2025:HHC:36358

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 533 of 2024
Reserved on: 29.08.2025
Date of Decision: 31.10.2025.

Jyoti Peris ...Petitioner

Versus

Central Bureau of Investigation ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] ***No.***

For the Petitioner	:	Mr. Vinay Kuthiala, Senior Advocate, with Mr Diwan Singh Negi, Advocate.
For the respondent	:	Mr. Janesh Mahajan, Advocate, Special Public Prosecutor.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for quashing of the order dated 06.7.2024, passed by learned Special Judge (CBI), Shimla (learned Trial Court), vide which the application filed by the petitioner (accused before the learned Trial Court) seeking her discharge was dismissed. (*Parties shall*

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

hereinafter be referred to in the same manner as they are arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present petition are that the CBI filed a charge sheet before the learned Trial Court against the accused for the commission of offences punishable under Sections 120B read with Sections 420, 467, 468, and 471 of the Indian Penal Code (IPC) and Section 13 (1)(d) of Prevention of Corruption Act, 1988 (PC Act). It was asserted that the promoters of M/s Resource Food Private Ltd. had dishonestly availed a grant in aid of ₹9,00,00,000/- (nine crores) from the Ministry of Food Processing Industries (MoFPI) Government of India for setting up an Integrated Cold Chain Project for the total cost of ₹21,00,00,000/- (twenty one crores) at village Rajgarh, Post office Shambhu, Tehsil, Rajpura, District Patiala, Punjab, New Delhi in the year 2012; however, they misutilised the funds in connivance with the promoters of M/s Hillcrest Foods and certain unknown Government officials. They assembled a dismantled the plant and machinery of M/s Hillcrest Foods set up in the year 2010- 2012 at village Bersan Post Office Manjholi, Tehsil Nalagarh, District Solan, after availing a grant-in-aid of ₹7,00,00,000 (seven crores) for setting up of an integrated cold

chain project from MoFPI. An expression of interest was floated by MoFPI on 7th May 2012. Shri Jaswinder Singh (A5), an employee of Praveen Dewan (A2), at the instance of his employer, forged the signatures of Shri Lawrence Peris (A3), purported Director of M/s Resource Food Pvt Ltd and submitted a proposal and various documents to MoFPI to avail the grant-in-aid. The petitioner is a Director of M/s Resource Food Private Limited, and she was part of a conspiracy to avail the grant-in-aid; hence, it was prayed that an action be taken against her and the other accused.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, she and the other accused filed an application seeking their discharge, asserting that there was insufficient ground to proceed against them. The charge sheet did not disclose the commission of any cognizable offence. The chargesheet was based on hearsay evidence. The prosecution suppressed the original document lying in the possession of MoFPI. Witnesses were shown the photocopies, and they expressed their opinions based on the photocopies alone. The report of the handwriting expert was also based on the photocopies. The photocopies are inadmissible in

evidence. The specimen handwriting was taken without following the procedure prescribed under Section 311A of the Criminal Procedure Code, 1973 (CrPC). The investigating officer was not competent to obtain the signatures of the accused. The officers of MoFPI were not charged, and the chain of conspiracy failed. Hence, it was prayed that the accused be discharged.

4. The application was opposed by the CBI by asserting that the accused had applied for a grant-in-aid in favour of M/s Resource Food Private Limited for setting up an integrated cold chain project from the MoFPI based on the forged and fabricated bills/invoices purportedly issued by different suppliers. The photocopies bear the original signatures of the accused, clearly showing that the photocopies were submitted to the Ministry. There was sufficient material to frame charges against the accused. Hence, it was prayed that the application be dismissed.

5. Learned Trial Court held that the Court has to *prima facie* assess the material collected by the prosecution and determine whether sufficient material existed for framing the charges. The defence of the accused was not to be seen at the time of framing of charges. It was permissible to look into the

photocopies at the time of framing the charges. The material on record established that photocopies were produced before the Ministry, and such photocopies fall within the definition of the primary evidence. The investigating officer stated that the signatures were given voluntarily by the accused, and there is no prohibition on taking the signatures by the investigating officer. The accused and other persons had forged various documents and produced them before the Ministry to avail the grant-in-aid. Therefore, the application was dismissed.

