

2025:PHHC:040154



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

CRM-M No.24651 of 2022 (O&M)

Reserved on : 10th March, 2025

Pronounced on : 20th March, 2025

Adesh Kumar Gupta & another

... Petitioners

Versus

Central Bureau of Investigation & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Mr. Nitin Sachdeva &
Mr. Rajat Sheokand, Advocates for the petitioners.

Mr. Ravi Kamal Gupta, Advocate for the respondent/CBI.

MANJARI NEHRU KAUL, J.

1. The instant petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.RC0052022A0015 dated 28.04.2022 (Annexure P-19) registered at Police Station CBI, ACB, CHG, Chandigarh for offences punishable under Section 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 (hereinafter referred to as, 'the PC Act' of 'the Act') and Section 109 of the IPC, along with all consequential proceedings arising therefrom.

2. CASE OF THE PROSECUTION/CBI:-

(i) In the year 2018, petitioner No.1 was arrested in connection with FIR No.RCCHG2018A0010 dated 19.04.2018 (hereinafter referred

to as the 'first FIR'), registered for offences punishable under Section 120-B of the IPC and Section 7 of the P.C. Act, at Police Station CBI, ACB, Chandigarh.

(ii) Following the registration of the first FIR, a search was conducted at the residential premises of petitioner No.1. During the course of the investigation, further searches were carried out at both the residential and rented premises of petitioner No.1 and his wife, petitioner No.2. As a result of these searches, it came to light that petitioner No.1 had amassed assets, both movable and immovable, in his own name, as well as in the names of his wife (petitioner No.2), and their two children. The investigation further revealed that these assets were disproportionate to his known sources of income. Allegedly, petitioner No.1 had abused his official position as a public servant and illicitly accumulated these assets during the check period from April 2007 to March 2018.

3. SUBMISSIONS ON BEHALF OF THE PETITIONERS

(i) Learned senior counsel appearing for the petitioners vehemently contended that the petitioners had been falsely implicated in the present FIR, which was registered after an inordinate and unexplained delay of four years following the registration of FIR No.RCC HD-2018A0010 dated 19.04.2018. It was a matter of record that, pursuant to the alleged trap, the CBI conducted a search at the residence of the petitioners.

(ii) Learned senior counsel, while drawing the attention of this Court to Annexure P-14, further submitted that the petitioners had moved an application before the learned Special Judge, CBI Court, Panchkula, seeking the release of jewellery valued at approximately ₹1.83 crores and for de-freezing of the bank accounts and associated lockers belonging to the petitioner and his family. These assets had been seized during the course of investigation by the CBI. The learned Special Judge allowed the said application vide order dated 22.03.2022. However, despite the categorical direction of the learned Special Judge, the CBI/respondent deliberately and unjustifiably failed to comply with the said order and, on one pretext or the other, continued to delay its execution.

(iii) Learned senior counsel still further submitted that, as evident from Annexure P-19, after an unexplained and unjustifiable delay of four years, the CBI, in a calculated attempt to circumvent the order dated 22.03.2022 of the learned Special Judge, maliciously registered a second FIR, being FIR No.RCCHG-2022-A0006, dated 28.04.2022, against petitioner No.1 Adesh Kumar Gupta and his wife petitioner No.2 Meenakshi Gupta, alleging that they had amassed assets disproportionate to their known sources of income during the check period of 2007 to 2018.

(iv) Learned senior counsel, while inviting the attention of this Court to the two FIRs annexed as Annexure P-4 and P-19, submitted that a bare perusal of both FIRs reveals that they arise from the same

course of events and relate to the same allegations. Consequently, the registration of the second FIR dated 28.04.2022, is patently illegal and in direct contravention of settled legal principles governing the prohibition of multiple FIRs on the same cause of action. In support of this contention, reliance was placed on '**Amitbhai Anilchandra Shah vs. CBI and another**' (2013) 6 SCC 348 and '**T.T. Antony vs. State of Kerala**', (2001) 6 SCC 181. Attention was drawn to the relevant extract of **Amitbhai Anilchandra Shah's case (supra)** which reads thus:

*"19. It is useful to refer the relevant excerpts from the above decision in **Rubabbuddin Sheikh vs. State of Gujarat and Others** (2010) 2 SCC 200, which are as under:*

'(i) The writ petitioner also seeks the registration of an offence and investigation by CBI into the alleged encounter of one Tulsiram, a close associate of Sohrabuddin, who was allegedly used to locate and abduct Sohrabuddin and his wife Kausarbi, and was thus a material witness against the police personnel.

