine and elicit the material** that supports the case of the complainant.*

6. In *Lalita Kumari vs. Government of Uttar Pradesh and Others* (2014) 2 SCC 1, the Court held as under:

“120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a) to d) xxx

*e) Cases where there is **abnormal delay/laches** in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.*

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.”

7. In *Kishan Singh (Dead) vs. Gurpal Singh and Ors.* 2010 (8) SCC 775, the Court held as under:



*“21. Prompt and early reporting of the occurrence by the informant with all its vivid details gives an assurance regarding truth of its version. In case, there is some **delay** in filing the FIR, **the complainant must give explanation for the same**. Undoubtedly, delay in lodging the FIR does not make the complainant's case improbable when such delay is properly explained. **However, deliberate delay in lodging the complaint is always fatal**. vide: *Sahib Singh v. State of Haryana* AIR 1997 SC 3247.*

8. Reliance was also placed on *Dr.Rajni Palri Wala vs. Dr.Mohan* ILR 2009 IV 760, where the Court pressed for applying mind to reports filed. It held:

*“11. The first issue to be considered is whether the report dated 21 st July 2004 submitted by the police to the learned MM. The admitted position is that a report was indeed called for from the police by the learned MM. Such a direction could have been issued only in terms of Section 156(3) CrPC. It is not possible to accept the submission of the learned counsel for the respondent that the learned MM could have called for a "status report" which is even prior to calling for a report of investigation pursuant to the registration of an FIR. Although the Supreme Court has in *P.Sirajuddin v. State of Madras* AIR 1970 SC 520 held that it is permissible for the police to conduct a preliminary enquiry even before the registration of an FIR, those observations were not in the context of the order passed by the a Magistrate while exercising powers under Section 156 (3) CrPC. That section makes it clear that the only option available thereunder to the Magistrate is to order "an investigation." **There is nothing in Section 156 (3) CrPC to suggest that a Magistrate can ask for a „status report“ from the police which is not meant to be a report of investigation in terms of Section 173 (1) CrPC. Even if the Magistrate does not expressly pass an order to that effect, when pursuant to an application under Section 156 (3) CrPC he asks for a report from the police, the police has to register an FIR and submit a report of investigation. Even if no FIR is formally registered but a detailed investigation is carried out and a report submitted, the learned Magistrate is bound to apply his mind to such report and discuss its contents before proceeding to the next stage.***

*15. The fact that the investigation report dated 21st July 2004 of the EOW of the Police was not pursuant to the registration of an FIR consequent upon the order of the learned MM in the application of the Respondent No.1 under Section 156 (3) CrPC will not make a difference to the nature of the report. The fact is that this was the report submitted by the police pursuant to the order of the learned MM. Again conducting a detailed enquiry would be a futile exercise since the previous one preceding the said report was a detailed one. **This Court holds that in the facts of the present case, the report dated 21st July 2004 submitted by the EOW of***



the Police to the learned MM should be treated as a cancellation report filed by the police in terms of Section 173 (1) CrPC pursuant to the investigation carried by it on the direction issued by the learned MM in the application under Section 156(3) CrPC.

20. *In the instant case, the learned MM was bound in law to apply his mind to report filed by the police, and to opt for any one of the three courses of action available to him in terms of the judgment of the Supreme Court in H.S. Bains and Hemant Dhasmana. However, the learned MM did not do so. He permitted the complainant to withdraw the application under Section 156 (3) CrPC and straightway proceeded to list the case for the complainant's evidence. This course was erroneous. The learned MM was bound to discuss the police report and come to a definite conclusion that it was or was not acceptable and follow the course explained in the above decisions."*

9. Thus, it is argued the learned MM as well as the learned Session's Judge ought to have examined as to *if the delay was explained* and secondly to consider the ATR filed. However, neither the aspect of delay nor the ATR which was in the form of *cancellation report* was ever considered by both the Courts below.

