



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 20th December, 2024

(1) CRWP-3500-2023 (O&M)

Gulmohar Township India Pvt. Ltd. and others ...Petitioners

Versus

State of Punjab and othersRespondents

(2) CRWP-3499-2023 (O&M)

Parminder Singh ...Petitioner

Versus

State of Punjab and othersRespondents

(3) CRM-M-20858-2023 (O&M)

Sunder Sham Arora ...Petitioner

Versus

State of Punjab and anotherRespondents

(4) CRM-M-22172-2023 (O&M)

Rajat Thamman ...Petitioner

Versus

State of Punjab and othersRespondents

(5) CRM-M-22206-2023 (O&M)



CRWP-3500-2023 and connected cases

Ankur Choudhary ...Petitioner

Versus

State of Punjab and othersRespondents

(6) CRM-M-22207-2023 (O&M)

Davinderpal Singh ...Petitioner

Versus

State of Punjab and othersRespondents

(7) CRM-M-22225-2023 (O&M)

Joginder Singh Bhatia ...Petitioner

Versus

State of Punjab and othersRespondents

(8) CRWP-4289-2023 (O&M)

Surinderpal Singh ...Petitioner

Versus

State of Punjab and othersRespondents

(9) CRM-M-22178-2023 (O&M)
Sandeep Singh ...Petitioner

Versus

State of PunjabRespondent

(10) CWP-7424-2023 (O&M)

Sukhdeep Singh Sidhu ...Petitioner



CRWP-3500-2023 and connected cases

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vikram Chaudhri, Senior Advocate, (**through VC**) assisted by
Ms. Hargun Sandhu, Advocate
Mr. Rishab Tewari, Advocate and
Ms. Nandini Gupta, Advocate
for the petitioner(s) in CRWP-3499-2023 & CRWP-3500-2023.

Mr. P.S. Ahluwalia, Advocate,
Mr. Agam Aggarwal, Advocate and
Mr. Jaiveer Singh, Advocate (**through VC**),
for the petitioner in CRM-M-20858-2023.

Mr. APS Deol, Senior Advocate, assisted by
Mr. Vishal R. Lamba, Advocate
Mr. Himmat Singh Deol, Advocate and
Mr. Arun Goyal, Advocate for the petitioner(s)
in CWP-7424-2023 and CRWP-4289-2023.

Dr. Anmol Rattan Sidhu, Senior Advocate, assisted by
Mr. Shiv Kumar Sharma & Mr. Bhisham Kinger, Advocates,
for the petitioner(s) in CRM-M Nos.22206, 22207
& 22225 of 2023.

Mr. Abhimanyu Singh, Advocate for the petitioner
in CRM-M-22178-2023.

Mr. Akshay Bhan, Senior Advocate, assisted by
Mr. HPS Sandhu, Advocate and
Mr. Shaurya Khanna, Advocate
for the petitioner(s)
in CRM-M-22172-2023.

Mr. Anurag Chopra, Addl. A.G, Punjab.

Mr. Parvez Chugh, Senior Panel Counsel with
Mr. Himanshu Setia, Advocate,
for respondent No.5-PSIDC in CWP-7424-2023.

Ms. Munisha Gandhi, Senior Advocate assisted by
Mr. A.D.S. Sukhija, Advocate and
Ms. Salina Chalana, Advocate for respondent No.4-PSIEC
in CRM-M-22206-2023; CRM-M-22207-2023;
CRM-M-22225-2023; CWP-7424-2023 and CRWP-4289-2023.

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Mr. R.S. Bains, Senior Advocate assisted by
Mr. Loveneet Thakur, Advocate,
Mr. IPS Deol, Advocate;
Mr. Anmoldeep Singh, Advocate and
Mr. Tejas Bhardwaj, Advocates for intervener-Phillips Employees
Sangarsh Committee.

MAHABIR SINGH SINDHU, J.

Controversy involved in the aforesaid ten cases is similar in nature and arising out of the same FIR; hence all the cases are being disposed off by this common order.

2. For brevity, facts have been noticed from CRWP-3500-2023.
3. Present petition has been filed, under Article 226 of the Constitution read with Section 482 of the Code of Criminal Procedure, 1973, (for short, “Code”) with the following prayers:-

(1) To quash FIR No.01 dated 05.01.2023, registered under Sections 409, 420, 465, 467, 468, 471 and 120-B of Indian Penal Code, 1860 (for short, “IPC”) and Section 13(1) (a) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (as amended by Prevention of Corruption (Amendment) Act, 2018) (for short, “PC Act”) at Police Station, Vigilance Bureau, Flying Squad-1, District SAS Nagar (Mohali), Punjab *qua* the petitioner(s) alongwith all consequential proceedings.

(2) To entrust the investigations emanating from and arising out of FIR No. 1 dated 05.01.2023 (*supra*) to any independent Investigating Agency like the Central Bureau of Investigation as no free, fair or impartial investigations are expected from the Respondent Nos. 3 & 4.

(3) Issue any other further writ(s), order(s) or direction(s) that this Hon’ble Court may deem fit and proper in the facts and circumstances of the case in favour of the petitioners.

**CRWP-3500-2023 and connected cases****4. BRIEF FACTS**

4.1 It transpires that Government of Punjab acquired land measuring 157.99 acres situated in Village(s) Taraf Kumbra, Kambala, Kambali and Chilla, Tehsil Kharar, District Ropar (now district Mohali) for Establishing Industrial Focal Point at SAS Nagar (Mohali). Out of above 157.99 acres, the Government transferred land measuring 80 acres to Punjab State Industrial Development Corporation Ltd. (for short “PSIDC”). The PSIDC allotted plot No.1 (measuring 25 acres) in favour of Punjab Anand Lamp Industries Ltd. (for short “PALI Ltd.”) “on freehold basis” for manufacturing GLS lamps and fluorescent tubes vide Allotment Letter dated 30.07.1984. Thereafter, sale deed in this regard was executed by the PSIDC in favour of PALI Ltd. on 22.05.1987.

4.2 Later on, the assets of PALI Ltd., including the aforementioned plot No.1 were got amalgamated in Phillips India Ltd. under a ‘Scheme of Amalgamation’ and which was duly accepted by the PSIDC. Upon recovering all the dues from original allottee i.e. PALI Ltd., requisite ‘No-Dues Certificate’ was issued in favour of Phillips India Ltd.

4.3 On 27.01.2016, under the order of Hon’ble Calcutta High Court, in a ‘Scheme of Demerger’, the plot in question was transferred from Phillips India Ltd. to Phillips Lighting India Ltd. and its name was subsequently changed to Signify Innovations India Ltd. (for short “Signify Innovations Ltd.”).

4.4 Vide notification(s) dated 21.12.2017 & 27.11.2020, Punjab Small Industries & Export Corporation (for short “the PSIEC”) was conferred full rights for all intents and purposes, namely, development/allotment/transfer/maintenance etc. of all industrial parks/industrial sheds/industrial focal points etc. in the State

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of Punjab in place of Punjab Information Communication & Technology Corporation Limited and PSIDC.

4.5 On 17.11.2020, Signify Innovations Ltd. requested PSIDC to grant permission for the sale of Plot No. 1, Phase IX, Mohali in favour of Gulmohar Township India Pvt. Ltd. (for short “Gulmohar Township”) and in pursuance thereof, necessary “No Due Certificate” was issued.

4.6 Thereafter, vide sale-deed dated 25.02.2021, Signify Innovations Ltd. sold the Plot in question to Gulmohar Township for a sale consideration of Rs. 110 Crore.

4.7 On 03.03.2021, the Gulmohar Township requested PSIEC to update their records and transfer the ownership rights regarding above plot in its favour and after receiving payment of Rs. 12.10 lakh as processing fees, which was duly accepted on 15.03.2021 by the PSIEC, ownership rights were transferred in favour of the Gulmohar Township.

