129 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-14835-2025 (O&M)
Date of decision: 20.03.2025

Narender Kumar Surana ....Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Hiimanshu Arora, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking quashing of FIR No.255 dated 14.06.2022 registered under Sections 120-B, 406, 420, 409, 467, 468, 471 of the Indian Penal Code, 1860 (hereinafter 'IPC'), Section 447 of the Companies Act and Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishments Act, 2013 at Police Station DLF Gurugram (Annexure P-1) and all subsequent proceedings arising therefrom.

2. Briefly, the facts, as alleged in FIR(supra), are that a representative of a company named International Recreation and Amusement Limited (hereinafter 'IRAL') approached respondent No.2-complainant and claimed that they have been awarded 58 acres of land by Haryana Urban Development Authority (hereinafter 'HUDA') for setting up an amusement park in Sector 29 and 52-A, Gurgaon. They assured respondent No.2 that the project will be completed in two years and lured him into subleasing 250 square feet of commercial space in the said project, for which he paid Rs. 22,50,000/- as well

as service tax. Respondent No.2 was also assured that he would be getting a fixed monthly return of Rs. 250/- per square feet after two years. The same has been recorded in the agreement dated 17.04.2012. However, IRAL failed to construct the project or pay the promised monthly return. It was further found that IRAL had collected over Rs. 1500 crore from more than 1200 people on the same pretext, which has been siphoned off to International Amusement Limited (hereinafter 'IAL'). The said amount was further siphoned off through about 22 shell companies. Thereafter, IRAL was surrendered before the National Company Law Tribunal. The said land was awarded by HUDA to IAL on 01.07.2010 and not IRAL, which was formed on 10.12.2010, subsequent to the award.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner was a Director in International Amusement and Infrastructure Limited (IAIL) from the year 2008 to 2018. Thereafter, the petitioner joined as a Director of IRAL on 11.12.2010. Pertinently, IAL is the majority shareholder in IRAL, while the petitioner holds only 50 shares in the same out of a total of 2,72,75,000 shares. The petitioner has been made a Director in IRAL and awarded 50 shares to merely to fulfil a formal obligation and has nothing to with the affairs of the company. The petitioner has never been a signatory to any documents leading to the commission of the alleged offence. Moreover, in the final report submitted under Section 173 Cr.P.C., it has been clearly stated that the petitioner has not taken any benefit from the erring company and has never been a bank signatory with respect to signing any MoU with any investor. Therefore, it is clear that the petitioner has only been arraigned as an accused by the virtue of being a Director. Further still, a total of 37 FIRs have been

registered on the same set of allegations and the respective reports filed in pursuance of FIR No.686 and FIR No.322 are absolutely identical. Vague and general allegations have been levelled against the petitioner, which do not make out the offences under Sections 420 and 120-B IPC.

4. Having heard learned counsel for the petitioner and after perusing the record of the case, it transpires that the petitioner joined IRAL as a Director on 11.12.2010, with 50 shares. Allegedly, IRAL falsely induced the respondent No.2 and other victims to believe that it has been awarded 58 acres of land by HUDA in order to establish an amusement park in Gurgaon. The money has been siphoned off through shell companies and IRAL has surrendered before the learned NCLT. Admittedly, the petitioner was a Director in IRAL at the time of the alleged offence. The extent of his responsibility and control over the business of the firm is a matter of trial and cannot be commented upon at this stage.

5. The doctrine of vicarious liability is a civil concept and its applicability in criminal cases is an exception rather than the rule. The doctrine of vicarious liability originates from the maxim *Qui Facit per Alium Facit per,* which means any act done by the servant in the course of his employment is considered to be done by the master and in principle, the master is also liable for the said act. A two Judge Bench of the Hon'ble Supreme Court in ***Iridium India Telecom Ltd. vs. Motorola Inc. and others (2011) 1 SCC 74,*** considered the issue of a Company being vicariously responsible for the criminal actions of its employees took the view that the intent and acts of the individuals who acted on behalf of the Company would be paramount to establish the crime of

cheating against the Company and the contention that a corporate body is an artificial person incapable of possessing criminal intent to commit the said offence was categorically rejected. A Constitution Bench of the Hon'ble Supreme Court in ***Standard Chartered Bank vs. Directorate of Enforcement (2005) 4 SCC 530,*** further held that a Company is liable to be prosecuted and punished for criminal offences emanating from the actions of its Directors who were acting on behalf of the Company.

6. As such, the matter requires to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and the probable defence as set up by the petitioner cannot be gone into at this stage. A two Judge bench of the Hon'ble Supreme Court *in* ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law.

7. A two Judge bench of the Hon'ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513*****,** speaking through Justice Hrishikesh Roy, observed as under:

> *"17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the*

complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption."

Reliance in this regard can also be placed on the judgement rendered by the Hon'ble Supreme Court in ***Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***.

8. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

9. However, nothing observed herein shall be construed as expression of an opinion by this Court lest it may prejudice the trial. The learned trial Court is directed to proceed with the trial on its own merits, strictly in accordance with law.

(HARPREET SINGH BRAR)
JUDGE

20.03.2025
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No