(ii) The report expressly states that no link of Tulsiram Prajapati had been established in this case. The third person who was abducted was not to be the said Tulsiram Prajapati.

(iii) On 02.08.2007, the seventh action taken report was filed, which stated that the third person who was picked up was one Kalimuddin, who was suspected to be an informer of the Police.

(iv) From the charge-sheet, it also appears that the third person was "sent somewhere". However, it appears that the literal translation of the charge-sheet

in Gujarati would mean that he was “anyhow made to disappear”.

(v) It also appears from the charge-sheet that it identifies the third person who was taken to Disha farm as Kalimuddin. But it does not contain the details of what happened to him once he was abducted. The possibility of the third person being Tulsiram Prajapati cannot be ruled out, although the police authorities or the State had made all possible efforts to show that it was not Tulsiram.

(vi) Similarly, it was submitted that non-identification of the third person who was abducted along with Sohrabuddin and Kausarbi would also not affect the prosecution case.”

(v) While further drawing the attention of this Court to Annexure P-1, learned senior counsel submitted that the CBI arbitrarily determined the check period as extending from April 2007 to March 2018, despite the fact that, during this period, the CBI/respondent had made repeated but unsuccessful attempts to falsely implicate the petitioners. However, no incriminating material was ever found against them. It was further submitted that the petitioner No.1 had not purchased any immovable property between 2014 and 2018, and had only disposed of a property situated in Saharanpur in the year 2015 for a sum of `27.00 lacs, which fact was a matter of record.

(vi) Learned senior counsel further contended that the entire investigation conducted by the CBI is riddled with material

irregularities, prima facie establishing a clear attempt on the part of the CBI to falsely implicate petitioner No.1. He submitted that petitioner No.1, at the relevant time, was serving as a Joint Secretary level officer with a pay-scale ranging from ₹ 1,44,210/- to ₹ 2,18,200/-. Despite being fully aware of this fact, the CBI, in blatant violation of the CBI Crime Manual, failed to obtain the requisite permission from the competent authority before conducting the search at the residence of petitioner No.1.

(vii) Learned senior counsel submitted that the CBI Manual is a sacrosanct document that prescribes mandatory procedural guidelines for investigations. However, the CBI/respondents, in utter disregard of its provisions, conducted the search without adhering to the prescribed procedure. Learned senior counsel particularly drew the attention of this Court to Clause 6.2.1 of Annexure 6A of the CBI Manual, which unequivocally stipulates that only the Director, Special Director, or Additional Director of the CBI is competent to authorize a search against an officer of the rank of the petitioner. Contrary to this requirement, the search in the present case was ordered by the Superintendent of Police, who acted beyond his jurisdiction, rendering the search illegal.

(viii) In support of this submission, learned senior counsel placed reliance on the judgment of the Hon'ble Supreme Court in '**Shashi Kant vs. CBI**' 2007(1) SCC 630, wherein it was categorically held that the

provisions of the CBI Manual are mandatory in nature and that compliance therewith by the Investigating Officer is imperative.

(ix) Learned senior counsel, while drawing the attention of this Court to the second FIR No.RCCHG-2022-A0006 dated 28.04.2022, submitted that the allegations levelled therein are rendered wholly untenable in view of the fact that the FIR invokes Section 13(2) read with Section 13(1)(e) of the PC Act, whereas subsequent to the amendment of 2018, Section 13(1)(e) stood omitted from the Statute without any saving clause.

