



2025:DHC:295



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 3<sup>rd</sup> December, 2024**  
**Pronounced on: 21<sup>st</sup> January, 2025**

+ **CRL.M.C. 5480/2023 & Crl.M.A.20730/2023**

**YOGESH GUPTA**

.....Petitioner

Through: **Dr. Farrukh Khan, Ms. Ridhima  
Goyal and Ms. Aditi Tayal,  
Advocates**

versus

**CENTRAL BUREAU OF INVESTIGATION THROUGH ITS  
PRINCIPLE OFFICER** .....Respondent

Through: **Mr. Rajesh Kumar SPP with  
Ms.Mishika Pandita, Advocate**

**CORAM:**  
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

### **J U D G M E N T**

#### **CHANDRA DHARI SINGH, J.**

1. The instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter "CrPC") [now Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS")] seeking quashing of the Chargesheet bearing No. 33/2022 dated 31<sup>st</sup> December, 2022, against the petitioner originating from FIR/RC No. 219/2020(E) 0009 dated 26<sup>th</sup> August, 2020, registered under Section 120B read with Sections 406, 411, 420 and 421 of the Indian Penal Code, 1860 (hereinafter "IPC") at CBI, EO-I, New Delhi and the consequential



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proceedings emanating therefrom titled as ‘*CBI v. M/s ERA Housing And Developers (India) Limited*’ pending before the Court of the learned Chief Metropolitan Magistrate, Rouse Avenue Courts, Delhi (hereinafter “CMM”).

### **FACTUAL MATRIX**

- a) M/s Era Housing & Developers India Ltd. (hereinafter “EHDL”), through its Director, Mr. Hem Singh Bharana, approached Industrial Finance Corporation of India Ltd. (hereinafter “IFCI”)/complainant to avail Rupee Term Loan of Rs. 80 crores with the purpose of repayment of an existing loan from Infrastructure Leasing & Financial Services (hereinafter “IL&FS”).
- b) IFCI sanctioned a Rupee Term Loan of Rs. 80 crores (hereinafter “Loan 1”) and Rs. 100 crores (hereinafter “Loan 2”) to EHDL on two different occasions in the year 2009 and 2010 respectively, and a further amount of Rs.100 crores (hereinafter “Loan 3”) was sanctioned to M/s Hi Point Investment & Finance Private Ltd. (hereinafter “HPIFPL”) in the year 2010.
- c) Loan 1 was sanctioned for the purpose of repayment of an existing loan to IL&FS as represented to IFCI by EHDL and it was disbursed in the account of EHDL which was maintained with the Union Bank of India, Asaf Ali Road branch, Delhi. The loans were initially secured against shares and subsequently against mortgage of certain



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properties situated at Palwal and Bahadurgarh. Post creation of the said mortgage with IFCI, both EHDL and HPIFPL allegedly created third party interest in the mortgaged property without seeking IFCI's permission.

d) It is stated in the impugned chargesheet that out of the loan amount of Rs.80 crores sanctioned by IFCI as Loan 1, on 23<sup>rd</sup> October, 2009, EHDL transferred an amount of Rs. 19.125 crores each to Account Nos. 413701010140848 and 413701010140849 belonging to M/s XEMA Infrastructure Private Limited (hereinafter "XIPL") and M/s Goglet Infotech Private Limited (hereinafter "GIPL") respectively, which were allegedly the sister concerns of EHDL. It is also stated that on 24<sup>th</sup> October, 2009, both XIPL and GIPL further transferred the amounts received from EHDL to M/s Era Infra Engineering Limited (hereinafter "EIEL"), which was allegedly the flagship company of the Era Group.

e) A complaint dated 24<sup>th</sup> August, 2020, was filed by IFCI pursuant to which the instant FIR was registered in which the present petitioner was not named. Upon investigation, it was discovered that the petitioner was the Director and authorized signatory of XIPL and GIPL at the time when the above-mentioned transactions took place.

f) The impugned chargesheet dated 31<sup>st</sup> December, 2022, was filed wherein the petitioner was named as an accused for the commission of offence under Section 120B read with Sections 406, 411, 420 and 421 of the IPC.



g) The proceedings arising out of the instant FIR is pending before the learned CMM, Rouse Avenue Courts, Delhi. As per the order dated 24<sup>th</sup> June, 2023, the learned CMM issued summons to the petitioner in the present case.

h) Aggrieved by the proceedings in the present case, the instant petition has been filed before this Court seeking quashing of the impugned chargesheet and the proceedings emanating therefrom. During the pendency of the instant petition, investigating agency-CBI has also filed a supplementary chargesheet dated 8<sup>th</sup> October, 2024 on record.