6. Being aggrieved by the order passed by the learned Trial Court, the petitioner has filed the present petition asserting that the petitioner/accused has nothing to do with the commission of an offence. The petitioner did not sign or submit any document. The chargesheet does not disclose that the petitioner had signed any document to avail a grant-in-aid. The report of the handwriting expert does not show that the petitioner had signed any document; rather, it shows that the petitioner's signatures were forged. Learned Trial Court did not discuss the petitioner's role. It is a case of no evidence. Therefore, it was prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside.

7. The respondent/CBI filed a reply reproducing the contents of the FIR and chargesheet. It was asserted that the Court cannot conduct a roving/fishing enquiry at the stage of framing of charges. Defence of the accused cannot be put forth at the time of framing of charges. Allowing the petition would amount to acceptance of the defence of the accused by conducting a roving enquiry. The petitioner was one of the partners of M/s Resource Food Private Limited. She had signed the documents for the sanction and disbursement of the loan and the opening of the account. The sanction of a term loan was required to avail a grant-in-aid from MoFPI. She was the active partner of the firm and submitted the documents to avail a grant-in-aid in connivance with other partners of the firm. The documents were signed by Jaswinder in conspiracy with the petitioner. The petitioner is the actual beneficiary of the grant-in-aid received from MoFPI based on the forged and fabricated invoices/bills. Hence, it was prayed that the present petition be dismissed.

8. A rejoinder denying the contents of the reply and affirming those of the petition was filed.

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9. I have heard Mr. Vinay Kuthiala, learned Senior counsel assisted by Mr. Diwan Singh Negi, learned counsel for the petitioner and Mr. Janesh Mahajan, learned Special Public Prosecutor, for the respondent/CBI.

10. Mr. Vinay Kuthiala, learned Senior counsel for the petitioner, submitted that the learned Trial Court erred in dismissing the application filed by the petitioner. There is no evidence against the petitioner. The learned Trial Court did not discuss the evidence and made a general observation that the material on record was sufficient to frame charges against the petitioner. The petitioner had neither signed nor submitted any document to the MoFPI. The report of the handwriting expert shows that the petitioner's signatures were forged. A person cannot be vicariously held liable for the act of the juristic person. Therefore, he prayed that the present petition be allowed and the order passed by the learned Trial Court be set aside. He relied upon the judgments of ***Ram Prakash Chadha vs State of Uttar Pradesh (2024) 10 SCC 651, Sunil Bharati Mittal vs State 2015 (4) SCC 609*** and ***Shiv Kumar Jatia vs State of NCT of Delhi 2019 (17) SCC 193.***

11. Mr Janesh Mahajan, learned Special Public Prosecutor, for the respondent/CBI, submitted that the petitioner was a director/partner of M/s Resource Foods Limited. She had forged and submitted various documents to MoFPI to avail a grant-in-aid. Her application was rightly dismissed by the learned Trial Court. Therefore, he prayed that the present petition be dismissed.

12. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

13. It was laid down by the Hon'ble Supreme Court in ***Vishnu Kumar Shukla v. State of U.P., (2023) 15 SCC 502: 2023 SCC OnLine SC 1582*** that the Court framing the charges has to see a *prima facie* case. It is impermissible to examine the material threadbare to determine whether the accused is likely to be convicted or not. It was observed: -

> "**12.** The primary consideration at the stage of framing of charge is the test of the existence of a prima facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in the ***State of Maharashtra* v. *Som Nath Thapa*, *(1996) 4 SCC 659*** and the ***State of MP* v. *Mohan Lal Soni*, *(2000) 6 SCC 338*** has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of the prima-facie case. It is also held at

> the stage of framing of charge, the court has to form a presumptive opinion on the existence of factual ingredients constituting the offence alleged, and it is not expected to go deep into the probative value of the material on record and to check whether the material on record would certainly lead to a conviction at the conclusion of the trial.

