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

201 **(I) CRR-1460-2023 (O&M)**
Date of Decision : November 04, 2024

ANIL GUPTA

-PETITIONER

V/S

CENTRAL BUREAU OF INVESTIGATION

-RESPONDENT

(II) CRR-1465-2021 (O&M)

POONAM CHAND DUDI @ PC DUDI

-PETITIONER

V/S

CENTRAL BUREAU OF INVESTIGATION ACB CHANDIGARH

-RESPONDENT

(III) CRM-M-23938-2022 (O&M)

RAVINDER KUMAR

-PETITIONER

V/S

CENTRAL BUREAU OF INVESTIGATION AND ANR

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Harparteek Singh Sandhu, Advocate and
Mr. Sushant Kareer, Advocate
for the petitioner (in CRR-1460-2023).

Mr. Jagjit Singh Sarao, Advocate (Through V.C.)
for the petitioner (in CRR-1465-2021).

Mr. P.S. Dhaliwal, Advocate
for the petitioner (in CRM-M-23938-2022).

Mr. Deepak Sabherwal, Advocate
Mr. Akashdeep Singh, Advocate and
Mr. Prateek Gupta, Advocate
for the respondent-C.B.I.

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<u>KULDEEP TIWARI, J. (ORAL)</u>

1. The amenability of all these petitions for being decided through a common verdict originates from their genesis being embodied in a common FIR, besides originating from common relief(s) being yearned therein.

2. To be precise, the common relief(s) yearned in all these petitions is for setting aside:- (i) the order dated 15.09.2021, whereby, petitioners' discharge application filed under Section 227 Cr.P.C. has been dismissed by the Special Judge, C.B.I., Punjab, S.A.S Nagar (hereinafter referred to as the 'C.B.I. Judge'); and (ii) the order dated 06.10.2021, wherethrough, charges have been framed against the petitioners by the C.B.I. Judge.

3. Apart from the hereinabove extracted common relief(s), the petitioner (in CRM-M-23938-2022) craves for an additional relief of quashing the FIR No.RCCHG2015-A0001 dated 02.01.2015, under Sections 120-B read with Sections 409, 420, 468 of the IPC, and, Section 13(1)(c) and (d) read with Section 13(2) of the Prevention of Corruption Act, 1988, registered at P.S. CBI/ACB/CHG, District Chandigarh.

<u>FACTUAL MATRIX</u>

4. The present FIR derived its origin from source information and initially it was registered against seven accused. The allegations voiced

in the present FIR are that, during the period: 2008 to 2012, the petitioners- P.C. Dudi and Ravinder Kumar and their co-accused, while functioning in the Northern Railways Department, criminally conspired amongst themselves and with petitioner- Anil Gupta, proprietor of M/s Shree Agarsen Advertisers (hereinafter referred to as the 'accused firm'), in the matter of contract for commercial publicity work at Railway Station, Ludhiana. In furtherance of their criminal conspiracy, the petitioners and their co-accused caused wrongful loss to the State Exchequer and corresponding gain to the accused firm by misappropriation of the actual licence fee and security deposit, by forging and fabricating the documents for showing the licence fee instruments to have been deposited, whereas, the same was never deposited/remitted and credited in the concerned bank accounts of the Railways. The first yearly licence fee, which worked out to be Rs.42,57,779/- was paid by the accused/contractor through three demand drafts, however, two of those demand drafts worth Rs.12,00,000/- were not found to have been remitted to the Railways' account. Not only this, one of the aforesaid three demand drafts bearing No.915660 dated 23.05.2008 was found to have been actually issued for Rs.19,08,890/- for payment of licence fee of another similar contract pertaining to Railway Station, Amritsar.

5. The further allegations are that, in order to give wrongful gain to the accused firm, the date of commencement of work was also manipulated in gross violation of the agreement, by allowing the accused firm to run the contract beyond the actual validity period for almost nine months. As per the terms and conditions of the tender, the date of commencement of the contract should have been 30 days from the date of signing the

agreement or from the date of display, whichever is earlier. Since the letter of allotment of work was issued on 10.11.2008, therefore, the date of commencement of contract should have been taken as 10.12.2008. However, the agreement was signed on 24.02.2010 and the Station Superintendent, Ludhiana, gave a fake certificate that the contractor started the work on 03.09.2009. Consequently, the contractor/accused firm was given the benefit of running the contract for a longer period of about nine months. In this way, the manipulatively extended period caused a loss of Rs.81,79,850/- to the Railways Exchequer.