4.8 On 16.03.2021, the Gulmohar Township applied to PSIEC for bifurcation/fragmentation of the industrial plot No.1 into 125 smaller plots after paying requisite fees of Rs.27,83,000/-.

4.9 Thereafter, on 24.03.2021, as per the Policy dated 08.02.2005, PSIEC allowed bifurcation/fragmentation of the industrial plot No.1 {measuring 25 acres; 1,21,000 sq. yards} into 125 plots of different sizes.

4.10 From 08.09.2021 onwards, out of 125 plots approved by PSIEC, 122 plots were sold in open market by the Gulmohar Township after obtaining ‘No-Dues Certificate’ and paying requisite fees of 3% per plot to PSIEC.

4.11 At this stage, certain allegations were levelled regarding undue benefit etc. in favour of the Gulmohar Township on account of



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transfer/bifurcation of plot No.1 and which were duly inquired into by the Departmental Committee of PSIEC, but the same were found to be baseless vide report dated 05.10.2021.

4.12 Later on, the Vigilance Bureau registered FIR in question with the following allegations:

“Punjab Government had allotted 25 acres of land to Anand Lamps Limited through a sale deed in 1987 with the intention of setting up the industry in Punjab, which was later transferred to Signify Innovations. Signify Innovations obtained NOC from PSIDC and sold the plot to Gulmohar Township through sale deed. Sh. Sundar Sham Arora, then Industry & Commerce Minister forwarded a letter dated 17.03.2021 to MD, PSIEC regarding bifurcation of plots. On 18.03.2021, as per application of Gulmohar Township Private Limited, Mrs. Neelima I.A.S. MD PSIEC, constituted a committee consisting of Executive Director, CGM, (Estate/Finance), Technical Consultant, CGM (Planning), GM (Personnel), XEN Concerned, Estate Officer-1, DTP, ATP, SDE Mohali to examine the request of Gulmohar Township Private Limited. Committee consisted of (1) SP Singh, ED (2) Ankur Chaudhary, Estate Officer (3) Bhai Sukhdip Singh Sidhu (4) Davinderpal Singh, GM Personnel (5) Tejveer Singh DTP, (Deceased) (6) JS Bhatia CGM Planning (7) Ashima Aggarwal, ATP Planning (8) Parminder Singh, Executive Engineer (9) Rajat, DA and (10) Sandeep Singh, SDE were involved. On 19.03.2021 this noting arrived at office of S.P. Singh. On account of holiday on 20/21.03.2021, all the members of the committee passed the proposal to bifurcate 125 plots from 12 plots on 22.03.2021 without taking into consideration Proposal report, Project report articles of association, memorandum of association and without NOC of Pollution Control Board, Municipal Corporation, Electricity Board, Forest Department, fire brigade etc. as well as without getting map passed from any architect passed the proposal to bifurcate 125 plots from 12 plots from page number 133 to 142 of the noting even though Gulmohar Township Pvt. Ltd. has no relation with the industry. On examination by the Forensic Science Laboratory, it has been found that page numbers 141 and 142 of the noting do not match with the rest of the page. The said committee members have placed fake documents and did not scrutinize the application thoroughly. According to the deed of the year 1987, this plot was to be used only for industrial purposes. The said Gulmohar township has no such background. According to the rules of the Corporation, from the year 1987, a fees of Rs.20/- per yard and Rs.3/- per year was to be levied at the rate of Rs.125/- per yard, which is a total of 1,21,000 square yards and a total of Rs.1,51,25,000 while Gulmohar Township had remitted a total of



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Rs.27,83,000/- attached with already made Pay Order application while none of this was demanded by PSIEC. Due to which the Punjab Government has incurred a financial loss of Rs.1,23,42,000/- , if this plot had been sold as per the instructions/rules of the Government, the Government would have received an income of Rs.500 to 700 Crores. At the time of sale of 125 plots by Gulmohar Township, no project report, articles of association, memorandum of association was obtained from any buyer party and plots were sold only on the basis of IT. By doing this, the above committee members, Mrs. Neelima I.A.S., MD PSIEC, Sunder Sham Arora, Ex-Minister of Punjab colluded with each other and misused his position to give unfair advantage to Gulmohar Township Company Owners/Directors Jagdeep Singh, Gurpreet Singh Siran, Mr. Pritam Singh residents of House No. 1543, Sector 36-D Chandigarh and Rakesh Kumar Sharma Son Mr. Rameshwar Das Surma, resident of House No. 288, Sector 33-A, Chandigarh. By doing this Sir/Mr. S.P. Singh ED, Ankur Chaudhary Estate Officer, Sukhdeep Singh Sidhu CGM Estate & Finance, Davinderpal Singh GM, Personnel, JS Bhatia CGM, Planning, Ashima Aggarwal ATP Planning, Parminder Singh Executive Engineer, Rajat DA, Sandeep Singh SDE, Neelima I.A.S., MD PSIEC, Sunder Sham Arora Ex-Minister Punjab & Gulmohar Township India Pvt.Ltd: Sector 34 Chandigarh Proprietor/Directors Jagdeep Singh, Gurpreet Singh and Rakesh Kumar Sharma have committed offence under Sec 13 (1) (a) R/W 13 (2) PC Act, 1988 as amended by P.C. (Amendment) Act, 2018 and 409, 420, 465, 467, 468, 471, 120-BIPC. Therefore, a ruqa is sent through Chief Constable Navdeep Singh No. 1035 Police Station SAS Nagar Mohali to Vigilance Bureau Phase-1 Punjab at Mohali to register a case under these sections. If role of any other person comes to light during the investigation, then his role will also be considered during the investigation of this case. A case under the said sections should be registered against the said accused and FIR should be sent to me as well as special reports should be issued.

*Sd/- Barinder Singh Gill,
DSP (Vig. Bureau), Ph.1
Punjab at Mohali”*

4.13 Hence present petitions.

CONTENTIONS

5.1 ON BEHALF OF PETITIONER-GULMOHAR TOWNSHIP IN CRWP-3500-2023

5.1.1 Learned Senior counsel contends that petitioner No.1-Gulmohar

Township is a Real Estate Company engaged in the business of residential and

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commercial properties in Chandigarh; whereas petitioner Nos.2 to 4, namely, Rakesh Kumar Sharma, Gurpreet Singh and Jagdeep Singh are its Directors.

5.1.2 Further contends that consequent upon the registration of sale deeds regarding 125 bifurcated/fragmented plots and upon payment of transfer fees to the tune of Rs.4.45 Crore and bifurcation/fragmentation fees of Rs. 27.83 lakh substantial revenue has been earned by the State of Punjab as well as PSIEC.

5.1.3 Still further contends that requisite permissions/NOCs/Licenses from concerned regulatory authorities/different Government Departments/Agencies were obtained by purchaser/transferee-Gulmohar Township and while allowing permissions, PSIEC had laid down stringent conditions for compliance of rules & regulations.

5.1.4 Also contends that no relaxation in any manner was given to the petitioner-Gulmohar Township *qua* adherence to the zoning plan and/or building bye-laws applicable for raising of construction.

5.1.5 Again contends that in the month of March-2022, a new government was formed and a vigilance enquiry was opened due to vested interests. Further contends that in response to the queries of Vigilance Bureau to the Department of Industries, on 15.12.2022, it ratified all the actions taken by PSIEC with respect to transfer/bifurcation of plot in question in favour of petitioner-Gulmohar Township and the same were found to be genuine.

5.1.6 Yet again contends that calculation of amount of Rs.1,51,25,000/- as less bifurcation/fragmentation fees by the Vigilance Bureau is absolutely wrong and hypothetical; Vigilance Bureau has come up with a concocted figure for loss of Rs.500/700 Crore in its alleged source report, which is preposterous and based on assumption that PSIEC should have cancelled the allotment of plot in

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question. Also contends that till date, PSIEC has not raised any demand and/or grievance with regard to shortfall of any bifurcation/fragmentation fees.