10. In *Harpal Singh Arora vs. State* 2008 (103) DRJ 282, the Court held:

16. Considering the fact that the learned MM called for the report of the CAW Cell, which is fairly detailed, the proper course of action before ordering an investigation under Section 156 (3) would have been to examine that report before deciding to issue a direction for investigation. When the police in the CAW Cell has come to conclusion that no cognizable offence is made out, the Magistrate cannot brush aside that conclusion lightly. Although that the said conclusion of the CAW Cell is not binding on the Magistrate at that stage, since his order is a judicial one he must give reasons, however brief, why he is inclined to order investigation notwithstanding the said report. Question (b) is answered accordingly.

17. Therefore, the course of action is available to the Magistrate in a case like the instant one is to either to accept the conclusion arrived at by the CAW Cell and decline the prayer for ordering investigation under Section 156 (3) CrPC or give reasons and order an investigation under Section 156 (3) CrPC. If after registering the FIR and carrying out investigations the police again file a cancellation or closure report, then the Magistrate can adopt one of the three courses as indicated in H.S.Bains.



11. Further in *Paradise Credit P. Ltd and Ors. vs. State of NCT of Delhi* in CRL.M.C.2936/2012 decided on 20.12.2013 it was held:

*“8. Perusal of the complaint in question, impugned order, trial court’s order and the status report (Annexure P-8), I find that once trial court’s had called for the status report and the concerned officer of the Economic Offences Wing (EOW), Crime Branch had sought time to verify the facts, then dismissal of petitioners/complainants application under Section 156(3) of Cr.P.C was unwarranted. **Trial court ought to have waited for a complete status report from Crime Branch and then should have taken a decision as to whether upon considering the complaint in question and detailed status report, a cognizable offence is made out or not.***

12. Admittedly the ATR filed by the State notes :

*“During the course of the enquiry notices to alleged Company sent and they replied that 'Parties to this complaint are already in dispute before the principal Bench, NCLT Delhi and Arbitration Proceedings at London, United Kingdom. the present complaint is copy of the allegations made in the petition for Oppression and Mismanagement filed before the NCLT by Emaar MGF Land Limited. The present complaints has been submitted as annexed in the Arbitration proceedings. As per reply these allegations are subject matter of dispute between the companies pending before NCLT During the course of enquiry, the financial statements provided by the complainants have been verified and notices has been sent to concerned banks. After pursuing the Complaint and its annexed documents annexed with the reply **no evidence surfaced to establish the culpability element under penal section in this complaint.** Moreover, the allegations are already mentioned in the application filed by the complainant company before the NCLT. In the instant compliant grievance of the complainant seems to be **intra company post demerger disputes.** The allegations levied are in the domain of the Companies Act. In view of the above facts, it was concluded that the compliant pertains to inter se disputes of two demerged companies. **No cognizable offence was made out from the contents of the complaint and enquiry.** Therefore, the complaint was filed, and the Complainant was informed accordingly.”*

13. The arguments of delay and non-consideration of the ATR were taken before the learned Additional Session’s Judge but it is alleged were never referred to in impugned orders. Rather the learned Additional Session’s Judge disposed of both these issues in one stroke in para 11 of its judgments as under:



“11. xxxxx The delay in reporting the matter or pendency of arbitration proceedings/NCLT proceedings would not absolve the accused persons of their liability in criminal law. Even the Internal Audit Report would not come to the rescue of the accused persons / revisionist as the said audit report is not a sacrosanct document beyond the pale of scrutiny by authorities.”

14. Further it is alleged the directions in para 14 were given without any relevance.

15. Heard.

16. The scope of enquiry under Section 156(3) Cr.P.C. is only to find out as to if any *cognizable offence* is made out or not. If one peruse the impugned orders; the facts of the case and the substance of the ATR appear to have been duly considered; more elaborately by the revisional court in Criminal Revision No.171/2021 decided on 23.11.2021.

Following paragraphs of its decision are relevant:

“8. I have heard the rival submissions and carefully gone through the material available on record.

9. The crux of the respondent no. 2's grievance is that the accused persons induced the complainant company to enter into joint development agreements with entities namely M/s Nanny Infrastructure Pvt. Ltd. and M/s Saum Infra Pvt. Ltd. without disclosing their relationship with these entities and thereafter siphoned off around Rs. 180 Crores (Rs. 37,34,00,000/- were paid to M/s Nanny Infrastructure Pvt. Ltd. and Rs. 142,68,00,000/- were paid to M/s Saum Infra Pvt. Ltd.). As per respondent no.2, the above-mentioned two entities i.e. Nanny and Saum are infact shell companies incorporated by Mr. Shravan Gupta and his associates with the sole and exclusive objective of siphoning of funds.