14. It was held in ***Ram Prakash Chadha v. State of U.P.*, *(2024) 10 SCC 651: (2025) 1 SCC (Cri) 253: 2024 SCC OnLine SC 1709*** that the Court can sift and weigh the evidence to determine if a *prima facie* case exists against the accused. It was observed at page 661:

> "**24.** In the light of the decisions referred supra, it is thus obvious that it will be within the jurisdiction of the Court concerned to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused concerned has been made out. We are of the considered view that a caution has to be sounded for the reason that the chances of going beyond the permissible jurisdiction under Section 227CrPC, and entering into the scope of power under Section 232CrPC, cannot be ruled out, as such instances are aplenty. In this context, it is relevant to refer to a decision of this Court in ***Om Parkash Sharma* v. *CBI*, (*2000*) *5 SCC 679: 2000 SCC (Cri) 1014***. Taking note of the language of Section 227CrPC, is in negative terminology and that the language in Section 232CrPC, is in the positive terminology and considering this distinction between the two, this Court held that it would not be open to the Court while considering an application under Section 227CrPC, to weigh the pros and cons of the evidence alleged improbability and then proceed to discharge the accused holding that the statements existing in the case therein are unreliable. It is held that doing so would be practically acting under Section 232 CrPC, even though the

> said stage has not reached. In short, though it is permissible to sift and weigh the materials for the limited purpose of finding out whether or not a prima facie case is made out against the accused, on appreciation of the admissibility and the evidentiary value such materials brought on record by the prosecution is impermissible as it would amount to denial of opportunity to the prosecution to prove them appropriately at the appropriate stage besides amounting to exercise of the power coupled with obligation under Section 232 CrPC, available only after taking the evidence for the prosecution and examining the accused.

15. It was held in ***Yuvraj Laxmilal Kanther v. State of Maharashtra, 2025 SCC OnLine SC 520,*** that the Court is not to undertake a threadbare analysis of the material but to see if there is sufficient material to frame charges. It was observed:

> **"16.** Section 227 CrPC deals with discharge. What Section 227 CrPC contemplates is that if, upon consideration of the record of the case and the documents submitted therewith and after hearing the submissions of the accused and the prosecution in this behalf, the judge considers that there are no sufficient grounds for proceeding against the accused, he shall discharge the accused and record his reasons for doing so. At the stage of consideration of discharge, the court is not required to undertake a threadbare analysis of the materials gathered by the prosecution. All that is required to be seen at this stage is that there are sufficient grounds to proceed against the accused. In other words, the materials should be sufficient to enable the court to initiate a criminal trial against the accused. It may be so that at the end of the trial, the accused may still be acquitted. At the stage of discharge, the court is only required to consider whether there are sufficient materials which can justify the launch of a criminal trial against the accused. By its very nature, a

> discharge is at a higher pedestal than an acquittal. Acquittal is at the end of the trial process, may be for a technicality or on the benefit of doubt, or the prosecution could not prove the charge against the accused; but when an accused is discharged, it means that there are no materials to justify the launch of a criminal trial against the accused. Once he is discharged, he is no longer an accused."

16. The present petition has to be adjudicated as per the parameters laid down by the Hon'ble Supreme Court.

17. It was submitted that the petitioner was a partner/director of M/s Resource Foods Limited and is liable by virtue of her position. This submission will not help the respondent. It was laid down by the Hon'ble Supreme Court in ***Sunil Bharti Mittal v. CBI*, *(2015) 4 SCC 609: (2015) 2 SCC (Cri) 687: (2015) 191 Comp Cas 177: 2015 SCC OnLine SC 18*** that the director of a company cannot be vicariously held liable for the acts done by the company. It was observed at page 638:

> (*iii*) ***Circumstances when the Director/person in charge of the affairs of the company can also be prosecuted, when the company is the accused person***
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> **42.** No doubt, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. It would be more so when the criminal act is that of conspiracy. However, at the same time, it is the cardinal

principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so.

43. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. The second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

44. When the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. One such example is Section 141 of the Negotiable Instruments Act, 1881. In ***Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661 : (2012) 3 SCC (Civ) 350 : (2012) 3 SCC (Cri) 241]***, the Court noted that if a group of persons that guide the business of the company have the criminal intent, that would be imputed to the body corporate and it is in this backdrop, Section 141 of the Negotiable Instruments Act has to be understood. Such a position is, therefore, because of statutory intendment, making it a deeming fiction. Here also, the principle of "alter ego" was applied only in one direction, namely, where a group of persons that guide the business had criminal intent, that is to be imputed to the body corporate and not vice versa. Otherwise, there has to be a specific act attributed to the Director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company.

45. This very principle is elaborated in various other judgments. We have already taken note of Maharashtra ***State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd., (2010) 10 SCC 479: (2011) 1 SCC (Cri) 68*** and S.K. ***Alagh v. State of U.P., (2008) 5 SCC 662: (2008) 2 SCC (Cri) 686***. A few other judgments reiterating this principle are the following:

45.1. ***Jethsur Surangbhai v. State of Gujarat [1984 Supp SCC 207: 1984 SCC (Cri) 474]***: (SCC pp. 210-11, para 9)

"9. ... With due respect what the High Court seems to have missed is that in a case like this where there was serious defalcation of the properties of the Sangh, unless the prosecution proved that there was a close cohesion and collusion between all the accused which formed the subject-matter of a conspiracy, it would be difficult to prove the dual charges particularly against the appellant (A-1). The charge of conspiracy having failed, the most material and integral part of the prosecution's story against the appellant disappears. The only ground on the basis of which the High Court has convicted him is that, as he was the Chairman of the Managing Committee, he must be held to be vicariously liable for any order given or misappropriation committed by the other accused. The High Court, however, has not referred to the concept of vicarious liability, but the findings of the High Court seem to indicate that this was the central idea in the mind of the High Court for convicting the appellant. In a criminal case of such a serious nature, mens rea cannot be excluded, and once the charge of conspiracy failed, *the onus lay on the prosecution to prove affirmatively that the appellant was directly and personally connected with acts or omissions pertaining to Items 2, 3 and 4*. It is conceded by Mr Phadke that no such direct evidence is forthcoming, and he tried to argue that, as the appellant was Chairman of the Sangh and used to sign papers and approve various tenders, even as a matter of routine, he should have acted with care and caution and his negligence would be a positive proof of his intention to commit the offence. We are, however, unable to agree with this somewhat broad statement of the law. In the absence of a charge of conspiracy, the mere fact that the appellant happened to be the Chairman of the Committee would not make him criminally liable in a vicarious sense for Items 2 to 4. There is no evidence, either direct or circumstantial, to show that, apart from approving the purchase of fer-

tilisers, he knew that the firms from which the fertilisers were purchased did not exist. Similar is the case with the other two items. Indeed, if the Chairman were to be made liable, then all members of the Committee, viz. Tahsildar and other nominated members would be equally liable because all of them participated in the deliberations of the meetings of the Committee, a conclusion which has not even been suggested by the prosecution. As Chairman of the Sangh, the appellant had to deal with a large variety of matters, and it would not be humanly possible for him to analyse and go into the details of every small matter in order to find out whether there has been any criminal breach of trust. In fact, the hero of the entire show seems to be A-3, who had so stage-managed the drama as to shield his guilt and bring the appellant to the forefront. But that by itself would not be conclusive evidence against the appellant. There is nothing to show that A-3 had either directly or indirectly informed the appellant regarding the illegal purchase of fertilisers or the missing five oil engines, which came to light much later during the course of the audit. Far from proving the intention, the prosecution has failed to prove that the appellant had any knowledge of the defalcation of Items 2 to 4. In fact, so far as Item 3 is concerned, even Mr Phadke conceded that there is no direct evidence to connect the appellant." (emphasis supplied)

45.2. Sham Sunder v. State of Haryana (1989) 4 SCC 630: 1989 SCC (Cri) 783: (SCC p. 632, para 9)

"9. But we are concerned with a criminal liability under a penal provision and not a civil liability. The penal provision must be strictly construed in the first place. Secondly, *there is no vicarious liability in criminal law unless the statute takes that also within its fold*. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not." (emphasis supplied)

45.3. ***Hira Lal Hari Lal Bhagwati v. CBI (2003) 5 SCC 257: 2003 SCC (Cri) 1121]***: (SCC p. 277, para 30)