5.1.7 Specifically contends that plot in question is a freehold private property and government or PSIEC or PSIDC has no right on the said property, except regulating its use for industrial purpose and to follow the Estate Management Rules. The plot in question was directly purchased by Gulmohar Township in an open market from a private entity.

5.1.8 Vehemently contends that allegations of substituting/replacing noting pages from file are baseless and false. None of the Committee Members and/or Managing Director, PSIEC have claimed that their signatures are forged. Also contends that a bare perusal of the records reveals that there is no material on record to link the Committee Members, with any act of forgery, cheating and/or giving any undue benefit to the petitioner-Gulmohar Township.

5.1.9 Still further contended that present case has been registered without following the mandate of Section 17A of the PC Act, which requires previous approval for initiating enquiry/inquiry/investigation against the public servant. Despite categorical response by the Industries Department, nullifying each and every requisitions, in a tearing hurry and undue haste, present FIR has been registered by the Vigilance Bureau and there are gross irregularities in the entire process of registration of FIR.

5.1.10 Lastly contended that present FIR along with all consequential proceedings, is a complete misuse of process of law; hence liable to be quashed and set aside *qua* the petitioner(s).

**CRWP-3500-2023 and connected cases****5.2 ON BEHALF OF PETITIONER-SUNDER SHAM ARORA
IN CRM-M-20858-2023**

5.2.1 Learned counsel contends that at relevant time, petitioner Sunder Sham Arora was a Minister of Industries & Commerce, Government of Punjab, but present FIR has been registered due to political vendetta and allegations are totally false and baseless.

5.2.2 Further contends that solitary allegation against petitioner is that on 17.03.2021, he had written a letter to the then Managing Director of PSIEC for seeking information regarding the bifurcation/fragmentation of plots.

5.2.3 Also contends that criminal liability cannot be fastened upon the petitioner merely on account of the fact that he had written a letter to the M.D, PSIEC for seeking information regarding bifurcation/fragmentation of industrial plots in his official capacity.

5.2.4 Still further contends that statement of one Ravinder Kumar Bansal, Tehsildar, Revenue Department, was recorded, wherein it was alleged that petitioner had made a call to him for registration of the sale deed in favour of Gulmohar Township. The aforesaid statement was recorded by the Investigating Agency and except that, there is no material whatsoever to connect the petitioner with alleged offence.

**5.3 ON BEHALF OF PETITIONER(S)- SURINDERPAL SINGH AND
BHAJ SUKHDEEP SINGH SIDHU IN CRWP-4289-2023 & CWP-
7424-2023.**

5.3.1 Learned Senior counsel contends that present FIR was registered against 14 persons, including petitioners on 05.01.2023 and petitioner-Surinderpal Singh (in CRWP-4289-2023) was posted as Executive Director; whereas petitioner-Bhai Sukhdeep Singh Sidhu (in CWP-7424-2023) was

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working as Chief General Manager (Estate), PSIEC and both of them were Members of Departmental Committee.

5.3.2 Also contends that both the above petitioners are having clean service record and they worked with PSIEC, with full dedication. Both of them appeared before the Vigilance Bureau and provided all the information relating to the bifurcation/fragmentation of plot in question.

5.3.3 Again contends that petitioner-Bhai Sukhdeep Singh Sidhu (in CWP-7424-2023) was promoted as Chief General Manager in the year 2018 and he was on deputation with the Punjab Government.

5.3.4 Lastly contended that petitioner-Surinderpal Singh (in CRWP-4289-2023) was arrested from cremation ground on 07.01.2023, while performing last rites of his father.

**5.4 ON BEHALF OF PETITIONER(S)- JOGINDER SINGH BHATIA,
DAVINDER PAL SINGH AND ANKUR CHOUDHARY
IN CRM-M-22225-2023, CRM-M-22207-2023 & CRM-M-22206-2023**

5.4.1 Learned Senior counsel contends that petitioners being Chief General Manager (Planning), General Manager (Personnel) and Estate Officer, PSIEC, respectively, were Members of the Committee, and granted approval on 24.03.2021 for bifurcation/fragmentation of the industrial plot in question.

5.4.2 Further contends that due procedure was followed while fragmenting the plot in question, as per policy decision of the PSIEC and allegations levelled against the petitioners were found to be false, frivolous and baseless by the Departmental Committee in its report dated 05.10.2021.

5.4.3 Still further contends that allegations regarding loss of Rs.500-700 Crore to the State exchequer are based on surmises and imagination in view of the

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fact that plot in question was a freehold property and has been purchased by Gulmohar Township from M/s Signify Innovations Ltd.

5.4.4 Vehemently contends that baseless allegations have been levelled regarding the fabrication of official records at page(s) No.141 and 142 of proceedings while approving the bifurcation/fragmentation of plot in question.

5.4.5 Again contends that relevant policies/rules were duly followed and a detailed reply was given to the Vigilance Bureau by the Industries Department, but ignoring the same, present FIR has been registered against the petitioners and other co-accused due to political vendetta.

5.4.6 Lastly contended that provisions of Section 17(A) of PC Act have been violated, in as much as no sanction was obtained by the Vigilance Bureau before initiating the prosecution against petitioners.

**5.5 ON BEHALF OF PETITIONER-PARMINDER SINGH
IN CRWP-3499-2023**

5.5.1 Learned Senior counsel contends that petitioner-Parminder Singh was working as Executive Engineer, PSIEC and he was merely a member of the Departmental Committee, which granted approval on 24.03.2021 for bifurcation/fragmentation of the plot in question in favour of Gulmohar Township.

5.5.2 Further contends that present FIR is liable to be quashed and set aside *qua* petitioner-Parminder Singh, apart from quashing the action of respondents in arresting and remanding him to police/judicial custody.

**5.6 ON BEHALF OF PETITIONER-SANDEEP SINGH
IN CRM-M-22178-2023**

5.6.1 Learned counsel for the petitioner adopts the arguments advanced by learned Senior counsel for petitioners- Joginder Singh Bhatia, Davinder Pal Singh

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& Ankur Choudhary and contends that petitioner being a Sub Divisional Engineer, PSIEC was Member of the Committee, which granted approval for bifurcation/fragmentation of plot(s).

**5.7 ON BEHALF OF PETITIONER-RAJAT THAMMAN
IN CRM-M-22172-2023.**

5.7.1 Learned Senior counsel for the petitioner contends on similar lines as advanced by learned Senior counsel for petitioners-Joginder Singh Bhatia, Davinder Pal Singh & Ankur Choudhary and further contends that petitioner being a Dealing Assistant, was merely a Member of the same Committee.

6.1 ON BEHALF OF THE RESPONDENT-STATE OF PUNJAB

6.1.1 *Per contra*, learned counsel for the State submits that present FIR has been registered on the basis of source information report and the plot in question measuring 25 acres was initially allotted for Industrial purposes to PALI Ltd. in 1984, on concessional rates for setting up an industrial unit to generate revenue for the State, but they miserably failed to do so.

6.1.2 Further submits that PSIDC gave 'No-Objection Certificate' to sell the above plot and it was sold to Private Developer i.e. Gulmohar Township against the terms of allotment and it was fraudulently bifurcated/fragmented into 125 smaller plots by the petitioner and other co-accused without following due process of law.

6.1.3 Still further submits that during the course of investigation and from the police report, it has come on record that official records have been tampered by the petitioners as well as other co-accused, inasmuch as Page Nos. 141 & 142 of original noting file were manipulated and fabricated.

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6.1.4 Again submits that CPU of the Computer in which the file has been stored was taken away from the office in order to destroy the evidence, which shows the malicious intention of petitioners.

6.1.5 Vehemently submits that bifurcation/fragmentation fees paid by Gulmohar Township was grossly inadequate; as according to the rules of PSIDC, bifurcation/fragmentation was to be calculated at Rs.20 per square yards along with an annual fees of Rs.3 per square yards, for a total of Rs.125 per square yards and total area of plot in question being 1,21,000 square yards, the bifurcation/fragmentation fees should have been calculated @ Rs.1,51,25,000/-; but to the contrary, Gulmohar Township paid only Rs.27,83,000/- (calculating own their own); thus, caused a financial loss of Rs.1,23,43,000/- to the State exchequer.