(x) Learned senior counsel still further contended that, in light of the protection enshrined under Article 20 of the Constitution of India, the prosecution of the petitioner No.1 for an offence that no longer exists in the Statute Book was legally unsustainable. In support of this contention, learned senior counsel placed reliance on '**Attar Singh vs. The Commissioner Rohtak Division & others**' 2017(4) RCR (Civil) 507 and '**Rayala Corporation Pvt. Ltd. and MR Pratap vs. Director of Enforcement New Delhi**' 1969(2) SCC 412.

(xi) Learned senior counsel further submitted that CBI acted in clear violation of Section 17A of the PC Act, by failing to obtain prior approval from the competent authority before initiating an investigation against the petitioner No.1. He contended that Section 17A of the Act mandated that no enquiry, inquiry or investigation shall be conducted against a public servant in respect of any act done in discharge of his official duties without the prior approval of the appropriate authority.

However, in blatant disregard of this statutory safeguard, the CBI proceeded with the investigation without obtaining the necessary approval, which, in the present case, ought to have been sought from the Minister of Communication, Government of India.

(xii) Learned senior counsel still further pointed out the contradictory stand adopted by the CBI in this regard. While, on the one hand, the CBI stated in its reply (Annexure R-1), that prior sanction under Section 17A of the PC Act was not required as the alleged acts of the petitioner did not pertain to the discharge of his official duties, on the other hand, the FIR itself categorically asserted that the petitioner, *“by abusing his official position while working as a public servant during the period i.e. April 2007 to April 2018”*, committed the alleged offence. Learned counsel submitted that this glaring contradiction, further reinforced the mala fide and arbitrary nature of the investigation.

(xiii) In support of this submission, reliance was placed on the judgment of the Hon’ble Supreme Court in **‘A.Srinivasulu vs. The State rep. by The Inspector of Police’ 2023 SCC Online SC 900.**

4. SUBMISSIONS ON BEHALF OF THE PROSECUTION/CBI

(i) Per contra, the learned Standing Counsel for the Central Bureau of Investigation (CBI) vehemently opposed the submissions advanced by the learned counsel for the petitioner, arguing that there existed no justifiable ground for the relief sought. He contended that the case at hand involved serious allegations of corruption and

disproportionate assets amassed by the petitioner, which necessitate a thorough investigation.

(ii) Drawing the attention of this Court to the sequence of events, the learned Standing Counsel submitted that pursuant to a successful trap operation conducted by the CBI in the year 2018, a search was carried out at the residential premises of Petitioner No.1. As a result of this search, it was discovered that Petitioner No.1, in collusion with Petitioner No.2, had accumulated assets disproportionate to his known sources of income, amounting to ₹75,15,32,510/-. This sum, represented an excess of approximately 97.4% over and above his legitimate earnings.

(iii) The learned Standing Counsel asserted that, while serving as a public servant, petitioner No.1, in the capacity of Principal General Manager, Bharat Sanchar Nigam Limited (BSNL), Faridabad, during the relevant check period spanning from 2007 to 2018, grossly abused his official position to acquire assets beyond his lawful means, thereby attracting the rigours of the Prevention of Corruption Act, 1988 (hereinafter referred to as the "PC Act").

(iv) Countering the arguments advanced on behalf of the petitioner regarding procedural irregularities, the learned Standing Counsel forcefully submitted that the investigation in the instant case has been conducted in absolute compliance with the provisions of the CBI Manual. He particularly relied upon Chapter 10, Paragraph 10.16 of

the CBI Crime Manual, which expressly prescribed the procedure to be followed in trap cases under Sections 7 and 13 of the PC Act.

(v) It was emphasised that the said provision categorically mandated that in cases involving trap proceedings under the aforementioned sections, an FIR must be registered immediately upon receipt of a bona fide complaint or information that prima facie attracts the provisions of Section 7 (illegal gratification) and Section 13 (criminal misconduct) of the PC Act. He argued that such cases form an exception to the general procedure laid down for the registration of complaints and source information reports, which is otherwise applicable to offences such as fraud and embezzlement.

(vi) The learned Standing Counsel further contended that the Superintendent of Police (SP), CBI, being the head of the Anti-Corruption Branch, was fully competent to direct the registration of the FIR in a trap case. Thus, according to him, there has been strict adherence to the procedural mandate, leaving no room for allegations of procedural impropriety.