> "*30. In our view, under the penal law, there is no concept of vicarious liability unless the said statute covers the same within its ambit.* In the instant case, the said law which prevails in the field, i.e. the Customs Act, 1962, the appellants have been wholly discharged and the GCS granted immunity from prosecution." (emphasis supplied)

45.4. ***Maksud Saiyed v. State of Gujarat (2008) 5 SCC 668 : (2008) 2 SCC (Cri) 692*** : (SCC p. 674, para 13)

> "*13.* Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of the Code of Criminal Procedure, the Magistrate is required to apply his mind. The Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the company. The learned Magistrate failed to pose unto himself the correct question, viz., as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the respondents herein were personally liable for any offence. *The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise, provided any provision exists in that behalf in the statute.* Statutes indisputably must contain a provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability." (emphasis supplied)

45.5. ***R. Kalyani v. Janak C. Mehta (2009) 1 SCC 516: (2009) 1 SCC (Cri) 567***: (SCC p. 527, para 32)

> "*32.* Allegations contained in the FIR are for the commission of offences under a general statute. A vicarious liability can be fastened only by reason of a provision of a statute and not otherwise. For the said purpose, a legal fiction has to be created. Even under a special statute,

when the vicarious criminal liability is fastened on a person on the premise that he was in charge of the affairs of the company and responsible to it, all the ingredients laid down under the statute must be fulfilled. A legal fiction must be confined to the object and purport for which it has been created."

45.6. ***Sharon Michael v. State of T.N. (2009) 3 SCC 375: (2009) 2 SCC (Cri) 103]***: (SCC p. 383, para 16)

"*16.* The first information report contains details of the terms of the contract entered into by and between the parties, as also the mode and manner in which they were implemented. Allegations have been made against the appellants in relation to the execution of the contract. No case of criminal misconduct on their part has been made out before the formation of the contract. *There is nothing to show that the appellants herein, who hold different positions in the appellant Company, made any representation in their personal capacities and, thus, they cannot be made vicariously liable only because they are employees of the Company.*" (emphasis supplied)

45.7. ***Keki Hormusji Gharda v. Mehervan Rustom Irani (2009) 6 SCC 475: (2009) 2 SCC (Cri) 1113***: (SCC pp. 480-81, paras 16-19)

"*16.* We have noticed hereinbefore that despite the said road being under construction, the first respondent went to the police station thrice. He, therefore, was not obstructed from going to the police station. In fact, a firm action had been taken by the authorities. The workers were asked not to do any work on the road. We, therefore, fail to appreciate how, in a situation of this nature, the Managing Director and the Directors of the Company, as also the Architect, can be said to have committed an offence under Section 341 IPC.

17. The Penal Code, 1860, save and except in some matters, does not contemplate any vicarious liability on the part of a person. The commission of an offence by raising a legal fiction or by creating a vicarious liability in terms of the provisions of a statute must be expressly

> stated. The Managing Director or the Directors of the Company, thus, cannot be said to have committed an offence only because they are holders of offices. The learned Additional Chief Metropolitan Magistrate, therefore, in our opinion, was not correct in issuing a summons without taking into consideration this aspect of the matter. The Managing Director and the Directors of the Company should not have been summoned only because some allegations were made against the Company."

18. This position was reiterated in ***Shiv Kumar Jatia v. State (NCT of Delhi)***, (*2019) 17 SCC 193: (2020) 3 SCC (Cri) 281: 2019 SCC OnLine SC 1090,* wherein it was observed at page 203:

> "**19.** The liability of the Directors/the controlling authorities of the company, in a corporate criminal liability, is elaborately considered by this Court in Sunil ***Bharti Mittal v. CBI, (2015) 4 SCC 609: (2015) 2 SCC (Cri) 687***. In the aforesaid case, while considering the circumstances when the Director/person in charge of the affairs of the company can also be prosecuted, when the company is the accused person, this Court has held, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving *mens rea*, it would normally be the intent and action of that individual who would act on behalf of the company. At the same time, it is observed that it is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides for it. It is further held by this Court, an individual who has perpetrated the commission of an offence on behalf of the company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Further, it is also held that an individual can be implicated in those cases where the statutory

regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

20. Though there are allegations of negligence on the part of the hotel and its officers who are in charge of the day-to-day affairs of the hotel, so far as appellant-Accused 2 Shiv Kumar Jatia is concerned, no allegation is made directly attributing negligence with the criminal intent attracting provisions under Sections 336, 338, read with Section 32 IPC. Taking the contents of the final report as it is, we are of the view that there is no reason or justification to proceed against him only on the ground that he was the Managing Director of M/s Asian Hotels (North) Ltd., which runs Hotel Hyatt Regency. The mere fact that he was chairing the meetings of the company and taking decisions, by itself, cannot directly link the allegation of negligence with the criminal intent, so far as appellant-Accused 2. Applying the judgment in *Sunil* ***Bharti Mittal v. CBI, (2015) 4 SCC 609: (2015) 2 SCC (Cri) 687***, we are of the view that the said view expressed by this Court supports the case of appellant-Accused 2.

21. By applying the ratio laid down by this Court in ***Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687*** it is clear that an individual either as a Director or a Managing Director or Chairman of the company can be made an accused, along with the company, only if there is sufficient material to prove his active role coupled with the criminal intent. Further, the criminal intent alleged must have a direct nexus with the accused. Further in ***Maksud Saiyed v. State of Gujarat, (2008) 5 SCC 668: (2008) 2 SCC (Cri) 692,*** this Court has examined the vicarious liability of Directors for the charges levelled against the Company. In the aforesaid judgment, this Court has held that the Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company, when the accused is a company. It is held that vicarious liability of the Managing Director and Director would arise, provided any provision exists in that behalf in the statute. It is further held that statutes indisputably must provide for fixing such vicarious liability. It is also

> held that, even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.
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> **22.** In the judgment of this Court in ***Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781 : (2016) 1 SCC (Cri) 159*** while examining the allegations made against the Managing Director of a Company, in which, company was not made a party, this Court has held that when the allegations made against the Managing Director are vague in nature, same can be the ground for quashing the proceedings under Section 482 CrPC. In the case at hand, principally the allegations are made against the first accused company, which runs Hotel Hyatt Regency. At the same time, the Managing Director of such a company, who is Accused 2, is a party by making vague allegations that he was attending all the meetings of the company and various decisions were being taken under his signature. Applying the ratio laid down in the aforesaid cases, it is clear that principally the allegations are made only against the company and other staff members who are in charge of the day-to-day affairs of the company. In the absence of specific allegations against the Managing Director of the company and having regard to the nature of allegations made, which are vague in nature, we are of the view that it is a fit case for quashing the proceedings, so far as the Managing Director is concerned."

19. Therefore, it is impermissible to implicate the petitioner by virtue of her position as a director/partner.

20. It was submitted that the petitioner/accused put her signature on the documents of the sanction and disbursement of term loan, and the account opening form of M/s Resource Food Private Ltd., Sanction of term loan was a prerequisite to avail the

grant-in-aid from MoFPI. This submission is not acceptable. A perusal of the charge sheet shows that the proposal was considered and approved on 08.11.2013. The guarantee deed was executed on 24.01.2014 regarding the loan disbursed by Bank of India in favour of Resource Food Limited. Therefore, the guarantee deed was executed in favour of the bank after the sanction of the loan and cannot be connected to the grant-in-aid.

21. It is undisputed that the petitioner's specimen handwriting and signatures (S278 to S 371) and admitted handwriting and signatures (A58 to A 61) did not match the disputed handwriting and signatures (Q 355, Q 359, Q 372, Q 376, Q 445, Q 453, Q 480 and Q 482). Therefore, it cannot be said that the petitioner had forged any document or put her signature on any document.

22. Kulbhushan (plant manager), Om Prakash (store keeper), and Dilawar Singh (Cashier) stated before the CBI that the petitioner Jyoti Peris was the Director of the company on paper; she did not attend the joint inspection carried out by MoFPI and visited the factory premises only once. No other person has attributed any active role to the petitioner.