6. After conducting exhaustive investigation, the C.B.I. presented the Final Report under Section 173 Cr.P.C. on 30.03.2017. Thereafter, the petitioners preferred their respective discharge applications, which were dismissed by the C.B.I. Judge through drawing the common order dated 15.09.2021. Subsequently, vide order dated 06.10.2021, the C.B.I. Judge framed charges against the petitioners and their co-accused.

7. The rendering of the declining order on their discharge applications and the framing of charges against them propelled the petitioners to approach this Court through instituting the present petitions.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PETITIONERS

8. The learned senior counsel representing the petitioner- Anil Gupta vociferously argues that, no offence whatsoever is made out against the petitioner, which may require him to face trial in respect of the charges framed against him. The C.B.I. has not brought any evidence, which could reflect any nexus between the petitioner and the delinquent official(s)/offi-

cer(s) of the Northern Railways. In fact, the petitioner has cleared all dues in respect of the contract in question, and thereupon, a "No Dues Certificate" dated 19.09.2016 has also been issued by the Northern Railways.

9. Elaborating his arguments, the learned senior counsel for the petitioner- Anil Gupta submits that, the two demand drafts amounting to Rs.10,00,000/- and Rs.2,00,000/- were subsequently remitted to the account of the Northern Railways. Moreover, insofar as the issue of mean commencement date is concerned, the same was fixed by one Dharminder Kumar, Sr. DCM and both the parties were privy to the terms of the agreement. The agreement was signed between the parties through Sr. DCM, who was responsible for fixing the mean commencement date. Nonetheless, in case of any dispute regarding interpretation of the agreement, resort ought to have been made to the arbitration clause existing in the agreement, however, without having recourse to the apt arbitration remedy, the instant criminal proceedings have straightaway been initiated by the C.B.I. in respect of a dispute nature whereof is purely civil. Moreover, to submit that deviation from contract or negligence cannot invite criminal proceedings, reliance is also placed upon the judgments rendered in cases titled as ***"Dr. Dhananjai Kumar Pandey Vs. Central Bureau of Investigation", 2015 SCC OnLine Bom 5625***, and, ***"Kailash Verma Vs. Punjab State Civil Supplies Corporation and another", 2005(1) RCR (Criminal) 727.***

10. It is further submitted that, fraudulent intention must be since the inception and not formed subsequently. In case of nonpayment or underpayment for goods or services availed, it does not amount to cheating and in the instant case also, the ingredients of cheating, as defined in Sec-

tion 415 of the IPC, are totally absent. To substantiate these submissions, reliance is placed upon the judgments rendered in ***"Hotline Teletubes and Components Ltd. and Ors. Vs. State of Bihar and Anr.", 2005(10) SCC 261***, and, ***"Vesa Holdings P. Ltd. and Anr. Vs. State of Kerala and Ors.", 2015(8) SCC 293.***

11. Furthermore, by citing the contents of the Final Report, the learned senior counsel for the petitioner- Anil Gupta submits that, the officer, on whose authority the agreement was signed, has been declared innocent by the C.B.I. by stating his conduct to be not of criminal nature, while the contracting party has been found accused of the very offences.

12. Concluding his arguments, the learned senior counsel for the petitioner- Anil Gupta submits that, in terms of the apposite clause embodied in the agreement, the FDR of Rs.8,52,000/-, which was furnished as security towards the tender at the beginning of the contract, was rightly released to the petitioner post the completion of the contract. Moreover, in the Final Report, it has been categorically stated by the C.B.I. that, owing to negligence and lack of proper procedure being followed on the part of one S.K. Malhotra, the FDR was released to the petitioner. There is no allegation that the FDR was released on account of any nexus between the petitioner and the delinquent official(s)/officer(s).

13. Commencing his arguments, the learned counsel representing the petitioner- P.C. Dudi not only assails the orders enumerated in paragraph No.2 of this verdict, but also assails the sanction to prosecute, which was accorded by the competent authority. He claims that, in fact, the sanction to prosecute is defective and does not pass the test of legality, there-

fore, the trial Court is not competent to take cognizance of the offence(s).