6.1.6 Yet again submits that, had the plot been sold after adopting due procedure, the Government must have earned Rs 500 to 700 Crore, and as such, there is substantial loss caused to State exchequer by petitioners in collusion with other co-accused.

6.1.7 Further submits that even prior to grant of NOC and approval for bifurcation/fragmentation of plots, the Gulmohar Township was so sure that approval would be granted; thus, started selling plots to customers and in lieu thereof, earned a sum of Rs.27 Crore (approximately) on different dates. Also submits that Gulmohar Township is only a Real Estate Developer and does not have any expertise in industrial development; thus, it is a pre-arranged plan and unholy nexus amongst petitioners as well as other co-accused.

6.1.8 Lastly submits that there are disputed questions of facts involved; hence present petition(s) for quashing of FIR along with consequential

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proceedings are not maintainable while exercising jurisdiction under Section 482 Cr.P.C and/or Article 226 of the Constitution. In support of the above submissions, learned State counsel has placed reliance on the following judicial precedents:-

1. **Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others 2021 SCC Online SC 315;**
2. **Kaptan Singh Vs. State of Uttar Pradesh and others, (2021) 9 SCC 35;**
3. **Priyanka Yadav Vs. State of Uttar Pradesh, 2022 (2) RCR (Crl.) 334;**
4. **Serious Fraud Investigation Officer Vs. Sahara Housing Investment Corporation Ltd., 2022 (9) SCC 794; and**
5. **State of Chhattisgarh Versus Aman Kumar Singh, (2023) 6 SCC 559.**

6.2. ON BEHALF OF THE RESPONDENT-PSIDC

6.2.1 Learned counsel submits that the property in question was allotted to PALI Ltd. on 30.07.1984 and sale-deed in this regard was executed on 22.05.1987. Further submits that as per Clause-4 of the Allotment Letter dated 30.07.1984, no bifurcation/fragmentation of property in question was allowed, but he acknowledged that later on, Policy dated 08.02.2005 was framed for bifurcation/fragmentation of such plots in the State of Punjab.

6.2.2 Also submits that “No-Objection Certificate” dated 27.11.2020 was granted to Signify Innovations Ltd. on the same terms and conditions as were applicable in the sale-deed dated 22.05.1987.

6.2.3 Lastly submits that vide notification(s) dated 21.12.2017 & 27.11.2020, the PSIEC had been conferred full rights for all intents and purposes, namely, development/allotment/transfer/maintenance etc. of all industrial

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parks/industrial sheds/industrial focal points etc. in the State of Punjab in place of Punjab Information Communication & Technology Corporation Limited and PSIDC.

6.3. ON BEHALF OF THE RESPONDENT-PSIEC

6.3.1 Learned counsel submits that petitioner(s) is/are mainly aggrieved against the action of State/Police/Vigilance Bureau; hence PSIEC is not the contesting party in the present matter.

6.4. ON BEHALF OF THE INTERVENER/PHLLIPS EMPLOYEES SANGHARSH COMMITTEE

6.4.1 Learned Senior counsel submits that permission was granted for dividing a plot of 25 acres into 125 plots of different sizes, in complete disregard of the policies framed by the Government of Punjab just to confer unlawful benefit in favour of the petitioners.

6.4.2 Further submits that no bifurcation/fragmentation of plot in question, was allowed under the rules and it is to be used only for industrial purposes; thus there has been violation of Punjab Regional and Town Planning and Development Act, 1995 (for short "PAPRA").

6.4.3 Lastly submits that there was an unholy nexus between petitioner-Sunder Sham Arora, being the then Cabinet Minister and some other Government officials, which has caused huge financial loss to the State exchequer.

7. Heard learned counsel for the parties and perused the paper-book(s).

8. DISCUSSION AND OBSERVATIONS

8.1 Although, an objection was raised by learned State counsel that disputed questions of facts are involved in the present petition(s); therefore, quashing petition(s) are not maintainable; but the objection is liable to be rejected



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in view of the order dated 05.04.2023 passed in Writ Petition (Criminal) No. 91 of 2023 and relevant part of the same reads as under:-

“11 The above facts do prima-facie make out a case for interference but looking into the fact that various factual aspects require consideration in depth, we deem it appropriate to relegate the petitioner of any other person who may be aggrieved in this regard to approach the High Court invoking its extra-ordinary jurisdiction. conferred by Article 226 of the Constitution of India read with section 482 Cr.P.C. for quashing the FIR.

12 We further request the High Court that in case any such petition is filed to take up the same for hearing and disposal including a prayer, if any, made for interim relief, in accordance with law expeditiously.

13 Considering the peculiar facts and circumstances of this case, we further direct that all further proceedings arising out of and emanating from the impugned FIR as well as coercive actions shall remain stayed for a period of four weeks from today. The extension of the interim relief granted by us or any other interim relief which may be warranted in the facts and circumstances of the case may be sought from the High Court, in case the aggrieved parties decide to approach the High Court.”

8.2 It is noteworthy that during the course of hearing, complaint dated 21.06.2021 (Mark-Z) made by one “Navjot Singh-congressman” was produced on record by the Vigilance Bureau. As this complaint shall have bearing for adjudication of the matter in controversy, therefore, the same is recapitulated here-as-under:-

“To

*Hon'ble Justice Mehtab Singh Gill
Punjab State Chief Vigilance Commissioner,
SAS Nagar*

Subject: Fraud approx. Rs. 620.00 Crores by forging documents/making unauthorized alterations/changing



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documents/noting sheets, add 5 at the last of 12 plots (2 acres) bifurcated plots and converted into = 125 plots (76 plots-500 sq. yds + 49 plots of 1000 sq. yds and above plots).

Sir,

Plot No. 1 Phase-IX, Mohali (27 acres), came for bifurcation into 12 plots (2 acres each and rest of area for green belts/roads/basic amenities (Annexure '1'), but Sh. S.P. Singh, Executive Director (holding portfolio of Estate, Planning, Finance & Accounts, Raw Material, Personnel, CVO, Policy) and dealing Assistant, PSIEC have cleverly forged documents/making unauthorised alterations in record/changing documents/noting sheets submitted request and plan by M/s Gulmohar originally for 12 plots (Annexure-1) but they add 5 at the last of 12 plots and converted 12 plots into 125 plots (49 plots of 1000 sq. yds. and above and 76 plots of 500 sq. yds. (Annexure 'II'). Before forging Plot Number was allotted 1-A, 1-B, 1-C.... but after forging plot No. allotted as 1/1, 1/2,..... 1/125, a new Industrial Township have been developed in Phase-IX, Mohali, changed the master plan of SAS Nagar, without obtaining approval from CTP/MC/PSPCL/PPCB/WaterSupply & Sewerage/RERA and also approval of Hon'ble Chief Minister.

Brief facts:

The Industrial Plot No. A-1, Phase IX, Mohali measuring 25 acres was acquired by Industries Department for Punjab State Industrial Development Corporation (PSIDC) to boost the industry in the State of Punjab through its subsidiaries. The purpose of PSIDC is to enhance/ financially assist the Industrialists of Punjab State by loaning through SIDBI/IDBI. PSIDC transferred the 27 acres of land on subsidised rates to M/s Punjab Anand Lamps Limited (Philips). This plot was a free hold plot, no Allotment letter was issued to M/S Anand Lamp and only transferred on the terms and conditions made in the Sale deed dated 12.05.1987 by PSIDC (III).

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The plot was purchased by M/s. Gulmohar Township Pvt. Ltd. amounting to Rs. 120.00 Crores. The payment was made by M/s Gulmohar Township after selling the small pieces of land of this plot through Biana and paid the amount including enhancement and processing fees to the Govt. agencies as well as seller.