During the course of arguments, Ld. Counsel for revisionist has fairly conceded that the factum of the revisionist's /accused persons relationship with the above said two entities i.e. M/s Nanny Infrastructure Pvt. Ltd. and M/s Saum Infra Pvt. Ltd. was never disclosed to the complainant company. However, he has attempted to argue that since the nominees of the complainant company were in regular correspondence with the accused persons therefore the complainant company should be presumed to know about the interest of the accused persons in the said entities. The said contention is seriously disputed by the respondent no.2. I am of the considered opinion that disputed question of facts are beyond the purview



of revisional jurisdiction of this court and infact subject matter of investigation.

Further, Ld. Counsel for the revisionist has also fairly accepted the above-said payments to the said two entities. Upon specific enquiry by this court regarding the purpose of the said payments. Ld. Counsel for the revisionist has not only failed to point out the quid pro quo for the said payments to M/s Nanny Infrastructure Pvt. Ltd. but has even fairly conceded that neither any goods were supplied nor any services were rendered by M/s Nanny Infrastructure Pvt. Ltd. to the complainant company.

However, he has attempted to justify the payments by contending that under an agreement between M/s Emaar MG Land Limited and also one Mr. Sanjay Passi, Mr. Passi undertook to provide unencumbered continuous stretch of land in a straight row and also to provide assistance in procuring license for group housing project namely Palm Hills. It is contended that since Mr. Passi failed to discharge his obligations under the said agreement therefore, the revisionist intervened and used its good office to secure the aforesaid land admeasuring about .30 acres from the farmers. It is submitted that by the act of revisionist, the complainant has not sustained any losses rather to the contrary they gained, as commercial value of the project was enhanced immensely. It is submitted that the payments made to M/s Nanny Infrastructure Pvt. Ltd. was out of the share of Mr. Passi and the complainant company has not sustained any losses but has rather gained in the entire transaction. However, he has failed to justify the payments to M/s Nanny Infrastructure Pvt. Ltd. sans any supply of goods or services by M/s Nanny Infrastructure Pvt. Ltd.

With respect to alleged payments to Ms. Saum Infra Pvt. Ltd., Ld. Counsel for revisionist has attempted to place reliance upon certain invoices, the sanctity of which is seriously disputed by the respondent no.2, to justify the payments.

10. The relationship between a director and company is uberrima fides i.e. a relationship of utmost good faith and trust. As per Section 166 of the Company Act, 2013 a director is duty bound to act in good faith in order to promote the objects of the company for the benefit of its members, as a whole, and in the best interest of company. He is also duty bound not to involve himself in a situation whereby he is in conflict with the interest of the company. Making any undue gain or advantage either to himself or relatives/partners/associates is statutorily barred and is intact a penal offence under Section 166 of the Company Act.

11. In the case at hand, Mr. Shravan Gupta, despite being a director, breached the obligations with impunity and made unlawful gains. The accused persons have not only concealed material information from the complainant but have also siphoned off a huge sum of money without any valid justification. Whether the complainant knew about such siphoning off funds or was unaware is inconsequential, for the payments were definitely made to the detriment of the shareholders and State Exchequer.



The money which should have legally gone into the kitty of the complainant company, including attracting tax obligations, was allegedly siphoned off to shell companies. The stealth act of accused persons to their sole benefit, to the exclusion of other rightful claimants, cannot be contended to be pure and simple financial decision.