14. The learned counsel for the petitioner- P.C. Dudi submits that, the only role played by the petitioner throughout the entire episode is that of a forwarding authority. In fact, after signing the agreement, the Senior Divisional Commercial Manager neither passed any order for fixation of the mean commencement date, nor sought the reasons for delay in signing the agreement, nor sent the case of finance department for vetting of the agreement. Moreover, insofar as the releases of FDR of Rs.8,52,000/- and one installment of licence fee are concerned, the record makes vivid display that the same were released by one S.K. Malhotra, the then ADFM, Ferozepur, under his signatures and in connivance with co-accused Mohd. Yakub, by showing the same as earnest money of the unsuccessful tenderer.

15. Resting his arguments, the learned counsel for the petitioner- P.C. Dudi submits that, the petitioner had no role to play in the release of the amounts (supra), as he was neither the competent signing authority, nor the concerned file was ever put up before him. Moreover, neither the petitioner had passed any order for fixation of mean commencement date on 03.09.2009, nor the concerned file was ever put up before him.

16. Insofar as petitioner- Ravinder Kumar Sharma is concerned, the learned counsel representing him submits that, the petitioner had joined as Station Superintendent on 13.05.2009 and he was the successor to one Ashok Salaria, during whose tenure the entire process pertaining to the tender of accused firm was done. The petitioner had no role to play in the entire tender process, rather it was his predecessor Ashok Salaria, the then

Station Superintendent, who received the allotment letter dated 10.11.2008. Moreover, the entire tender process was initiated, managed and controlled by the office of DCM and DRM, Ferozepur, where co-accused P.C. Dudi, Mohd. Yakub and Naresh Kumar were posted. Therefore, there is no material available with the prosecution to substantiate the allegations of criminal conspiracy on the part of the petitioner. Even the Final Report does not contain any incriminatory evidence against the petitioner.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE C.B.I.

17. The learned counsels representing the C.B.I. collectively submit that, the petitioner- Anil Gupta, who is proprietor of the accused firm, entered into criminal conspiracy with his other co-accused working in the Northern Railways and got awarded to his firm three contracts for commercial publicity work at Railway Station, Ludhiana and two trains. Moreover, the accused misappropriated annual licence fee and security deposit by forging and fabricating documents, thereby causing wrongful loss to the tune of Rs.1,06,45,193/- (out of which Rs.84,99,381/- was deposited by petitioner- Anil Gupta and earnest money of Rs. 10 lacs was encashed later on by the railways authority, however, even then Rs.11,15,812/- remained outstanding to the Railways).

18. The learned counsels further submit that, the demand draft No.990405 dated 10.04.2008 amounting to Rs.2,00,000/-, which was alleged to have been submitted in lieu of licence fee for contract work of Railway Station, Ludhiana, was in fact received by the Sr. DCM, Northern Railways, Ferozepur, in lieu of the security money for commercial publicity work in Jan Shatabdi Express and encashment thereof is yet pending.

Moreover, another demand draft No.915660 dated 23.05.2008 amounting to Rs.10,00,000/-, which was supposedly received for the present contract work, was actually issued for an amount of Rs.19,08,890/- in lieu of the publicity work at Railway Station, Amritsar.

19. Continuing their arguments, the learned counsels submit that, there was inordinate delay in signing the agreement inasmuch as the tender was approved on 07.11.2008 and signed on 08.11.2008, however, the agreement was signed on 24.02.2010. Moreover, in order to give undue gain to the accused firm, the petitioners and their co-accused infringed the terms and conditions of the tender and also manipulated the date of commencement of work, which resulted in the accused firm becoming allowed to run the contract for an elongated period of almost 296 days. The licence fee for this extended period of 296 days, which was calculated on pro-rata basis, although was initially not deposited, however, it was deposited post registration of the present FIR.

ANALYSIS OF SOME SIGNIFICANT JUDICIAL PRECEDENTS GERMANE TO DISPOSAL OF THE INSTANT PETITIONS

20. It is a trite law that, at the time of framing of charges, the Court is required to evaluate the material placed on record by the prosecution to see as to whether any mischief of relevant provisions of law is attracted or not. Gainful reference in this regard can be made to the verdict drawn in ***"Chitresh Kumar Chopra Vs. State (Govt. of NCT of Delhi), reported in AIR 2010 SC 1446,*** wherein, it has been held that *"it is trite that at the stage of framing of charge, the court is required to evaluate the material and documents on record with a view to finding out if the facts*

emerging therefrom, taken at their face value, disclose the existence of all the ingredients constituting the alleged offence or offences. At this stage, the court has to consider the material only with a view to find out if there is a ground for presuming that the accused has committed an offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction".