(vii) One of the pivotal submissions advanced by the learned Standing Counsel was that the doctrine of sameness, which prohibits the registration of a second FIR for the same offence, was inapplicable in the present case. He clarified that the two FIRs in question pertained to two distinct and independent offences:

- The first FIR pertained to the demand of illegal gratification, punishable under the provisions of the PC Act.

- The second FIR related to the discovery of disproportionate assets beyond known sources of income, which squarely fell within the ambit of Section 13 of the PC Act.

(viii) To substantiate his argument, the learned Standing Counsel placed reliance upon the judgments of the Hon'ble Supreme Court in **‘State of Rajasthan v. Surendra Singh Rathore 2025 LiveLaw (SC) 227’**, which, according to him, reaffirm the principle that separate FIRs can be registered when the allegations pertain to distinct offences. The relevant extract of *Surendra Singh Rathore’s case (supra)* is reproduced hereinunder:

“9. From the above conspectus of judgments, inter alia, the following principles emerge regarding the permissibility of the registration of a second FIR:

9.1 When the second FIR is counter-complaint or presents a rival version of a set of facts, in reference to which an earlier FIR already stands registered.

9.2 When the ambit of the two FIRs is different even though they may arise from the same set of circumstances.

9.3 When investigation and/or other avenues reveal the earlier FIR or set of facts to be part of a larger conspiracy.

9.4 When investigation and/or persons related to the incident bring to the light hitherto unknown facts or circumstances.

9.5 Where the incident is separate; offences are similar or different.”

(ix) The learned standing counsel further submitted that the investigation in the instant case had been stalled due to the operation of a stay order dated 01.06.2018. However, he apprised this Court that the

said stay was recently vacated by way of an order dated 08.11.2024, thereby allowing the investigation to proceed further.

(x) In light of the above, the learned Standing Counsel vehemently argued that the prayer for quashing the FIR was entirely premature at this stage. He emphasised that since the investigation was still at a nascent stage and the charge-sheet was yet to be prepared and filed before the competent court, there was no legal justification for invoking the extraordinary jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.)/528 of the BNSS to quash the FIR.

(xi) To fortify his contention, the learned Standing Counsel placed reliance upon the judgment of the Hon'ble Supreme Court in '**Jitul Jantilal Kotecha v. State of Gujarat & Ors Criminal Appeal Nos.1328-1333 of 2021**', wherein it was held that an FIR could not be quashed when even the draft charge-sheet had not been submitted to the Magistrate. He asserted that in the present case, the investigation was still in progress, and no evidence-other than the specific allegations levelled in the FIR-had been placed before this Court. In such a scenario, when the allegations in the FIR prima facie disclosed the commission of a cognizable offence, the inherent powers of this Court under Section 528 BNSS/482 Cr.P.C. could not be exercised to quash the proceedings at this stage.

(xii) In conclusion, the learned Standing Counsel for the CBI forcefully contended that:

- (i) The discovery of disproportionate assets post-trap proceedings established a prima facie case of corruption.
- (ii) The investigation had been conducted in strict adherence to the CBI Manual.
- (iii) The second FIR was legally sustainable, as it pertained to an entirely different offence.
- (iv) The stay order had been vacated, and the investigation was now progressing.
- (v) The prayer for quashing the FIR was premature, as the charge-sheet was yet to be filed.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. The first contention raised by learned senior counsel for the petitioners was that the FIR was liable to be quashed as the CBI failed to conduct a preliminary enquiry before its registration, thereby violating the CBI Crime Manual. However, this argument is wholly misconceived.

7. Paragraph 9.1 of the CBI Crime Manual provides that a preliminary enquiry is required only in cases where the information received does not prima facie disclose the commission of a cognizable offence. The purpose of such an enquiry is merely to collect material to ascertain whether a cognizable offence has been committed. However, once the Investigating Officer, upon assessment of the available material, forms the opinion that a cognizable offence is made out, he is

under a statutory obligation to register an FIR and proceed with the investigation.