*I cannot but **disagree** with the Ld. Counsel for the revisionist **that no cognizable offence is made out** in the instant matter as evidently, the complaint discloses the commission of offence of Breach of trust/ cheating. I concur with the Ld. Trial Court that considering the intricate maze of voluminous account books and a web of shell companies and clandestine route of payments, a detailed and thorough probe in the instant matter seems desirable. The delay in reporting the matter or pendency of arbitration proceedings **NCLT proceedings** would not absolve the accused persons of their liability in criminal law. Even the Internal Audit Report would not come to the rescue of the accused persons revisionist as the said audit report is not a sacrosanct document beyond the pale of scrutiny by authorities."*

17. Now the ATR primarily raised these issues **a)** no cognizable offence made out; **b)** pendency before the NCLT and **c)** civil dispute. The Revisional Court had gone into detail the facts as also the issues alleged in ATR and had passed a reasoned order. Even if, in specific term, the word ATR is not mentioned in the learned MM's order but, admittedly, on 26.02.2021 the learned MM himself noted the ATR is filed and the matter is put up for arguments on application under Section 156(3) Cr.P.C. Later the impugned order passed by the learned MM show the record is *perused* so there exist a presumption he had perused the ATR before passing the order. The order shows the learned MM had gone into the complaint before passing the impugned order. If one examine the ATR, its paras 1 to 4 are merely repetition of the complaint and whereas paras 5 and 6 pertain to some inquiry made by the Investigating Officer. Such inquiry, of course, is not in terms of Section 173(2) Cr.P.C. and it rather appears to be an Investigating Officer's own view. *The ATR certainly is not in the nature of a closure report.* The ATR does not



reveal if complainant were ever asked to join the enquiry. Even the documents, the Investigating Officer had perused before taking such a view, does not find mention in the ATR.

18. Much is said about *delay* but *per* respondent the alleged payments were made between 2010-2016 to the two companies, *admittedly*, without any *quid pro*; the amount being not in dispute; in the year 2018 the claim of demerger was approved; it was only in 2019 the forensic audit was commenced through Globe Detective Agency and siphoning off funds *came to notice* of the complainant; thereafter on 20.10.2019 a legal notice was issued by complainant to which a cryptic reply was given by petitioner and then on 12.03.2020 the respondent had approached EOW. The facts do show the *delay is explained* and even otherwise the contention of delay is only to be seen during trial.

19. In *Edmund S.Lyngdoh vs. State of Meghalaya* (2016) 15 SCC 572, the Court held:

“30. Mere delay in lodging the FIR is not necessarily fatal to the prosecution case. As rightly contended by the learned counsel for the respondent-CBI, supply of DPC was continuously made from 1982 to mid 1985 and it was a continuing offence. In matters of continuing offence no duration of time can be fixed for lodging the complaint. First accused in collusion with other accused persons induced the Purchase Committee for purchase of DPC at an exorbitant rate of Rs.42.75 per kg and only when the conspiracy came to the fore, the Vice-Chancellor lodged the complaint. In cases of abuse of powers and obtaining pecuniary advantage and causing wrongful loss, time of lodging complaint and registration of FIR cannot be considered on the touchstone of prompt lodging of complaint like other cases of murder, dacoity and assault etc., where there are possibilities of exaggeration and embellishments being crept in. In cases of abuse of position by the persons holding official position, and causing wrongful loss, prosecution case is based on documentary evidence and oral evidence of other official witnesses and hardly any possibility of concoction and introduction of coloured version. We find no merit in the contention that the delay in lodging FIR raises doubts about the genuineness of the prosecution case.”



20. Even otherwise, the law as it stands today is where on reading of a complaint if a Magistrate comes to a conclusion a cognizable offence is made out, then it is *his duty* to register the FIR. There exists a complaint which prima facie disclose commission of a cognizable offence. Moreso, the Revisional Court during the proceedings had put queries to the petitioner wherein the learned counsel for petitioner has rather *admitted* **a)** M/s.Nanny Infrastructure and M/s.Saum Infra Pvt. Ltd. were related parties but *never disclosed* to the complaint; **b)** the payments were made to these two companies to the tune of Rs.180 crores *without* any services or goods provided by these two companies. These were, even otherwise, sufficient for registration of FIR.