PSIDC has issued NOC to M/s Gulmohar Township Ltd. on 17.11 2020 with the condition that the plot was sold only for setting up of Industrial Unit, so new purchaser is also bound to use the land only in accordance with the conditions laid down in sale deed dated 22.05.1987, should be abide building law rules/admissible/applicable to such area(IV):

Sale deed dated 22.05.1987 reproduced as below:

The company shall use the said land exclusively for the purpose of establishing their project(s) or any such other purpose as the Government may approve and for no other purpose.

Comply all the terms and conditions stipulated by the Government.

In the event of the company being wound up whether compulsorily or voluntarily, save for the purpose of amalgamation or reconstructions, or Company failing to obtain the Government's or Corporation's permission to transfer the said land, the Corporation may take over the said land alongwith superstructures thereon, or the said land only after allowing the removal of superstructures thereon, and the cost of such removal shall be borne by the party which has raised it.

The work of Industrial Plots of Punjab Infotech & Department of Industries & Commerce had been transferred to PSIEC vide Notification dated 21.12.2017 with the approval of Hon'ble Chief Minister/CMM (V).



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On the recommendations SP Singh, the work of approval of Building Plans had been taken back in PSIEC at the level of ICM, but interestingly, the application submitted by the MIA where decision has been taken, not signed by any of the MIA Members and the approval of Building plans were transferred to PSIEC by the Industries & Commerce Minister.

The plots/subsidiaries of PSIDC transferred to PSIEC without approval of the Hon'ble CM (VI).

As per record, file movement as under:

XIV. Sh. Rajat Thamman, Dealing Assistant had put up a note to transfer the record from PSIDC to PSIEC on 03.03.2021 and the proposal was approved on 05.03.2021, on very same day letter was issued.

XV. Registered deed of M/s Anand Lamp was handed over to Dealing Assistant on 09.03.2021.

XVI. On 10.03.2021 (Wednesday), dealing assistant proposed that before proceeding further to change the title deed, M/s Gulmohar Township may be conveyed some deficiencies i.e. Affidavit, processing fees, list of directors, shareholders, BOD resolution of the company, Notary attested copy of sale deed to be conveyed to M/s Gulmohar, proposal approved on 12.03.2021 (Friday).

XVII. But no deficiency conveyed to M/s Gulmohar Township on 12.03.2021 nor thereafter. But after completing the record, File was re-submitted for transfer on 12.03.2021 (Friday) by Sh. Rajat and the proposal was approved on 15.03.2021 (Monday), allotment letter was also issued on 15.03.3021 vide No. PSIEC/Estate/21504-508 dated 15.03.2021 (VII).

XVIII. As per clause 2 of the allotment letter (PSIEC/Estate/21504-508 dated 15.03.2021), the purchaser shall ensure to commence production after complete construction factory building within overall period of 03 years from the date of issuance of this letter. The purchaser shall produce permanent SSI Registration Certificate issued by General Manager, District Industries Centre Mohali.



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XIX. The request for bifurcation of plot No. 1 received from M/s Gulmohar Township India Pvt. Ltd. In PSIEC on 16.03.2021, on his request he has not mentioned that how many plots he wanted to bifurcate (1).

XX. On 17.03.2021 Industries & Commerce Minister sought report regarding pending cases of bifurcation of plots and transfer of plots till 16.03.2021 with the direction that the report should reach to him by 18.03.2021 (VIII)

XXI. On 17.03.2021 (Wednesday) Sh. Rajat proposed a committee comprising of officials/officers of PSIEC - Dealing Assistant (himself), Sub-Divisional Engineer (Mohali), Assistant Town Planner Estate Officer-I, District Town Planner. Executive Engineer-II, General Manager (Personnel), Chief General Manager (Planning), Chief General Manager (Estate & Finance) & Executive Director respectively to bifurcate the Plot No. A-1 (25 acres), the proposal was approved on 18.03.2021 (Thursday).

XXII. No officer of PSIDC was involved in the committee whereas the plot in question relates to PSIDC.

XXIII. Notice for attending the meeting to bifurcate the plot has not been issued to the Committee members, it is also not understood that when and where meeting was held.

XXIV. Vide No. PSIEC/CGM (E)/1708 dated 19.03.2021, recommendations of the Committee were put up for approval.

XXV. On the demand raised by Industrial Association/allottees of different focal points on different occasions for allowing bifurcation/fragmentation of already allotted industrial plots. The need for considering bifurcation has emanated from: (IX)

v) Family dispute

vi) Death of the allottee & sub-division amongst heirs

vii) Unit having gone Sick

viii) Financial constraints of the allottee



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The above Agenda Item No. 7 was placed before the BoDs of PSIEC held on 21.06.2004, the BoDs considered the agenda and resolved as under:

“The Board further resolved to allow bifurcation/fragmentation of industrial plots in all the focal points as detailed in the agenda item. However, the same will not be applicable in any of Phases of Focal Point Mohali (SAS Nagar)” (X)

XXVI. The case for allowing bifurcation/fragmentation in industrial focal point Mohali was again placed before BoDs meeting held on 08.02.2005 at 2.30 PM vide Agenda Item No.10 read (XI)

.....Accordingly, it is proposed that the facility to allow bifurcation/fragmentation of industrial plots may also be extended to the industrial plot holders of focal point Mohali on the patten that already allowed in other areas.

The BoDs of the Corporation considered the agenda and resolved as under:

“Resolved to allow bifurcation/fragmentation of Industrial plots (excepting semi-developed pocket in different Focal Points including Mohali in the sizes 1000 sq. yds and above by charging the fees as proposed in the agenda with the condition that no fragmented/bifurcated portion(s) should be below 400 sq. yds.(XII)

The proposal at ‘XX’ on pre-page was approved on 23.03.2021. But on pre- page No ‘XX’ is available.

- *The proceedings of the Committee are not available on record, they have bifurcated 12 plots of around 2 acres each and rest of the land left for green belts/basic amenities etc. But Mr. S.P. Singh and dealing assistant forged documents bifurcated 12 plots into 125 plots, Green belts/road connectivity, water connectivity, sewerage connectivity, load on traffic etc. were not examined and issued 125 NOC for sale to the purchaser after getting 5000/- processing fees as applicable as per Policy of the PSIEC.*



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- *In a similar case of 15 acres of land acquired by PSIDC for M/s Harpartap Steel Limited at Phase-IX, Mohali, with the approval of Hon'ble Chief Minister, a Policy was formulated and the project was approved as Mega Project, MoU was signed between State Government and M/s Bestech. The project was also transferred to PSIEC and the officers of PSIEC well aware about this.*
- *The transfer/bifurcation/allotments of 12 plots after forging converted into 125 plots **ever first time in the history of PSIEC** are done in a very short span of time which is really surprising.*
- *The Policy for bifurcation was only to divide the land equally among the family members to avoid dispute, death cases, sick units not for the new transferee who have purchased the plots in a day before without following the policy/guidelines.*

In the Industrial Policy issued by Govt. of Punjab from time to time, applicable to all industrial units, there is no provision in the policy to bifurcate/fragment the plots in any of the focal points (copy enclosed)-(XIII)

The last e-auction price of the Industrial plot at Mohali went upto Rs. 70000 per sq. yard. and PSIEC sold the plots on the e-auction price. But M/s Gulmohar Township Pvt. Ltd. is selling/sold the plots @ Rs. 50,000/- per sq. yds, the formula is as under:

- *Plot above 1000 sq. yds-49, marketing price amounting to **Rs. 50,000/-** per sq. yds = (1000 sq. yds. X 50,000/- = 5.00 Crore i.e, 49X5.00 Crore = **245.00 Crores***
- *Plot 500 sq. yds-76, market price amounting to Rs. 50,000/- per sq. yds = (500 sq. yds. X Rs. 50,000/- = Rs. 2.50 Crore i.e. 76X2.50 Crores = **Rs. 375.00 Crores.***
- *Total loss to the Govt.: **Rs. 375.00+ 245.00 = 620.00 Crores approx.***



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*As per information gathered from the market, 50% partnership holding by Sh. SP Singh's son in this project. All the rules and regulation/guidelines were side lines and huge loss amounting to **Rs. 620.00 Crores**+ loss of the stamp duty as the purchaser of the plot holders only paying 10,000/- per sq. yds. as collector rate of Mohali which is a huge loss caused to the Government exchequer.*

PSIEC is a Nodal Agency to create land bank on behalf of the State Government so that prominent investors may invest in the State of Punjab. The financial position of PSIEC is healthy and can independently purchase this plot. This act of officers of PSIEC can give employment atleast 50,000 unemployed persons and also complete the Manifesto of the Congress Govt. to give Ghar- Ghar Rojgar Yojna but in the instant case Sh. SP Singh has created self land bank for his personal gains.