### **PLEADINGS BEFORE THIS COURT**

2. The instant petition has been filed by the petitioner on the following grounds:

*“A. **BECAUSE** Respondent/Investigating agency exercised its power in untrammelled manner, while overlooking the fact that Petitioner has resigned from the concerned companies' past a decade in the year 2010 and has no role to play during the period of offence.*

*B. **BECAUSE** Petitioner was neither a Director nor a key managerial personnel in EHDL and HPIFPL, the prime companies to which loan were sanctioned by IFCL.*

*C. **BECAUSE** allegations made in the impugned charge sheet are patently absurd and inherently improbable as no specific role has been alleged upon the Petitioner and no principle allegations has been levelled against the Petitioner in the impugned charge sheet.*

*D. **BECAUSE** Petitioner has unimpeachable and clean antecedents and has never been involved in any offence.*

*E. **BECAUSE** Petitioner was deployed as Director at the*



instance of Mr. H S Bharana and was never a signatory in the concerned loan transactions.

**F. BECAUSE** no offence of cheating under Sec 415 IPC is made out against the Petitioner and hence the offence under Sec 420, Sec 421 is not made out.

**G. BECAUSE** Petitioner has been charge sheeted merely because he was Director in few of the Companies, without any evidence that petitioner was in charge of and responsible to the affairs of the Company at the time of commission of alleged offence.

**H. BECAUSE** the allegations made in the Chargesheet, even if they are taken at their face value and accepted in their entirety do not prima-facie constitute any offence or makeout a case against the Petitioner.

**I. BECAUSE** the uncontroverted allegations made in the RC and the evidence collected in support of the same do not disclose the commission of any offence against the Petitioner.

**J. BECAUSE** continuance of trial qua the Petitioner would cause irreparable loss to the Petitioner. It is submitted that the Petitioner, at present, is Director and Key Managerial Person of SEBI CAT-II AIF and as per Rule 3(b)(ii) of Securities and Exchange Board of India (Intermediaries)(Third Amendment) Regulations, 2021, any person, who has been chargesheeted by any Court would not be considered as fit person and shall be the subject to disqualification within six months of such impediment.

**K. BECAUSE** trial in the said case would turn to be a punishment for the Petitioner, as with disqualification as mentioned above, the Petitioner will not be allowed to continue working as Director and Key Managerial Person in the said company, thereby leading a catastrophic situation for the Petitioner.

**L. BECAUSE** every accused is presumed innocent until proven guilty and Petitioner will be made to suffer at the cost of his livelihood for no fault of his own.

**M. BECAUSE** in the entire impugned charge sheet alleged role of Petitioner is limited and confined only to the fact that he was Director of M/s Xema Infrastructure Private Limited



(XIPL) and M/s Goglet Infotech Pvt Ltd., (GIPL) the sister concern of M/s EHDH (Accused No. 1), the companies to which part of term loan fund (Loan 1) was diverted, instead of prepayment of loan to IL&FS, as more particularly ascribed in Para 16.10 of impugned chargesheet. It is further alleged that from aforesaid Companies in addition to M/s XEBEC Hospitality Pvt. Ltd. amount was further transferred to other flagship companies of Era Group, to which Petitioner has no association or any link, the same stand corroborated by a bare perusal of the impugned chargesheet. It is pertinent to mention herein that Mr. HS Bharana was figure head, on instruction of whom Petitioner was working, as further affirmed by investigating agency in Para 16.13 of impugned chargesheet. It is submitted that in the investigation it was categorically revealed that Petitioner did not have the cheque books of these companies and also never went to the Bank to get these accounts opened or to obtain cheque books.

**N. BECAUSE** Petitioner had no de-facto power or authority insofar as the said companies are concerned and was merely working under instructions of the head of Era Group, namely Mr. HS Bharana. That a bare perusal of Para 16.13 of the impugned chargesheet as submitted before the Ld. Trial Court by the Respondent, would substantiate the case of the Petitioner, that there is no justifiable reason to drag and implicate the Petitioner as an accused therein.

**O. BECAUSE** dilution of security i.e. mortgaged property (situated in Palwal Haryana) was transferred and third party interest was created in the year 2013-2015, as revealed in the investigation, much after the period Petitioner resigned from the Era Group and its sister concern's. Further the second charge over the said Palwal property was created in 2013 in favour of ECL Finance Ltd i.e. much after the period Petitioner resigned from ERA Group or its sister concern.