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23. It was submitted that there was a conspiracy amongst the accused, and the petitioner is liable as a conspirator. This submission is not acceptable. It was laid down by the Hon'ble Supreme Court in ***Ram Prakash Chadha*** (supra) that the prosecution is required to prove the meeting of the mind to do an illegal act to establish the offence of conspiracy. It was observed at page 664:

> "**30.** This Court, in the decision in ***R. Venkatkrishnan v. CBI, (2009) 11 SCC 737: (2010) 1 SCC (Cri) 164***, held that criminal conspiracy, in terms of Section 120-BIPC, is an independent offence and its ingredients are:
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> (*i*) an agreement between two or more persons;
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> (*ii*) the agreement must relate to doing or causing to be done either—
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> (*a*) an illegal act;
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> (*b*) an act which is not illegal in itself but is also done by illegal means.
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> **31.** An important facet of the law of conspiracy is that, apart from it being a distinct offence, all conspirators are liable for the acts of each other of the crime or crimes which have been committed as a result of the conspiracy. A careful scanning of the provisions under Sections 120-A and 120-BIPC would reveal that the sine qua non for an offence of criminal conspiracy is an agreement to commit an offence. It consists of an agreement between two or more persons to commit the criminal offence, irrespective of the further consideration whether or not the offence is actually committed, as the very fact of conspiracy constitutes the offence (see the decision in ***K.S. Narayanan v. S. Gopinathan, 1981 SCC OnLine Mad 289)***.
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> **32.** There can be no doubt that a conspiracy is hatched in privacy and not in secrecy, and such it would rarely be pos-

> sible to establish a conspiracy by direct evidence. A few bits here and a few bits there, on which the prosecution may rely, are not sufficient to connect an accused with the commission of the crime of criminal conspiracy. To constitute even an accusation of criminal conspiracy, first and foremost, there must at least be an accusation of a meeting of minds of two or more persons for doing an illegal act or an act, which is not illegal in itself, by illegal means.
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> **33.** In ***Ajay Aggarwal v. Union of India, (1993) 3 SCC 609: 1993 SCC (Cri) 961***, this Court characterised the offence of criminal conspiracy as an agreement between two or more persons to do an illegal act or a legal act through illegal means. Furthermore, it was held that commission of the offence would be complete as soon as there is consensus ad idem, and it would be immaterial whether or not the offence is actually committed. It is also held therein that necessarily there must be agreement between the conspirators on the design or object of the conspiracy. As held in the ***R. Venkatkrishnan v. CBI, (2009) 11 SCC 737 : (2010) 1 SCC (Cri) 164***, the quintessential ingredient to attract the offence of criminal conspiracy is agreement between two or more persons. Therefore, the question is whether it was spelt in the final report dated 21-2-2000 or in any of the records of the case and documents submitted therewith, to find a prima facie case of commission of criminal conspiracy against the appellant. True that an agreement referred to in Section 120-AIPC may be expressed or implied, or in part express and in part implied. However, no record of the case or documents submitted therewith carries such an allegation/accusation against the appellant."

24. In the present case, the charge sheet is silent regarding any meeting of the mind and only states that the acts constitute cognizable offences punishable under various sections. No material is annexed to the charge sheet to show any meeting

of the mind, and the material is insufficient to infer any conspiracy.

25. Further, the fact that the signatures of the petitioner were forged rules out any conspiracy, as a conspirator would have put her signatures pursuant to the conspiracy, and there would have been no necessity to forge her signatures.

26. Learned Trial Court did not advert to the evidence against the petitioner and stated that the promoters of M/s Resource Foods Private Ltd hatched a conspiracy with the other accused to secure a grant-in-aid based on forged and fabricated documents, which finding is not supported by any material on record qua the petitioner.

27. No other point was urged.

28. Consequently, the present petition is allowed, and the order dated 06.07.2024 passed by the learned Trial Court qua the petitioner is ordered to be set aside and the petitioner is discharged.

29. The observation made herein before shall remain confined to the disposal of the petition and will have no bearing,

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whatsoever, on the merits of the case.

(Rakesh Kainthla)
Judge

31st October, 2025
(Nikita)