21. In the verdict rendered in the case titled as ***"Dipakbhai Jagdishchandra Patel Vs. State of Gujarat and Anr.", Criminal Appeal No.714 of 2019, Decided on: 24.04.2019,*** the Hon'ble Supreme Court has, while discussing the law relating to framing of charges and discharge, held that all that is required is the Court must be satisfied that with the material available, a *prima facie* case is made out for the accused to stand trial. A strong suspicion suffices.

22. In ***"State of Bihar Vs. Ramesh Singh", AIR 1977 SC 2018,*** the Hon'ble Supreme Court has rendered the hereinafter extracted relevant observations:-

> *"Reading section 227 and 228 together in juxtaposition, as they got to be, it would be clear that at the beginning and initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused.*
>
> *The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter u/s 227 or u/s 228 of the code. At the initial stage if there is a strong suspicion which leads the court to think that there is a ground for presuming that the accused has committed an offence*

then it is not open to the court to say that there is no sufficient ground for proceeding against the accused."

23. Moreover, in ***"Union of India Vs. Prafulla Kumar Samal and Others", AIR 1979 SC 366,*** it has been held by the Hon'ble Supreme Court that, the court while considering the question of framing of charge under section 227 of the code, has the power to sift and weigh the evidence for the limited purpose of finding whether a *prima facie* case against the accused is made out or not. It has been further held that where the materials placed before the court disclose a grave suspicion against the accused, which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

REASONS FOR DISMISSING THE INSTANT PETITIONS

24. This Court has heard the submissions advanced by the learned counsels for the contesting litigants and also made a studied survey of the record. Gauging the validity of the impugned orders and the impugned FIR, on the anvil of the hereinabove discussed legal propositions, this Court does not find any illegality or perversity therein at this stage, especially when three prosecution witnesses have already been examined.

25. The cause for drawing the inference (supra) stems from there being sufficient material available on record, which invites the mischief of charges framed against the petitioners. Reiteratedly and concisely stated, the allegations constituting the bedrock for registration of the present FIR are that, the petitioners and their co-accused, while being posted in the Northern Railways, criminally conspired amongst themselves in the matter of contract for commercial publicity work at Railway Station, Ludhiana. In

furtherance of their criminal conspiracy, the petitioners and their co-accused caused wrongful loss to the State Exchequer and corresponding gain to the accused firm by misappropriation of the actual licence fee and security deposit. Moreover, in order to give wrongful gain to the accused firm, the date of commencement of work was also manipulated in gross violation of the agreement, by allowing the accused firm to run the contract beyond the actual validity period for almost nine months.

26. The distinct role played by each of the petitioners in commission of the present offence is narrated in the Final Report dated 30.03.2017, therefore, the relevant portion of the Final Report is extracted hereinafter:-

> *"16.8 Investigation has further revealed that there is no letter placed in the file maintained with O/o Sr. DCM, NR, FZR, which proved that how the initial payments have bean made by M/s Shree Agarsen Advertisers. But, through a letter dated 10.11.2008, the DD No. 915660 dated 23.5.2008, for Rs. 10 lacs, DD No. 577600 dated 22.10.08 for Rs. 30,57,779/- and DD No. 990405 dated 10.4.2008 for Rs. 2 lacs, purportedly been shown handed over to Sr. DFM, FZR, on behalf of Sr. DCM. FZR. It also came out during investigation that said letter bears the handwriting of Sh. Mohd. Yakub and initials of Sh. Naresh Kumar, the then Chief Office Superintendent on behalf of Sr. DCM, FZR. Investigation revealed that the above mentioned DDs were provided/handed over to Account Section, in order to credit the same in the account of Z-610, which is Sundry Earning Account of Northern Railway for commercial earning.*
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> *16.9 During investigation it was stated by Sh. Bhupinder Singh, Account Assistant, DR office, Account Department, Northern Railway, Ferozepur (Pb.) that he received letter dated 10.11.08, whereon, 3 DDs purportedly bearing DD No. 915660*

