IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2937 OF 2023

Mohammed Farooque Hanif Shaikh ...Petitioner
Versus
1. Union of India
2. The State of Maharashtra ...Respondents

WITH
CRIMINAL WRIT PETITION NO.495 OF 2023

Mohammed Farooque Hanif Shaikh ...Petitioner
Versus
1. Union of India
2. The State of Maharashtra ...Respondents

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Mr. Rajiv Chavan, Senior Advocate a/w Mr. Pravin Bhoi a/w Ms. Shweta Rathod i/by Elixir Legal Services for the Petitioner.

Mr. D.P. Singh, Spl. P.P. a/w Mr. Kuldeep Patil for Respondent No.1 - CBI.

Ms. K. T. Hivrale, A.P.P. for the Respondent – State.

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CORAM	**:**	**PRAKASH D. NAIK, &** **N. R. BORKAR, JJ.**
DATE	**:**	**26th MARCH, 2024**

P.C.:

1. The Petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India. In Criminal Writ Petition No.2937 of 2023, the Petitioner is challenging the First Information Report (for short "FIR") bearing No.RC0682022E0011

registered with EOB, Mumbai for offence punishable under Sections 120-B r/w Sections 420, 468, 471 of Indian Penal Code (for short "IPC") and Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption of Act, 1988 (for short "PC Act"). Whereas Criminal Writ Petition No.495 of 2023 is preferred by the Petitioner with prayers that the investigation under FIR No. RC0682022E0011 be clubbed with investigation under FIR No.RC0682017E0004 dated 13th May 2017.

2. The FIR dated 13.05.2017 was registered for offences under Sections 120-B r/w Section 420 of IPC and Section 13(2) r/w Section 13(1)(d) of the PC Act. The charge-sheet was filed against other accused for offences under Sections 420, 465, 468 & 471 of IPC and Sections 13(2), 13(1)(d) of the PC Act.

3. The FIR dated 27.12.2022 bearing No.RC0682022E0011 was registered for offence under Section 120-B, r/w Sections 420, 468 & 471 of IPC and Section 13(2) r/w Section 13(1)(d) of the PC Act.

4. Learned Senior Advocate Mr. Rajiv Chavan appearing for the Petitioner submitted as under:

i) In FIR dated 13.05.2017 investigation is completed and charge-sheet is filed. The second FIR bearing No.RC0682022E0011 was registered on 27.12.2022 for suspected offence during the year 2014 to 2016. It was not necessary to register the second FIR in respect to same transactions. The registration of second FIR is malafide.

ii) In the FIR dated 13.05.2017, the transactions entered and executed by the Firms viz. M/s. Lemon Trading and M/s. Kundan Trading were already under investigation which is evident from the report filed under Section 173 of the Criminal Procedure Code against the accused in the FIR dated 13.05.2017.

iii) The Respondent No.1 has filed two separate FIRs for the same offence which is not acceptable by law.

iv) Two separate FIRs cannot be registered against the accused for the same cognizable offence or same occurrence giving rise to one or more cognizable offences committed or any further information disclosed by the investigating authority in future during the same offence committed at the relevant time and the same is not valid.

v) If multiple FIRs' are registered against the same accused in respect to the same transactions, it will result in accused getting entangled in multiple criminal proceedings for the same offence. The registration of such multiple FIRs' is abuse of process of law.

vi) The Respondent No.1 could not have filed separate FIR on 27.12.2022 for the offence for a period during 2014 to 2016 as there can be no second FIR and no fresh investigation in respect of every subsequent information of the same cognizable offence or same occurrence giving rise to one or more cognizable offences. The action of Respondent No.1 is violative of Article 20(2) of the Constitution of India.

vii) The power of investigation does not warrant subjecting a citizen each time to fresh investigation by the Police in respect of the same incident giving rise to one or more cognizable offences.

viii) After registering second or successive FIRs in respect of same incident, crime and making fresh investigation pursuant thereto would be irregular which call for interference by this Court.

ix) The Respondent has already filed charge-sheet in the FIR dated 13.05.2017 and filed a second FIR on 27.12.2022 in respect to the same crime.

x) In FIR dated 13.05.2017 it was alleged that the during the period from 2014-2016, 13 entities were floated in the name of poor people by obtaining their KYC for a meager amount and

IEC (Import Export Code) and other registrations required for import and export were obtained. It was alleged that the Current Accounts were opened in the name of entities and huge cash were collected from various entities. The said entities arranged low value imports and the serial number of the Bill of Entry was used to prepare escalated and forged Bill of Entry with same serial number.