Being a congressmen I would request you to kindly look into this scam and do the needful at the earliest as the election is going to be held shortly and I don't want that this scam would be shameful for Captain sir.

*Yours sincerely,
Sd/- Navjot Singh
Congressmen”*

8.3 It transpires that above complaint was received in the office of Punjab State Chief Vigilance Commissioner, SAS Nagar (Mohali) vide Diary No.65 dated 21.06.2021 and the same was forwarded to DSP (Vigilance), Mohali for passing appropriate orders.

8.4 A bare perusal of the abovesaid complaint reveals that it is a pseudo communication made to the Chief Vigilance Commissioner and till date, the identity/credentials of complainant “Navjot Singh-congressman” are not known. Neither aforesaid “Navjot Singh-congressman” joined preliminary inquiry; nor he

was associated during investigation by the Vigilance Bureau for the reasons best

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known to them. In such a scenario, it is not conceivable as to how the State Chief Vigilance Commissioner has set the Bureau into motion, without ascertaining the sanctity of complaint as well as credentials of the complainant.

As a result of the above, there is no hesitation to observe that non-association of complainant “Navjot Singh-congressman” by the Vigilance Bureau casts serious doubts on the functioning of the quarter concerned, especially in view of the fact that in penultimate paragraph of the complaint, it is claimed that **“Being a congressmen, I would request you to kindly look into this scam and do the needful at the earliest as the election is going to be held shortly and I don't want that this scam would be shameful for Captain sir”**. Hence, there remains no doubt that alleged complaint is actuated with ulterior motive and petitioners have been made scapegoat by some disgruntled element(s) while misusing the office of Punjab State Chief Vigilance Commissioner.

8.5 It is quite evident that initially, plot No.1 (measuring 25 acres) was allotted in favour of PALI Ltd. more than 40 years back i.e. 30.07.1984 by the PSIDC on “freehold basis” and thereafter, a sale deed dated 22.05.1987 was executed by the PSIDC in respect of the plot in question in favour of PALI Ltd.

8.6 The assets of PALI Ltd., including the aforementioned plot, got amalgamated in Phillips India Ltd. under a ‘Scheme of Amalgamation’ which was duly accepted by the PSIDC and thereafter, upon recovering all the dues from the original allottee i.e. PALI Ltd., the requisite ‘No-Dues Certificate’ was issued in their favour.

8.7 On 27.01.2016, under the orders of Hon’ble Calcutta High Court, in a ‘Scheme of Demerger’, the plot was transferred from Phillips India Ltd. to



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another company Phillips Lighting India Ltd., whose name was subsequently changed to Signify Innovations Ltd.

8.8 Till date, there is no allegation by the PSIDC; or PSIEC; and/or by the Industries Department, Punjab that PALI Ltd.; or Signify Innovations Ltd.; or the Gulmohar Township has violated any terms & conditions regarding the sale/transfer/bifurcation of the plot in question. On the other hand, there is sufficient materials on record which clearly indicates that it is a simple case where an industrial plot stood transferred/sold initially from the PSIDC to PALI Ltd.; thereafter to Signify Innovations Ltd.; and finally to the Gulmohar Township. The records also indicate that Gulmohar Township has duly obtained necessary permission from the competent authority before bifurcation/fragmentation of the plot in question into smaller plots and none of the purchasers has raised any grievance in this regard till date.

8.9 It is also duly established on record that similar permissions for bifurcation/fragmentation of various industrial plots have already been granted by the PSIDC/PSIEC in District Mohali before registration of the present FIR as well as subsequent thereto and for reference, the details of which as contained in list (Mark 'Y'), are reproduced here as under:-

Sr. No.	Focal Point/Phase	Plot No.	Date of Original Allotment	Date of Last Transfer	Original Area of Industrial Plot	Date of Bifurcation	No. of Bifurcated/ Fragmented Plots including original retained plot
1.	PHASE VII MOHALI	D-162-163-164 (Plot allotted after Clubbing 3 Plots)	23-06-1989	20-01-2006	7500	21-06-2006	3
2.	PHASE VII MOHALI	B-64	22-07-1981	07-03-2008	9838	06-12-2010	4



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3.	PHASE VIII B MOHALI	C-183	14-07-2000	13-04-2010	4000	05-03-2012	4
4.	PHASE VII MOHALI	C-98	13-12-1977	26-09-2011	3167	11-10-2012	6
5.	PHASE VII MOHALI	D-133	15-07-1982	10-07-2014	2500	12-11-2013	5
6.	PHASE VIII B MOHALI	C-168	31-03-2000	15-10-2008	4600	19-08-2014	2
7.	PHASE VIII A MOHALI	D-250	18-02-2016	--	2507	07-04-2016	3
8.	PHASE IX MOHALI	433	10-02-1992	04-04-2012	1330	18-03-2016	2
9.	PHASE VIII B MOHALI	C-201 & C- 202 (P)	18-02-2016	11-06-2018	7048.89	12-01-2017	5
10.	PHASE VIII B MOHALI	C-177	31-03-2000	10-08-2016	5217	08-02-2017	4
11.	PHASE VII MOHALI	D-162-163- 164 (Fragmented Plots were clubbed and fragmented again)	23-06-1989	20-01-2006	7500	09-03-2017	2
12.	PHASE VIII B MOHALI	D-180	05-05-2000	23-12-2011	2504	05-05-2017	4
13.	PHASE VIII B MOHALI	D-233	01-03-2013	--	2340	26-05-2017	2
14.	PHASE IX MOHALI	337	08-01-1987	--	4277	13-06-2017	5
15.	PHASE VIII B MOHALI	C-196	29-11-2011	08-08-2017	3524.44	29-11-2017	3
16.	PHASE VIII B MOHALI	D-235	15-04-2008	08-09-2017	2269	11-12-2017	4
17.	PHASE VIII B MOHALI	C-210	15-02-2017	--	3450	12-02-2018	4
18.	PHASE VIII B MOHALI	D-244	15-04-2008	19-12-2017	2501	19-02-2018	3
19.	PHASE VII MOHALI	B-74	22-04-1983	13-08-2002	9411	07-08-2018	5
20.	PHASE VIII B MOHALI	D-266	18-02-2016	--	2500	10-06-2019	5
21.	PHASE VII MOHALI	B-73	02-05-1977	27-12-2002	9411	14-08-2019	5