dated 23.05.08 for Rs. 10,00,000/-, DD No. 577600 dated 22.10.08 for Rs. 30,57,779/- & DD No. 990405 dated 10.04.08 for Rs. 2,00,000/-, in respect of first half yearly installment of License Fee have been shown handed over to Account Section. He stated that along with letter, instead of 3 DDs, Sh. Mohd Yakub handed over to him one DD No. 577600 dated 22.10.08 for Rs. 30,57,779/- and he acknowledged about this DD only, in the bottom of the letter. He has also narrated the above facts before Sh. Baljinder Singh, Special Magistrate, Patiala when his statement was recorded U/s 164 Cr PC. It also came out during investigation that vide Challan no. 64/M-X/CHEQUE/DD-PT.II dated 12.11.08/19.11.08, prepared by Sh. Bhupinder Singh, DD No. 577600, dated 22.10.08 of Citi Bank for Rs. 30,57,779/- from M/s Shree Agarsen Advertisers was deposited in the bank under the Allocation Head of Indian Railway.

16.11 It was revealed during investigation that on 10.11.08 M/s Shree Agarsen Advertisers, C-91/9, Wazirpur, Industrial Area, Delhi-110052 has submitted Security Money for Rs. 8,52,000/- vide FDR No. 520643 issued by Canara Bank dated 27.10.08 for getting the Commercial Publicity Work for a period of 3 years at Ludhiana Railway Station. The above said FDR was taken from the party as Security and was to be released to the party after the expiry of Contract and only after the Contract has been executed satisfactorily. The above security was to be deposited in the Accounts Section. On 10.11.2008, through a letter containing body writing of Sh. Mohd. Yakub and initials of Sh. Naresh Kumar on behalf of Sr. DCM, FZR addressed to Sr. DFM, FZR the above said FDR was shown handed over to Accounts Section, but actually it was not. Sh. Bhupinder Singh has denied the receipt of this FDR, he had cut the initials done by him on the acknowledge receipt. It also came out during investigation whenever any such FDR, as security has been deposited in the Accounts Section, the Accounts Section not only keep it in the safe custody, but also keep the details *of the FDR in their FDR Register. No such entry about the receipt of FDR No. 520643 dated 27.10.08 for Rs. 8,52,000/- issued by Canara Bank has been mentioned in the account section of Sr. DFM, Northern Railway Ferozepur.*

16.13 It was revealed during investigation that on 10.11.2008, when Acknowledgement of the receipt of three Drafts has been given to M/s Shree Agarsen Advertisers by Sh. PC Dudi. The advertiser's attention was also invited to Clause 5 of the tender in regard to the Mean Commencing Date (MCD). It was also instructed to M/s Shree Agarsen Advertiser to start the Contract at the earliest otherwise date of Mean Commencing Date MCD will be fixed in view Clause No. 5 of the tender. As per Clause 4 and 5 of the Terms & Conditions of Tender for leasing out Railway Station for Commercial Publicity Work, the party i.e. M/s Shree Agarsen Advertisers had to sign the agreement within one month of the issuance of Allotment letter. The Mean Commencing Date of the Contract was to be fixed, either one month after the signing of the agreement or Date of display, whichever be earlier. During investigation it came out that the earliest Mean Commencing Date of this contract was 10.11.2008, if M/s Shree Agarsen Advertisers would have started displaying the Advertisement at Ludhiana Railway on the Date of Allotment itself and latest was 08.01.2009, if, M/s Agarsen Advertiser had taken 30 days for signing the Contract and 30 days for displaying the Advertisement at Ludhiana Railway. Failing on the same, the Advertisement Contract given to M/s Shree Agarsen Advertisers should have been cancelled and Earnest money be forfeited. As the Contract was awarded to M/s Shree Agarsen Advertisers the officials of Commercial Section of Norther Railway, Ferozepur had to take proper steps for signing the agreement and fixing the Mean Commencing Date of the Contract. During investigation it came out that from dated 10.11.2008 till 24.02.2010, the file in which the Contract work of Ludhiana Railway Station has been dealt remained silent. It *was also revealed that whenever there is a delay in signing of agreement or delay in fixing of Mean Commencing Date from either side, then the said delay should be justifiable and be brought in writing. In this case, neither there is any justification mentioned in the file nor there is any correspondence between M/s Shree Agarsen Advertiser and official of Sr. DCM. Neither Sh. Mohd Yakub had written to party for signing the agreement nor Office Superintendent Sh. Naresh Kumar had pursued it. Sh. PC Dudi the then ACM had never sought any reason for delay in signing the agreement. All these officials had failed to bring these facts in writing and before the perusal of Sh. Dharmender Kumar, Sr. Divisional Commercial Manager. It also came out during investigation that no initiative was made by the above said officials for the cancellation of allotment and forfeiture of the Earnest Money as per clause.*