xi) The FIR dated 27.12.2022 for the alleged offence committed in 2014 to 2016 was registered alleging that the Petitioner and the other accused had entered in conspiracy and insisted certain persons to share their KYCs and opened an account obtained in IE Code for entities of the Petitioner with them as proprietors with Bank of Maharashtra, Nariman Point, Mumbai. It has been alleged that accused mobilized heavy amount in cash and layered the same through Angadiyas, Cheque Discount brokers and got the amount transferred to the two firms Bank Accounts. It is also alleged that the entities arranged low value imports and the serial number of the Bill of Entry was used to prepare escalated and forged Bill of Entry with same serial number purportedly issued by JNPT and Mumbai Port and used for foreign remittance to Hongkong. Thus, it was not necessary to register the second FIR. Hence, the second FIR is required to be quashed and set aside.

5. Mr. Chavan has relied upon the following decisions:

i) **T.T. Antoy Vs. State of Kerala and Ors[1].**

ii) **Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and Anr[2].**

iii) **Amish Devgan Vs. Union of India & Ors[3].**

iv) **Mohammed Zubair Vs. State of NCT of Delhi and Ors[4].**

v) **Satinder Singh Bhasin Vs. State of Uttar Pradesh and Anr., in Criminal Writ Petition No.197 of 2021 vide order dated 12.05.2022.**

vi) **Radhe Shyam Vs. State of Haryana and Ors[5].**

vii) **Ram Lal Narang Vs. State (Delhi Administration)[6].**

viii) **Nirmal Singh Kahlon Vs. State of Punjab and Ors[7].**

ix) **Arnab Ranjan Goswami Vs. Union of India and Ors[8].**

x) **Mahmood Ali and Ors. Vs. State of U.P. and Ors. in Criminal Appeal 2341 of 2023 arising out of S.L.P. (Criminal No.12459 of 2022)**

6. Mr.D.P. Singh, Special P.P. for CBI submitted that there is no illegality in registration of second FIR. The investigation in FIR

1 (2001) 6 SCC 181
2 (2013) 6 SCC 348
3 (2021) 1 SCC 1
4 2022 SCC Online SC 893
5 2022 SCC Online SC 1935
6 (1979) 2 SCC 322
7 (2009) 1 SCC 441
8 (2020) 14 SCC 12

dated 13.05.2017 is still pending. The state has not come to determine that both the cases relates to the same transaction or should be clubbed together. The Petitioner has been evading arrest in the FIR dated 13.05.2017. The custodial interrogation of the Petitioner is required in FIR dated 13.05.2017 as well as 27.12.2022. The *modus operandi* in both the FIRs is different. The public officials could be different. The conspiracy would change *modus operandi* would be known after investigation. The transactions are different. No case is made out to quash the second FIR or even to club both the FIRs.

7. Mr. Singh has relied upon the following decisions:

i) **T.T. Antoy Vs. State of Kerala and Ors**[9]**.**

ii) **Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and Anr**[10]**.**

iii) **State of Jharkhand Vs. Lalu Prasad Yadav @ Lalu Prasad**[11]**.**

iv) **State of Haryana and Ors. Vs. Bhajan Lal and Ors**[12]**.**

v) **Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and Ors**[13]**.**

vi) **Central Bureau of Investigation Vs. Aryan Singh etc**[14]**.**

vii) **P. Chidambaram Vs. Directorate of Enforcement**[15]**.**

9 (2001) 6 SCC 181
10 (2013) 6 SCC 348
11 (2017) 8 SCC 1
12 1992 Supp (1) SCC 335
13 2021 SCC OnLine SC 315
14 2023 SCC Online SC 379
15 (2019) 9 SCC 24

8. The case of the prosecution in FIR dated 13.05.2017 is as follows:

i) The investigation revealed that during the period from 2014-16, the petitioner and the other accused had entered into conspiracy in the matter of sending remittance of huge amount of forex illegally to Hongkong by submitting forged Bill of Entry with high USD value to various banks under the guise of import payments to various entities in Hongkong and thereby the accused persons earned commission.

ii) In pursuance of the conspiracy, at the relevant period and at place, in order to escape from the legal consequences, the petitioner, Mohd. Gous by themselves as well as through agents, induced name lenders by obtaining their KYCs for a petty consideration and thereby floated nine accused commercial entities/companies with them as Proprietors and Directors and arranged import export code (IEC) and other statutory registration for several entities.