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22.	PHASE VIII B MOHALI	D-234	07-05-2010	--	2400	14-08-2019	4
23.	PHASE VIII B MOHALI	D-224-227	10-10-2000	29-09-2006	9864	13-11-2019	4
24.	PHASE VII MOHALI	D-161	19-03-1987	--	2500	27-11-2019	4
25.	PHASE VIII A MOHALI	D-249	22-11-2011	16-07-2017	2561.31	18-05-2020	3
26.	PHASE VIII B MOHALI	D-235	15-04-2008	08-09-2017	1000	08-02-2021	2
27.	PHASE VII MOHALI	A-28	01-10-1976	29-05-2019	26056	02-01-2021	8
28.	PHASE VII MOHALI	B-70	20-03-1980	04-08-2000	9411	02-02-2021	4
29.	PHASE VIII B MOHALI	C-210 (C)	29-11-2011	21-03-2018	1277.77	12-02-2021	2
30.	Phase IX, Industrial Estate Mohali	Plot No.1 (Present Case)	30.07.1984	15.03.2021	1,21,000	24-03-2021	125
31.	PHASE VII MOHALI	D-103 A	04-04-1985	--	2500	22-04-2021	5
32.	PHASE VIII B MOHALI	C-211	18-02-2016	--	3450	30-04-2021	4
33.	PHASE VII MOHALI	D-156-A (P)	08-08-1986	23-06-2021	2700	02-07-2021	6
34.	PHASE VII MOHALI	A-28 P	01-10-1976	29-05-2019	2673.61	23-08-2021	6
35.	PHASE VIII B MOHALI	C-209 (P)	29-11-2011	07-02-2017	3524.24	01-10-2021	4
36.	PHASE VII MOHALI	D-94	23-12-1975	01-09-2020	2500	03-12-2021	2
37.	PHASE VIII B MOHALI	D-220	14-07-2004	02-08-2018	2680	10-12-2021	4
38.	PHASE VIII B MOHALI	D-244 P, D- 244 A & D- 244 B (CLUBBED PLOT)	15-04-2008	19-12-2017	2501	17-12-2021	5
39.	PHASE VIII B MOHALI	D-200	13-07-2004	18-11-2005	2584	18-02-2022	3
40.	PHASE VIII B MOHALI	F-510-514	14-05-2019	--	2500	30-05-2022	5
41.	PHASE VIII	F-516-520	15-11-2021	27-11-2015	2500	15-06-2022	5



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	B MOHALI						
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8.10 Apart from the aforesaid details, there are numerous instances in the State of Punjab, where bigger plots were bifurcated/fragmented into smaller plots and no criminal proceedings were initiated by the Vigilance Bureau in any other case. Thus, the petitioner(s) have been selectively targeted and victimized while misusing the powers by the Vigilance Bureau for the reasons best known to them.

8.11 As far as the allegation with regard to shortfall of bifurcation/fragmentation fees is concerned, the same shall not attract any criminal liability; rather at best, if there is any demand of revenue by the PSIDC or PSIEC, the same can be raised in accordance with law against the person(s) concerned. For the sake of repetition, it is specifically observed here that till date, no demand of any fees etc. has been raised by the PSIDC; or PSIEC; and/or even by the State of Punjab on account of sale/purchase/transfer/bifurcation of the plot in question from the Gulmohar Township. Even for the sake of arguments, if at all, there had been any shortfall in deposit and/or calculation of fees by Gulmohar Township, there was no occasion for the Vigilance Bureau to register an FIR; rather the dues can be recovered in accordance with law by the competent authority.

8.12 It is noteworthy that on 16.03.2021, Gulmohar Township applied to PSIEC for bifurcation/fragmentation of plot in question into 125 plots. In the meanwhile, vide order dated 17.03.2021 (P-3 in CRM-M-20858-2023), petitioner-Sunder Sham Arora, being Cabinet Minister of Industries & Commerce, Government of Punjab from 2017 to 2022, made a routine communication to Managing Director, PSIEC asking certain information



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regarding pendency of files for bifurcation/fragmentation and for reference, the relevant extract of the same reads as under:-

“Office of Industries Minister, Punjab;

Report with regard to pending files of bifurcation and change of name are pending with the PSIEC upto 16.03.2021, be sent to the undersigned till 18.03.2021.

Sd/-

17.03.2021

MD/PSIEC”

8.13 On 18.03.2021, a 10-member Departmental Committee consisting of the following members was constituted by Mrs. Neelima, IAS, Managing Director, PSIEC:-

- (i) Surinderpal Singh, Executive Director;
(petitioner in CRWP-4289-2023);
- (ii) Bhai Sukhdeep Singh Sidhu, Chief General Manager (Estate);
(petitioner in CWP-7424-2023);
- (iii) Joginder Singh Bhatia, Chief General Manager (Planning);
(petitioner in CRM-M-22225-2023);
- (iv) Davinderpal Singh, General Manager (Personnel);
(petitioner in CRM-M-22207-2023);
- (v) Parminder Singh, Executive Engineer;
(petitioner in CRWP-3499-2023);
- (vi) Ankur Choudhary, Estate Officer;
(petitioner in CRM-M-22206-2023);
- (vii) Tejveer Singh, District Town Planner;
- (viii) Ashima Aggarwal, Assistant Town Planner (Planning);
- (ix) Sandeep Singh, Sub Division Engineer;
(petitioner in CRM-M-22178-2023);
- (x) Rajat Thamman, Dealing Assistant;
(petitioner in CRM-M-22172-2023);

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8.14 On 24.03.2021, petitioner-Gulmohar Township was granted permission by PSIEC to bifurcate/fragment plot in question into 125 plots.

8.15 Even in response to the letter dated 07.09.2021 of Vigilance Bureau, Secretary, Industries & Commerce Department, Government of Punjab vide letter dated 05.10.2021 (P-11 in CRWP-3499-2023) replied that the Departmental Committee had thoroughly scanned and probed each and every accusation and the same were found to be baseless.

8.16 Thus, the allegations contained in the FIR are based on mere conjectures. The bifurcation/fragmentation of plot in question into 125 plots was allowed by the PSIEC as per Policy dated 08.02.2005 (P-39 in CRWP-3499-2023); which is continuously being followed in the entire State of Punjab and more than 100 plots have been bifurcated/fragmented in the State under this policy and for reference, clause No.10(g) of the same, being relevant, is extracted here as under:-

“10(g) Resolved to allow bifurcation/fragmentation of all industrial plots (excepting semi-developed pocket) in different Focal Points including Mohali in the sizes 1000 Sq. Yds and above by charging the fees as proposed in the agenda with the condition that no fragmented/bifurcated portion(s) should be below 400 Sq. Yds. However, the internal development shall be the sole responsibility of the plot holders at their risk and cost. In these cases where original allotments were made by clubbing the plots, de-clubbing shall be permissible irrespective of the sizes. Transfer/bifurcation fees shall be chargeable on fragmented portion only payable at the time of seeking bifurcation/fragmentation. Moreover, no separate transfer fees will be charged for the first transfer of ownership of the fragmented/bifurcated portion of the plot.”

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In view of above, the decision in present case for allowing bifurcation/fragmentation of plot in question by the PSIEC has rightly been accepted by the Government of Punjab, Department of Industries vide letters dated 05.10.2021, 15.12.2022 and 11.01.2023 (P-11, P-12 and P-26, respectively in CRWP-3499-2023).

8.17 Once it is established that the decision to fragment the plot in question was validly taken by the PSIEC while following due procedure, then it is absolutely wrong to allege that any special favour was extended to the petitioner-Gulmohar Township and/or any loss was caused to the State Exchequer and as such, there was no occasion to register an FIR by the Vigilance Bureau.

8.18 Although, learned State counsel tried to raise a plea that permission(s)/sanction(s) have been granted to the petitioner-Gulmohar Township in undue haste within a period of 07 days, but mere promptness shown by the competent authority while discharging their official duties does not attract any culpability; rather it deserves appreciation for better governance.

8.19 Apart that, there is no quarrel that an additional revenue was earned by the State Government and PSIEC while allowing bifurcation/fragmentation in the year 2021; therefore it would be absolutely wrong on the part of Vigilance Bureau to allege that transfer/fragmentation was unlawful and/or caused loss to the State Exchequer.

8.20 Still further, it is a matter of records that upon registration of sale deed dated 25.02.2021 (P-49 in CRWP-3499-2023) between Signify Innovations Ltd. and the Gulmohar Township, the State Government and PSIEC earned revenue to the tune of Rs.8.5 Crore and Rs. 4.82 Crore, respectively.

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8.21 Also discernible that petitioner-Gulmohar Township has complied with all the conditions of allotment letter dated 30.07.1984 (P-37 in CRWP-3499-2023) regarding construction of building and plans were approved by the competent authority. Moreover, neither there is any violation; nor any illegality shown by learned State counsel while granting permission for sale of plot in question in favour of the petitioner-Gulmohar Township.