**P. BECAUSE** no allegations or accusation has been leveled against the Petitioner re the Loan 2 and Loan 3 [100 crore to M/s Era Housing and Developers (India) Ltd & 100 crore





to M/S Hi Point Investment & Finance Private Ltd.(HPIFPL)]. It is submitted that alleged round tripping and alleged siphoning off has taken place much after the period, Petitioner resigned from ERA Group or its sister concern. That Petitioner resigned from the concerned companies' past a decade in the year 2010 and has no role to play during the period of alleged offence.

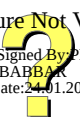
*Q. BECAUSE no specific role, accusation or allegation has been levelled against the Petitioner except from the fact that he was Director/Authorized signatory of XIPL and GIPL. The mere fact person is Director of Company cannot fasten liability upon him, until and unless specific role of concerned Director is shown and proved. It is submitted for fastening criminal liability there is no presumption that every Director knows the transaction."*

3. In response to the instant petition filed by the petitioner, the respondent has filed its reply, the relevant portion of which is as under:

**"Role of Accused Yogesh Gupta (A-10)**

12. That Investigation revealed that Sh.Yogesh Gupta joined M/s Era Construction (India) Ltd now M/S Era Infra Engineering Ltd. on 25.04.2005 on the post of executive finance. It is relevant to mention here that investigation revealed that M/s XEMA Infrastructure Pvt. Ltd got registered in ROC on 06.04.2009 and M/S Goglet Infotech Pvt. Ltd at 153, Okhla Industrial Estate, Phase-III, New Delhi- 110020 got registered in ROC on 08.04.2009. Sh. Yogesh Gupta was the director in the above mentioned companies from 06.04.2009 to 10.04.2010.

13. That investigation revealed that on 24.10.2009 M/s XEMA Infrastructure Pvt. Ltd transferred an amount of Rs.19,12,50,000 and M/S Goglet Infotech Pvt. Ltd transferred an amount of Rs.19,12,50,000 in the a/c no. 413701010140787 of M/s Era Infra Engg. Ltd. the flagship company of Era Group. All the above mentioned accounts are maintained at Union Bank of India, Asaf Ali road branch, New Delhi. Investigation revealed that at the





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relevant time Sh. Yogesh Gupta was authorized signatory of above -mentioned two accounts. Investigation revealed that Sh.Yogesh Gupta, Director and authorized signatory of M/s XEMA Infrastructure Pvt. Ltd and M/S Goglet Infotech Pvt. Ltd was having the knowledge of the aforesaid transaction.

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### **REPLY TO GROUNDS**

A-Q The averments made in para A-Q of the petition are vehemently denied being devoid of merit. It is submitted that investigation revealed that IFCI Ltd. sanctioned a Rupee Term Loan of Rs.80 crore to M/s Era Housing & Developers India Ltd. (EHDL) for the purpose of prepayment of loan of IL & FS. The captioned loan was disbursed in the no lien account of M/s EHDL maintained with Union Bank of India, Asaf Ali Road Delhi Branch. Thereafter M/s EHDL diverted the loan funds of Rs.19.125 Crores in the a/c no: 413701010140848 of M/s. XEMA Infrastructure Pvt. Ltd and an amount of Rs. 19.125 Crores in the a/c no: 413701010140849 of M/s Goglet Infotech Pvt. Ltd. on 23.10.2009 instead of prepayment of the loan of IL&FS. Further M/s XEMA Infrastructure Pvt. Ltd transferred an amount of Rs.19,12,50,000 and M/S Goglet Infotech Pvt. Ltd. transferred an amount of Rs. 19,12,50,000 in the a/c no.413701010140787 of M/s Era Infra Engg. Ltd. on 24.10.2009 the flagship company of Era Group. Investigation further revealed that at that time authorized signatory of both of above mentioned account was Sh. Yogesh Gupta. Investigation further revealed that Sh. Yogesh Gupta, Director and authorized signatory of M/s XEMA Infrastructure Pvt. Ltd and M/S Goglet Infotech Pvt. Ltd. was having the knowledge of the aforesaid transaction. The aforesaid facts and circumstances disclosed commission of offences U/s 120-B r/w Sec. 420, 406, 411, and 421 of IPC and substantive offences thereof against accused Sh. Yogesh Gupta, Director and authorized signatory of M/s XEMA Infrastructure Pvt. Ltd and M/S Goglet Infotech Pvt. Ltd. ”



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## **SUBMISSIONS**

### ***(on behalf of the petitioner)***

4. Learned counsel appearing on behalf of the petitioner submitted that the respondent overlooked the fact that the petitioner had resigned from the concerned companies in the year 2010 and played no role in the said companies during the period of offence. It is further submitted that the petitioner was neither a Director nor a key managerial personnel in EDHL.