21. In *XYZ vs. State of Madhya Pradesh and Ors.* in Criminal Appeal No.1184/2022 decided on 05.08.2022, it was held:

*“24. Therefore, in such cases, where not only does the Magistrate **find the commission of a cognizable offence** alleged on a prima facie reading of the complaint but also such facts are brought to the **Magistrate’s notice** which clearly indicate the need for police investigation, the discretion granted in Section 156(3) **can only be read** as it being the Magistrate’s **duty to order the police to investigate**. In cases such as the present, wherein, there is alleged to be documentary or other evidence in the physical possession of the accused or other individuals which the police would be best placed to investigate and retrieve using its powers under the CrPC, the matter ought to be sent to the police for investigation.*

*27. At this stage, the Court is **not called upon to decide** upon the veracity of the allegations in the complaint, save and except to underscore the importance of an investigation by the police in a matter where the CCTV footage (or other evidence) is not under the possession or control of the appellant, but to be inquired into in the course of an investigation by the police. The discretion which has been conferred upon the Magistrate by Section 156(3) CrPC, must be exercised in a judicious manner.”*

22. Moreso per law, where a superior Court is seized of the matter and it modifies or reverses or affirms an order of subordinate Court, such an order of the learned subordinate Court merges in the order of learned



Senior Court *per* doctrine of merger. The learned Revisional Judge has dealt with all issues raised in the ATR viz. delay; the civil nature of claim; cognizable offences etc. The answers to queries raised by the learned Revisional Court during the hearing of the revision cannot be ignored.

23. In *Kunhayammed and Others vs. State of Kerala and Another* (2006) 6 SCC 359, the Court held:

“44. To sum up our conclusions are :-

(i) Where an appeal or revision is provided against an order passed by a court, tribunal or any other authority before superior forum and such superior forum modifies, reverses or affirms the decision put in issue before it, **the decision by the subordinate forum merges in the decision by the superior forum and it is the later** which subsists, remains operative and is capable of enforcement in the eye of law.

ii) xxxxx

24. Lastly, the facts of this case does not fall within the category of *rarest of rare cases* where the discretion exercised by the learned MM or the learned Session's Judge need be set aside. In *Siddharth Mukesh Bhandari vs. The State of Gujarat and Anr.* in Crl.Appeal 1044/2022 it was held as under:

“6. xxx What is emphasized by this Court in the case of *M/s. Neeharika Infrastructure Pvt. Ltd. (supra)* is that grant of any stay of investigation and/or any interim relief while exercising powers under Section 482 Cr.P.C. would be only in the rarest of rare cases. This Court has also emphasized the right of the Investigating Officer to investigate the criminal proceedings. In our earlier judgment and order, in fact, we abstracted the principles laid down by this Court in the case of *M/s. Neeharika Infrastructure Pvt. Ltd. (supra)* in paragraph 4.”

25. The judgments relied upon by the petitioner would not help them much on facts of this case. In *Dr.Rajani Palri Wala (supra)* the report filed by EoW was a *detailed report* after examining the documents and witnesses and it was held by the learned Single Judge that it was a *cancellation report* under Section 173(1) (*supra*) and *not a preliminary*



status report, hence the observations were made only on the context of the facts of that case. However, in the present case the ATR cannot be starched by any means to say it is a cancellation report. In *Harpal Singh Arora* (supra) a detailed enquiry was conducted over a period of eight months with review by several level of functionaries and whereas in the present case *no detailed enquiry* appear to have been conducted and it is only a preliminary or a summary enquiry. Rather in *XYZ* (supra) and *Lalita Kumari* (supra) the intent is to ensure if a cognizable offence is made out the investigation is to be carried out in the terms of decision in *Lalita Kumari* (supra). The non-consideration of an ATR in any case cannot be considered as fatal, especially, where the learned Trial Court and the learned Revisional Court by a reasoned order had reached a conclusion a cognizable offence is made out and it require police investigation. Even *Periyar and Pareekanni Rubbers Ltd.* (supra) and *Himalayan Coop. Group Housing Society* (supra) are not relevant since in the present case the submissions made by the lawyers were admissions of fact and not merely concession(s). Admittedly there is no challenge in this Writ Petition *qua* such admissions made and now the petitioner cannot be allowed to retract.

26. In the circumstances, the petition has no merits and is dismissed. Pending application(s), also stands disposed of. However the directions contained in para 14 are quashed as it is very early to pre-suppose the guilt. The EOW is yet to investigate the matter in detail and if it felt necessary, the State has every right to initiate such other proceedings as well.

YOGESH KHANNA, J.

SEPTEMBER 12, 2022/ᵀᵀ

CRL.MC.No.3010/2021

Page 13 of 13