iii) Investigation revealed that, the petitioner and Mohd. Gous induced various name lenders for an amount around Rs. 1000/- to part with their KYCs, obtained IECs and floated nine accused entities. Mohd. Gous at the behest of petitioner briefed the name lenders to tell Bank officers that they are going to do import business from china. Mohd. Gous produced the name lenders with KYC's before the bank officials and got arranged opening bank accounts for the accused entities in the said banks. Shri Ramesh Nagrajan worked as a Chief Manager in Central Bank of India from 02.06.2014 to 28.04.2016. In connivance with other accused he opened 7 accounts for the accused entities through poor persons brought by Mohd. Gous, Mohd. Husain Hanif Shaikh @ Raja was rendering his active participation in the illegal Forex remittance. The petitioner was earlier doing imports of Chinese goods.

iv) Petitioner had maintained offices at Surat and other places and appointed persons to prepare forged BEs and other documents with the assistance of the other ladies staff. The wife of the petitioner used to manage the working of the staff, in addition to maintaining the accounts of cash collected, layered and the amount sent to Hongkong and the income of the petitioner.

v) After small-scale imports, the petitioner had obtained the ECC Bill of Entry of the said entities with low value from the CHAs for preparing forged BE. When more BEs are required, Brijesh Lohiya used to furnish the Bill of Entry number of the imports made by the other entities. He used to provide computer generated format of BE's stamps of customs officers, Invoice models of Chinese suppliers, Bill of lading etc. to petitioner.

vi) As per the instructions of the petitioner, the other persons collected stationary for preparing forged Bill of Entry and stationary for preparing bill of lading. Rubber stamps of customs officers of JNCH, Nhavasheva and NCH, Mumbai, letter heads and rubber stamps of Prop/Director of various name sake entities, flex name boards of the name sake entities floated by petitioner. As instructed by petitioner, Smt. Bushra and Smt. Nazneen prepared forged Bill of Entry with same serial number allotted by EDI in the name of accused entity, in the system and filled up the in floated USD Value as per the requirement of the money, to be sent as forex remittance to Hongkong and mentioned the tie up party at Hongkong as consignor, so as to distribute the funds.

vii) The investigation revealed that USD value will be inflated manifold 20-30 times than the actual value of the consignment to send more money. Further, the actual consignor name in the genuine Bill of Entry was changed with the name of the tie up party as consignor, in the forged Bill of Entry. This is to ensure that the amount sent from Mumbai is distributed by the tie up party to the relevant parties in Hongkong.

viii) Print out of forged BE was taken on dot-matrix printer on the stationery of custodian and Smt. Bushra and Smt. Nazneen used to put the forged signatures and seals of the customs officers on the BE, forged signatures of the proprietors of the entities on the import documents such as BE, invoice, bill of lading etc. in token of attesting it. The bill of lading will be prepared by using the serial number in the containers and other details, photographed and sent by Kiran Kokare @ Sona Kalia and Aatu Rehman Sabir Khan @ Moin Md.

ix) Investigation revealed that to send more money the petitioner had submitted forged bill Entries prepared by Smt. Bhushra and Smt. Nazneen with same serial number with different dates and different amount to more than one bank and got the payment made multiple times. Further forged Bill of Entry with non-existing EDI serial number were also submitted and forex payment made. The forged Bill of Entry commercial invoice, Bill of lading, Form A-1, Form 15-CA and Form 15-CB alongwith covering letter of 8 entities were submitted by the petitioner and others to Central Bank of India, Punjab National Bank, Axis Bank, State Bank of Hyderabad, Corporation Bank and Canara Bank and on that basis, forex remittances were sent to various entities, holding account with HSBC Bank Hongkong. Investigation revealed that the petitioner had prepared and submitted 28 forged Bills of Entries and proforma Invoices in the name of M/s Lubeez Enterprises with commercial invoice, Bill of Lading etc. against the Bill of Entry, including 10 advance payments, 26 foreign remittances in USD 7,727,092 to the tune of Rs.49,20,57,063/- during 2015-16 from the account of Lubeez Enterprises to various entities. Lubeez Enterprises had actually imported goods from Hongkong by filing 21 Bill of Entry in JNCH for the total Value of USD 383716.67 equivalent to INR Rs.3,98,97,947/- and paid duty of Rs.1,02,35,267/-. The petitioner prepared and submitted 26 proforma invoices in the name of M/s Pawan Enterprises with commercial invoice, B.L. etc., against Bill of Entry, including 10 advance payments, 26 foreign remittances in USD