8. The Hon'ble Supreme Court, in '**CBI vs. Thommandru Hannah Vijaylakshmi**' AIR ONLINE 2021 SC 869 has settled this issue by holding as under:

“29. The precedents of this Court and the provisions of the CBI Manual make it abundantly clear that a Preliminary Enquiry is not mandatory in all cases which involve allegations of corruption. The decision of the Constitution Bench in Lalita Kumari (supra) holds that if the information received discloses the commission of a cognizable offence at the outset, no Preliminary Enquiry would be required. It also clarified that the scope of a Preliminary Enquiry is not to check the veracity of the information received, but only to scrutinize whether it discloses the commission of a cognizable offence. Similarly, para 9.1 of the CBI Manual notes that a Preliminary Enquiry is required only if the information (whether verified or unverified) does not disclose the commission of a cognizable offence. Even when a Preliminary Enquiry is initiated, it has to stop as soon as the officer ascertains that enough material has been collected which discloses the commission of a cognizable offence. A similar conclusion has been reached by a two Judge Bench in Managipet (supra) as well. Hence, the proposition that a Preliminary Enquiry is mandatory is plainly contrary to law, for it is not only contrary to the decision of the Constitution Bench in Lalita Kumari (supra) but would also tear apart the framework created by the CBI Manual.

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32. *In view of the above discussion, we hold that since the institution of a Preliminary Enquiry in cases of corruption is not made mandatory before the registration of an FIR under the CrPC, PC Act or even the CBI Manual, for this Court to issue a direction to that affect will be tantamount to stepping into the legislative domain. Hence, we hold that in case the information received by the CBI, through a complaint or a "source information" under Chapter 8, discloses that commission of a cognizable offence, it can directly register a Regular Case instead of conducting a Preliminary Enquiry, where the officer is satisfied that the information discloses the commission of a cognizable offence."*

9. In the present case, the FIR (Annexure P-19) itself reflects that prior to its registration, the competent authority had duly satisfied itself that the contents of the complaint disclosed the commission of a cognizable offences, the relevant portion of the petition, as reproduced below, substantiates this fact:

"The allegations mentioned in the complaint and substantiated during investigation of RC0052018A0010/ CBI/ACB/Chandigarh dated 19.04.2018 prima-facie, discloses commission of offences against Shri Adesh Kumar Gupta, the then Principal General Manager, BSNL, Faridabad, Ms Meenakshi Gupta W/o Sh. Adesh Kumar Gupta the then Principal General Manager, BSNL, Faridabad R/o S-443, Greater Kailash-I, New Delhi - 110048 and Unknown others punishable under section 13(2) r/w 13(1) (e) of PC Act 1988 and section

109 of IPC. Hence, a regular case is registered and entrusted to Sh. Surender Singh, DSP, CBI, ACB, Chandigarh for investigation.”

10. Thus, the requirement of a preliminary enquiry was obviated, and no violation of the CBI Crime Manual has occurred.

11. The second contention advanced by learned senior counsel for the petitioners was that the FIR is vitiated for want of prior sanction under Section 17A of the PC Act. This submission is also without merit.

12. The allegations against petitioner No.1 pertain to amassing disproportionate assets in his name, in the name of his wife (petitioner No.2) and children during his tenure as a public servant from April 2007 to March 2018. The FIR reveals that he has allegedly acquired assets worth ₹ 5,15,32,510/- which is 97.46 % disproportionate to his known sources of income.

13. Section 17A of the PC Act applies only when an alleged offence arises directly out of a recommendation made or a decision taken by a public servant in discharge of his official functions or duties. In the instant case, the allegation against the petitioner No.1 is not in respect of any official act, decision, or recommendation made in his capacity as a public servant, but rather concerns the accumulation of assets disproportionate to his known sources of income. Thus, the provisions of Section 17A of the Act are wholly inapplicable.

14. Furthermore, petitioner No.2 is not a public servant, and therefore, the question of seeking prior sanction in her case does not arise at all.