16.14 It was revealed during investigation that since 29.08.2008 the date on which above said Tender for the Contract work of Ludhiana Railway Station was opened at DRM office, Northern Railway, Ferozepur for Scrutiny and M/s Shree Agarsen Advertiser was found highest bidders among two, the M/s Agarsen Advertisers had started approaching various clients/parties with proposal to display their Advertisement/Hoarding at Ludhiana Railway Station. It also came out that when on 10.11.2008, a letter bearing signature of Sh. PC Dudi the then ACM on behalf of Sr. DCM has bean issued to M/s Shree Agarsen Advertiser, wherein the party has been asked to intimate about the Mean Commencing Date of this contract, then a copy of the above said letter was also marked to others for information. including Station Superintendent Ludhiana, who was specifically instructed to intimate about the Mean Commencing Date of this Contract. During investigation it came out at that time Sh. Ashok Salaria was holding the charge of Station Superintendent of Ludhiana Railway Station and the copy of Allotment letter of the Commercial Publicity place of Ludhiana

Railway Station has been put up before him on 28.03.2009, though received at his office on 11.11.2008. He subsequently issued necessary instructions to Sh. Ram Kumar, the then Chief Inspector Ticket, Station Ludhiana and Sh. Vijay Masih, the then Dy. Station Superintendent (Commercial), Ludhiana, for ensuring the correct Display of Hoardings by M/s Shree Agarsen Advertiser at Ludhiana Railway Station. But M/s Shree Agarsen Advertisers had started displaying the advertisers even before these instructions were issued by Station Superintendent. During Investigation it came out that no letter has been issued, on his behalf during his time, to the O/o Sr. DCM, Northern Railway, Ferozepur for informing and fixing the Mean Commencing Date of this Contract. But Sh. Ashok Salaria failed in his duty to maintain Advertisement Register as per Clause no. 3029 of Indian Railway Commercial Manual.

16.15 It was revealed during investigation that on 13th May 2009, Sh. Ravinder Kumar Sharma took charge of Railway Station, Ludhiana as Station Superintendent. On 15.10.2009, being Station Superintendent, dishonestly and fraudulently in order to show favour to M/s Shree Agarsen Advertisers, he issued one letter wherein it was informed to the Sr. DCM, Northern Railway, FZR, that M/s Shree Agarsen Advertisers has completed and installed all boards and started the work on 3.9.09. The said letter was neither having any dispatch number nor cited any reference/relevant correspondence along with its subject. It came out during investigation that the office copy of the same is not placed/found, in the file maintained with the Station Superintendent, Ludhiana Railway Station. Sh. Ravinder Kumar Sharma, Station Superintendent has deliberately mentioned wrong date for start of work i.e. 03.09.2009 whereas the display of work has started much earlier. This letter was dealt by Commercial Clerk Sh. Mohd. Yakub, Sh. Naresh Kumar and Sh. P.C. Dudi to form a basis to fix the MCD."

27. Taking into account the hereinabove extracted role of each of

the petitioners and the gravity of the offence, this Court is not inclined to grant the yearned for relief(s) to the petitioners.

28. Insofar as the argument addressed with regard to absence of *mens rea* is concerned, this argument cannot be considered at the stage of framing of charges, inasmuch as, this issue requires appreciation of evidence and the Court, at the stage of framing of charges, cannot appreciate the evidence which is yet to be adduced by the parties.

29. The argument relating to defective sanction to prosecute also cannot be considered at the stage of framing of charge. The petitioner(s) is required to establish his case on this aspect at the apt stage of trial. Moreover, the other issues raised before this Court are also disputed questions of facts, which cannot be adjudicated by this Court in the instant proceedings, rather the same require theirs becoming adjudicated by the trial Court after appreciation of the evidence, which may become adduced by the parties.

FINAL ORDER

30. In summa, all these petitions are **dismissed** being bereft of merits and the impugned orders are hereby upheld.

31. Pending application(s) stand disposed of accordingly.

32. Needless to say, anything observed hereinabove is only for the purpose of deciding the instant petitions and any of the observations rendered hereinabove shall have no bearing on the outcome of the trial.

33. A photocopy of this order be placed on file of each connected case.

(KULDEEP TIWARI)

November 04, 2024 **JUDGE**
devinder

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No