72,70,110 to the tune of Rs. 4699 crores during 2015-16 were sent from account of Pawan Enterprises to various entities holding amount with HSBC, Hongkong. The petitioner prepared and submitted 37 forged Bills of Entry in the name of Lemon Trading Company with commercial Invoice, B. L. etc, against Bill of Entry, including 13 advance payments. 37 foreign remittances in USD 8,089,873 to the tune of Rs.52,10,32,994/- were sent from the account of Lemon Trading Company to various entities. The petitioner prepared 3 forged Bill of Entry in the name of Padalite Traders with commercial Invoice, B.L., etc., against the Bill of Entry, USD 788,443 equivalent to Rs. 4.89 crores sent from account of Pawan Enterprises to various entities in Hongkong.

x) The charge-sheet and the document on record indicate several incriminating circumstances showing participation and involvement of the petitioner. According to the prosecution, the petitioner is the master mind in the crime. Further investigation is continuing to find out sources of funds and to trace role of others.

9. The case of the prosecution in FIR dated 27.12.2022 is as follows:

i) R.C. 11(E)/2022 was registered by CBI/EOB/Mumbai on 27.12.2022 against (i) Shri. Mohd. Farooque Mohd. Hanif Shaikh (ii) Shri. Mohd. Gaus Mohd. Hanif Shaikh (iii) Shri. Sohail Ansari (iv) Shri Gulam Nabi Abdul Kadar Qureshi (v) Shri Jamil Athiullah Shaikh, unknown officials of Dyaneshwari Multi State Co-operative Society, unknown Public Servants and unknown persons U/s. 120 B r/w Sections 420, 468, 471 of IPC and Sections 13(2) r/w 13(1)(d) of PC Act, 1988 on 27.12.2022.

ii) During 2014-16, in pursuance of criminal conspiracy, Shri. Mohammed Farooque Mohammed Hanif Shaikh @ Farooque Shaikh and Shri Mohd. Gaus Mohd. Hanif Shaikh, made Shri. Gulam Gulam Nabi Abdul Kadar Qureshi and Shri Jameel Atiullah Shaikh to share their KYCs and opened an account, obtain IE Code for M/s. Lemon Trading Co. and M/s. Kundan Trading, with them as Proprietors respectively in Bank of Maharashtra, Nariman Point Branch, Mumbai, the accused persons mobilized heavy amount in cash and layered the same through Angadiyas, cheque discount brokers and in Dyaneshwari Multi State Co-operative Societies through Shri. Sohail Ansari, the employee of Shri Mohd. Farooque Mohd. Hanif Shaikh and got the amount transferred to the above said accounts of the two firms in the said bank. After accumulating the funds in the said bank accounts, accused persons prepared forged Bills of Entry in the name of the 2 firms, falsely showing high import value etc, purportedly issued by JNCH Nava Sheva etc. and submitted the same to the Bank of Maharashtra, Nariman Point Branch, Mumbai. It came to light that the actual value of the goods imported by the two firms from JNCH Nava Sheva is very low. The officers of Bank of Maharashtra without verifying the genuineness and the import value of goods in the Bills of Entry, transferred forex remittance in USD to the tune of Rs.72.34 Crores in 56 instances from the account of M/s. Lemon Trading Co. to various entities at Hongkong. Further, the officers of aforesaid bank without verification of the Bill of Entry transferred forex remittance to the tune of Rs.32.9. Crores in 37 instances from the account of M/s. Kundan Trading to various entities at Hongkong. Hence, a total of Rs.105.27 Crores were sent as Forex Remittance by 02 firms against forged Bills of Entry from the account of the two firms.

10. The case relating to FIR dated 27.12.2022 is under active

investigation and has to proceed further by gathering evidence both oral and documentary to disclose the illegal acts of the accused. This case relates to illegal forex remittance by supporting forged import documents such as Bill of Entry and other documents to banks and sending huge money abroad to various entities in Hongkong etc. The forex reserves are precious and has to be spent for essential and urgent economic needs. In the present case the forex remittance has been fraudulently send abroad by submission of forged documents.

11. The cause of action in respect to the FIR dated 27.12.2022 is distinct from the cause of action in FIR dated 13.05.2017. There is no nexus of commonality between the two independent and distinct offences. They do not arise out of same transactions. The offences covered by FIR dated 13.05.2017 in which charge-sheet has been filed against the co-accused are not connected with the offence in FIR dated 27.12.2022. The prosecution has contended that the offences covered by the FIR dated 27.12.2022 are not a consequence of the offences investigated in FIR dated 13.05.2017. Both the investigation can not be considered as same transactions.