15. Learned senior counsel for the petitioners further argued that the present FIR was a second FIR for the same alleged transaction and was, therefore, liable to be quashed. However, a perusal of both the FIRs demonstrates that this contention is unfounded.

16. The Hon'ble Supreme Court, in '**The State of Rajasthan vs. Surendra Singh Rathore**' CRA-847-2025 d/d 19.02.2025, has categorically held that a second FIR is permissible where the scope and ambit of two FIRs are distinct, even if they arise from the same set of circumstances.

17. The Hon'ble Supreme Court has reiterated, in a catena of decisions that where an FIR pertains to a separate offence and is not based on the same facts or transaction as an earlier FIR, its registration is legally valid.

18. In the present case, the earlier FIR dated 19.04.2018 (Annexure P-4) pertains to the allegation that petitioner No.1 demanded a bribe of ₹ 51,000/- (7 % of the total bill amount) through co-accused Kamal Kumar Mewani, failing which the pending bills of the complainant would not be cleared. A trap was laid, and the petitioner was allegedly caught red-handed while accepting a bribe of ₹ 37,000/-. The offences under that FIR were registered under Section 7, 12 and

13(2) read with Section 13(1)(d) of the PC Act and Sections 201 and 511 of the IPC.

19. In contrast, the impugned FIR pertains to allegation that petitioner No.1, along with his wife (petitioner No.2) amassed assets disproportionate to his known sources of income, to the tune of 97.46% over an extended period from 2007 to 2018. The nature of the offences, the evidentiary burden and the ingredients required to be proved in both FIRs are, therefore, entirely distinct.

20. In the earlier FIR, the prosecution must prove demand and acceptance of illegal gratification, whereas, in the present FIR prosecution is required to prove accumulation of assets beyond known sources of income. Thus, both the FIRs cannot be said to have arisen from same transaction or set of facts.

21. The learned senior counsel for the petitioners also argued that the deletion of Section 13(1)(e) by the 2018 amendment to the PC Act rendered the present FIR untenable. However, this argument too is misconceived.

22. The amendment simultaneously introduced Section 13(1)(b) which reads as follows:

“13. Criminal misconduct by a public servant.—

(1) A public servant is said to commit the offence of criminal misconduct,—

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(b) if he intentionally enriches himself illicitly during the period of his office.

Explanation 1.—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

Explanation 2.—The expression “known sources of income” means income received from any lawful sources.”

23. A plain reading of this provision makes it abundantly clear that the offence of possessing disproportionate assets has not been deleted but has merely been incorporated under a different Clause. The language of Section 13(1)(e), is *pari materia* with the erstwhile Section 13(1)(e), leaving no doubt that the amendment does not, in any manner, dilute the culpability of public servants accused of possessing disproportionate assets.

24. Lastly, it is well settled that the inherent jurisdiction of this Court under Section 482 Cr.P.C./528 of BNSS should not be exercised to quash an FIR at a nascent stage of investigation unless it is *ex-facie* perverse or malicious. The Hon'ble Supreme Court, in '**M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra & others**' 2021 AIR (SC) 1918, has unequivocally held as under:

“23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an

interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482 Cr.P.C and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India, our final conclusions are as under:

- i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;*
- ii) Courts would not thwart any investigation into the cognizable offences;*
- iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;*
- iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).*
- v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;*
- vi) Criminal proceedings ought not to be scuttled at the initial stage;*
- vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*
- viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State*

operate in two specific spheres of activities and one ought not to tread over the other sphere;

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate

which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power under Section 482 Cr.P.C. is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482 Cr.P.C. and/or under Article 226 of the

Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438 Cr.P.C. before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/chargesheet is filed under Section 173 Cr.P.C., while dismissing/disposing of the quashing petition under Section 482 Cr.P.C. and/or under Article 226 of the Constitution of India.

xvii) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section

482 Cr.P.C. and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied."

25. In the present case, the FIR prima facie discloses the commission of a cognizable offence. Hence, there exists no valid ground for quashing the FIR in question, as prayed for.

26. For the reasons as discussed above, the petition being devoid of merit is hereby dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

March 20th, 2025
rps

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned Yes

Whether reportable Yes