8.22 Needless to say that subsequent vendees/purchasers of bifurcated/fragmented plots would be governed by the terms & conditions stipulated in the transfer letter(s).

8.23 As already discussed, till today, there is no demand raised on account of bifurcation/fragmentation of plot in question; nor any dues are pending towards the Gulmohar Township; therefore, 'No-Objection Certificate' for sale of plot in question was validly issued by the PSIEC and permission for bifurcation/fragmentation was granted in a lawful manner by the competent authority; thus the allegations of loss of Rs.500/700 Crore levelled by the Vigilance Bureau are completely imaginary having no legs to stand.

8.24 As already noticed, petitioner-Sunder Sham Arora had merely solicited a report from the M.D, PSIEC with respect to pending cases of bifurcation/fragmentation and there is not even a whisper that communication dated 17.03.2021 was issued solely for the plot in question. Hence, petitioner Sunder Sham Arora did not extend any favour to a particular person, including Gulmohar Township; rather, he had asked the information from M.D., PSIEC in a routine manner in his official capacity. Above all, mere calling of report from M.D, PSIEC by the Minister concerned does not constitute a criminal offence; nor any *mens rea* can be attributed to either of the petitioners, including

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petitioner-Gulmohar Township; or to the Committee Members and/or to Sunder Sham Arora, the then Industries & Commerce Minister.

8.25 Even the members of Departmental Committee had discharged their duties with due diligence in accordance with law while submitting their report for approval of bifurcation/fragmentation.

A fortiori, it is quite elementary that every official act is presumed to be correct unless proved otherwise and in the present case, there is no such material available on record to rebut that presumption. Even till date, neither any subsequent purchaser(s)/transferee(s); nor PSIDC; or PSIEC or State Government has raised any finger regarding the bifurcation/fragmentation of plot in question. Hence, there is no justification to connect the members of the Committee with any act of forgery, cheating or giving undue benefit to petitioner-Gulmohar Township.

8.26 From the material available on record, there is no hesitation to hold that petitioner-Gulmohar Township has complied with all the legal formalities while obtaining approval for bifurcation/fragmentation of plot in question and have paid the requisite fees as per rules; thus, no criminal intent can be attributed on their part in purchasing; or bifurcating/fragmenting plot No.1, Phase IX, SAS Nagar, Mohali.

8.27 Even the plea(s) raised by intervener-Philips Employees Sangharsh Committee are liable to be rejected for the simple reason that they have remedy for recovery of their pending dues, if any, as per law, from the erstwhile management, if so advised, but have no *locus standi* to oppose the prayer of petitioner(s).



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So far as the plea regarding violation of PAPRA is concerned, the same would also be unacceptable in view of the exemption granted by Government of Punjab vide Gazette Notification dated 12.09.2018 (P-18 in CRM-M-22207-2023) and relevant part of which reads as under:-

**“Government of Punjab
Department of Housing and Urban Development
(Housing I Branch)
Notification**

Dated: 12/09/2018

No.08/04/2018-4HG1/1316623/1

*In exercise of the powers vested under Section 44 (2) of the Punjab Apartment and Property Regulation Act, 1995 (Punjab Act No. 14 of 1995) and all other powers enabling him to act in this behalf, the Governor of Punjab is pleased to exempt the bifurcation of Industrial Plots **not measuring less than 1000 Sq. meters** allotted by the Government Agency/Corporation of the State of Punjab constituted for the development of land for promotion of Industry, from all the provisions of the Punjab Apartment and Property Regulation Act, 1995, subject to such terms and conditions as may be determined in a policy framed by the Concerned Government Agency/Corporation.*

*Vini Mahajan
Additional Chief Secretary
Department of Housing and Urban Development”*

*Dated: 06.09.2018
Chandigarh*

9. Although, in order to oppose the prayer of petitioner(s), learned State counsel cited various judicial precedents, but the same are not helpful for the following reasons:-

(1) In ***Neeharika’s case (supra)***, it was held by Hon’ble the Supreme Court that power of quashing should be exercised sparingly with circumspection in the rarest of rare cases. Also observed that quashing of a complaint/FIR should be exception; rather than ordinary rule. Here, in the case in hand, even if the allegations levelled in the FIR are taken at their face value, it does not disclose



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commission of a cognizable offence; nor is there any criminality involved in the present case.

(2) In ***Kaptan Singh's case (supra)***, it was held that when there are serious triable allegations in complaint it is improper to quash FIR under Section 482 Cr.P.C. but in the present case, no criminality is found against the petitioners which can be tried against them.

(3) In ***Priyanka Yadav's case (supra)***, while relying upon ***Neeharika's case (ibid)***, Hon'ble the Supreme Court held that High Court(s) cannot pass 'no arrest' or 'no coercive action' till final report is filed and such practice is disapproved, whereas no orders like 'no arrest' or 'no coercive action' have been passed in the case in hand.

(4) In ***Sahara Housing's case (supra)***, Hon'ble the Supreme Court again while referring to ***Neeharika's case (supra)*** held that High Court is not justified while staying investigation and in passing consequential directions at interlocutory stage. In this case, no direction was passed at interlocutory stage.

(5) In ***Aman Kumar Singh's case (supra)***, it was held by Hon'ble the Supreme Court that FIR in disproportionate assets case pertaining to corruption cases, cannot be quashed, specifically at the stage of investigation. Also held that plea of *mala fide* may not *per se* form the basis for quashing the FIR. However, in the present case, this Court has found that no criminal offence is made out against either of the petitioners; hence the judgement is distinguishable on facts.

8.29 In view of the facts & circumstances discussed here-in-above, the irresistible conclusion would be that:-

- i. The criminal proceedings have been initiated by the Vigilance Bureau on the basis of pseudo complaint made by one "Navjot Singh-congressman", whose identity/credentials are not known till date. Thus, it can be safely observed that aforesaid

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pseudo complaint was made just to victimise the petitioner(s) for ulterior motive and extraneous reasons, which are unknown to law;

- ii. The then State Chief Vigilance Commissioner also failed to exercise due diligence while not getting verified the identity/credentials of the complainant and straightway, forwarding the pseudo complaint to Deputy Superintendent of Police, (Vigilance), SAS Nagar Mohali;
- iii. The Vigilance Bureau, while misusing their powers, registered the impugned FIR, without there being any basis, just to harass and humiliate the petitioner(s);
- iv. On the basis of Policy dated 08.02.2005, total 40 other industrial plots in District SAS Nagar Mohali and more than 100 plots in the entire State of Punjab have been permitted to be bifurcated/fragmented by the PSIDC/PSIEC; hence, the plot in question is not the solitary instance of bifurcation/fragmentation;
- v. The continuation of proceedings by the Vigilance Bureau is a complete misuse of process of law and as such, the same deserves to be quashed and set-aside;
- vi. Resultantly, in the opinion of this Court, it is a fit case to exercise the inherent powers under Section 482 Cr.P.C to prevent the abuse of process of law.

10. Consequently, there is no option, except to allow all the ten petitions.

11. Ordered accordingly.

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12. As a result, FIR No.01 dated 05.01.2023, registered under Sections 409, 420, 465, 467, 468, 471 and 120-B of the IPC and Section 13(1) (a) read with Section 13 (2) of PC Act, at Police Station, Vigilance Bureau, Flying Squad-1, District SAS Nagar (Mohali), Punjab and all consequential proceedings arising therefrom, are quashed and set aside *qua* the petitioner(s).

13. Needless to say that quashing of impugned FIR shall not debar the PSIEC/PSIDC; or State of Punjab from raising any demand, if found due, in accordance with law against the person(s) concerned, including subsequent purchasers, if so advised.

Pending application(s), if any, shall also stand disposed off.

Photocopy of this order be placed on the files of connected matters.

20th DECEMBER, 2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No