12. The accused Sohail Ansari is the employee of the Petitioner. He is not an accused in the FIR of 2017. This accused has played a vital role in the investigation relating to the FIR of 2022. The

allegations against him is that he was responsible for layering of the money and transferred of the same to two firm's M/s. Lemon Trading Co. and M/s. Kundan Trading as RTGS credits. The role of the said accused in commission of the offences is separate and distinct. The question of quashing the FIR of 2022 or clubbing the FIR of 2017 and 2022 does not arise.

13. The FIR of 2022, relates to separate instances of illegal forex remittance. Based on submission of forged import documents which had happened in Bank of Maharashtra, Nariman Point Branch. It is in no way connected with the banks covered in the FIR dated 13.05.2017. It cannot be stated that the instances of fraud in Bank of Maharashtra are same set of offences in the earlier FIR of 2017.

14. The officers of Bank of Maharashtra, Nariman Point Branch, who opened the account for two entities M/s. Lemon Trading and M/s. Kundan Trading in the name of Shri. Gulam Nabi Abdul Kadar Qureshi and Mr. Jameel Athiullah Shaikh are different from the officers connected in the FIR of 2017. The persons, who provided cash for being layered and send to Hongkong in the FIR of 2022 may be different from those entities connected in the FIR of 2017. These aspects are under investigation. The agents, brokers and

other entities, who layered the cash into RTGS credits into the account of two entities Viz. M/s. Lemon Trading and M/s. Kundan Trading Company for being sent to Hongkong in the FIR of 2022 are different from those entities connected in FIR of 2017.

15. The persons/entities, who provided cash for being layered and sent to Hongkong in RC 11(E)/2022 may be different from those entities connected in RC 04(E)/2017. The agents/brokers and other entities, who layered the cash into RTGS credits into the account of the two entities viz. M/s. Lemon Trading and M/s. Kundan Trading Company for being sent to Hongkong in RC 11(E)/2022 are different from those entities connected in RC 04(E)/2017. The persons, who prepared forged Bill of Entries and other connected documents, mobilized the equipment of forgery for preparing forged documents in RC 11(E)/2022 are different from those entities connected in RC 04(E)/2017.

16. The forged Bill of Entries utilized by the accused in RC 11(E)/2022 are distinct and separate from those used in RC 04(E)/2017. The accused had forged different sets of Bills of Entry and submitted them to the banks in RC 04(E)/2017 and separate set of Bills of Entries in RC 11(E)/2022. Thus, the forged Bill of Entry in both the FIRs are not the same. The persons/entities, who

submitted the forged Bills of Entries and other documents to the Bank of Maharashtra, Nariman Point for sending forex remittance to various entities in Hongkong in RC11(E)/2022 may be different which is under investigation. The officers of Bank of Maharashtra, Nariman Point, who received the forged Bills of Entries and other documents arranged forex remittance without verification to various entities in Hongkong in RC11(E)/2022 are different from those entities connected in RC04(E)/2017. The entities in Hongkong, who received the forex remittance from Bank of Maharashtra, Nariman Point in RC11(E)/2022 are different from those entities connected in RC04(E)/2017. The entities, Banks, connected in RC11(E)/2022 other than the Petitioner are separate and not a part of the instances in RC 04(E)/2017 and does not form the same set of facts and circumstances. They did not arise out of the same transaction. The offence is covered by RC 04(E)/2017 which culminated in charge-sheet. Some of the accused are not connected inherent with the offences covered by RC 11(E)/2022 which is under investigation.

17. In the case of **T.T. Antoy Vs. State of Kerala and Ors.** (supra) it was held that there can be no second FIR and no fresh investigation on receipt of every subsequent information in respect

of same cognizable offence or same occurrence giving rise to one or more cognizable offences.

18. In the case of **Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation and Anr.** (supra) it was held that there can be no second FIR and consequently no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence of the instance giving rise to one or more cognizable offences. The second FIR in respect of an offence or different offences committed in the course of same transaction is impermissible and it violates Article 21 of the Constitution.

19. In the case of **Amish Devgan Vs. Union of India & Ors.** (supra) it was observed that when multiple FIRs were lodged by targeted groups by way of retaliatory proceedings at different Police Stations pertaining to the same offences, the information first entered in police diary, held, must be treated as FIR under Section 154 of Cr.P.C. and remaining information should be treated as statements under Section 162 of Cr.P.C.

20. In the case of **Radhe Shyam Vs. State of Haryana and Ors.** (supra) the Court had considered the issue that the FIRs were registered in different states and they stands clubbed with the first FIR.

21. In the case of **Arnab Ranjan Goswami Vs. Union of India and Ors.** (supra) the facts of the case indicate that the multiple FIRs were lodged against the accused in different states arising out of same cause of action i.e. news & views discussed by him in a TV show. It was observed that no subsequent FIR in respect of same or connected cognizable offence occurrence or instance as alleged in the FIR is permissible.

22. In the case of State of **State of Jharkhand Vs. Lalu Prasad Yadav @ Lalu Prasad** (supra) the factual matrix indicate that multiple offences each punishable separately for different periods arising during the course of and as part of continuing conspiracy were registered. It was held that the constitution bars double punishment for same offence. However conviction for one offence does not bar subsequent trial and conviction for another offence and it does not matter even if some ingredients of the two offences are common. It was observed that the separate trial is a rule and joint trial is an exception. Section 218 deals with separate charges for distinct offences. Section 219 provides that three offences of the same kind can be clubbed in one trial committed within one year. Section 202 speaks of trial for more than one offence if it is the same transaction. In the said case it cannot be said that the

defalcation is same transaction as the transaction are in different treasuries for different years, different amounts, different allotment letters, supply orders and suppliers. There are different sets of accused in different cases with respect to defalcation. There may be a conspiracy in general one and a separate one. There may be larger conspiracy and smaller conspiracy which may develop in successive stages involving different accused persons. It was held that the defalcation were made in various years by combination of different accused persons. Thus, there can be different trials. The offences are not the same offence. There can be different trials in the same offence if tried under two different enactments altogether and comprised of two different offences under the Acts/Statutes without violation of the provisions of Article 20(2) or Section 300 of Cr.P.C.

23. In the case of State of **State of Haryana and Ors. Vs. Bhajan Lal and Ors.** (supra) it was observed that the power of quashing a Criminal Proceedings should be exercised very sparingly and with circumspection in rarest of rare cases. The extraordinary or inherent powers do not confer and arbitrary jurisdiction on the Court to act according to its whim or caprice. The Court will not be justified in embarking upon an inquiry as to the reliability or

genuineness or otherwise of the allegations made in the FIR or the complaint.

24. In the case of **Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and Ors.** (supra) the apex Court enumerated the principles of law which emerged from various decisions of the Court. It was observed that the Police has statutory right and duty under the relevant provisions of the Code of Criminal Procedure to investigate into the cognizable offences. The Courts would not thwart any investigation into the cognizable offences. If no cognizable offences of any kind is disclosed in the FIR, the Court may not permit an investigation to go on. The power of quashing should be exercised sparingly with circumspection, in the 'rarest of rare cases'. While examining FIR, quashing of which is sought, the Court cannot embark upon an inquiry about reliability or genuineness or otherwise of the allegations made in the FIR. The Criminal proceedings ought not be scuttled at the initial stage. Extraordinary and inherent power of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

25. In the case of **Central Bureau of Investigation Vs. Aryan Singh etc.** (supra) it was held that the scope of the High Court

cannot conduct a mini trial at the stage of quashing of the criminal proceedings.

26. The investigation of the FIR of 2022 is in progress. It cannot be said that the FIR pertains to the same transaction or same cause of action which is investigated under the FIR of 2017. Both are distinct in nature. For the reasons stated herein above we are not inclined to quash the FIR and/or club them together. The Petitioner was not available for investigation in the FIR investigated by CBI in respect to FIR of 2017 or FIR of 2022. The Petition is devoid of merits and deserves to be dismissed.

ORDER

Writ Petition Nos.2937 of 2023 and 495 of 2023 are dismissed and disposed off.

27. At this stage the learned counsel for the Petitioner prayed for continuation for interim relief granted by this Court. The interim relief was in the nature of the statement made by the counsel for Respondent/CBI that the Petitioner will not be arrested till the next date. Learned Advocate for the Respondent/CBI opposed the grant of extension of interim relief on the ground that the Petitioner has been avoiding investigation of CBI. The learned counsel for the CBI refused to continue the statement made earlier that the Petitioner

will not be arrested. Considering the aforesaid circumstances, the prayer for extension of interim relief is rejected.

(N. R. BORKAR, J.) **(PRAKASH D. NAIK, J.)**