5. It is submitted that the allegations made in the impugned chargesheet are patently absurd and inherently improbable as no specific role has been assigned to the petitioner for the commission of the said offence and no principal allegations have been levelled against the petitioner in the impugned chargesheet. It is further submitted that the petitioner was never a signatory in the concerned transactions and hence, no offence is made out against him.

6. It is submitted that the petitioner was chargesheeted merely because he was Director in the concerned Companies and that there is no material evidence which suggests that the petitioner was responsible and in charge of the affairs of the Company at the time of the commission of the alleged offences. It is further submitted that there can be no presumption that the Director knows about and is involved in every transaction that the concerned company undertakes.

7. It is submitted that the role of petitioner is merely limited to the fact that he was Director of XIPL and GIPL, the companies that were the



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sister concerns of EHDL and to which the term loan fund was diverted instead of prepayment of loan to IL&FS which was shown as the purpose of securing the said term loan from IFCI. It is further submitted that the amount transferred to the said companies were transferred to other flagship companies of ERA Group, to which the petitioner has no association or link with and the same can be established upon a bare perusal of the impugned chargesheet.

8. It is submitted that the petitioner was functioning on the instructions of one Mr. HS Bharana/accused No.2, who is the Chairman of the Era Group, and the same has been affirmed in paragraph no. 16.13 of the impugned chargesheet. It is further submitted that it is specifically averred in the impugned chargesheet that the petitioner did not have the cheque books of the accounts of the said companies of which he was the Director and the petitioner also never went to the Bank to get these accounts opened or obtain cheque books.

9. It is submitted that the petitioner had no *de-facto* power or authority in the decision-making of the said companies as he was merely functioning based on the instructions of Mr. HS Bharana, who was the head of the Era Group and therefore, there is no reason for implicating the petitioner as one of the accused in the impugned chargesheet.

10. It is submitted that third party interest in the mortgaged party situated in Palwal, Haryana was created much after the resignation of the petitioner from the Era Group and its sister concerns. It is further submitted that the second charge over the said Palwal property was created in the year 2013 in favour of ECL Finance Ltd., which was also much after the resignation of the petitioner from the ERA Group or its



sister concern.

11. It is submitted that the allegations made in the impugned chargesheet, even when considered to be uncontroverted and taken at their face value and accepted in their entirety do not *prima facie* constitute any offence or make out a case against the petitioner. It is further submitted that the evidence collected in support of the allegations made in the impugned chargesheet do not disclose the commission of any offence against the petitioner and the mere fact that the petitioner was the Director of the said companies cannot fasten criminal liability upon him unless his specific role in the commission of any offence is proved on the basis of any material evidence.

12. It is submitted that the petitioner has deep roots in the society and has unimpeachable and clean antecedents. It is further submitted that if the present petition is not allowed, it will do irreparable harm to the petitioner.

13. Therefore, in view of the foregoing submissions, it is prayed that the reliefs sought by the petitioner may be granted.

***(on behalf of the respondent)***

14. *Per Contra*, learned SPP appearing for the respondent CBI vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed for being devoid of any merit.

15. It is submitted that upon investigation, it was revealed that EHDL did not utilize the amount of Rs.80 crores secured as Rupee Term Loan from IFCI for repayment of existing loan to IL&FS and instead, the said loan amount was transferred to four sister concerns of EHDL, including



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XIPL and GIPL to whom an amount of Rs. 19.125 crores each was transferred by EHDL.

16. It is submitted that all the transfer entries made by the Director of EHDL, Mr. HS Bharana, were in contravention of the terms and conditions of the sanction of the said loan as it was utilized for purposes other than what it was granted for by IFCI to EHDL.

17. It is submitted that upon investigation, it was revealed that the petitioner joined M/s Era Construction (India) Limited (now EIEL) in the year 2005 as a finance executive. It is further submitted that the petitioner was later appointed as the Director of XIPL and GIPL and he held the said post in both the companies till 10<sup>th</sup> April, 2010.

18. It is submitted that upon investigation, it was revealed that XIPL and GIPL transferred an amount of Rs.19.125 crores each to EIEL, which was the flagship company of the Era Group. It is further submitted that the accounts of both XIPL and GIPL are maintained at Union Bank of India, Asaf Ali Road branch, Delhi.

19. It is further submitted that at the time of the relevant transactions which led to the commission of the offence in the present case, the petitioner was the Director of XIPL and GIPL in addition to being the authorized signatory of their accounts from which the amount of Rs.19.125 crores each was transferred to EIEL. It is further submitted that the petitioner had the knowledge of the aforesaid transactions and was involved in the commission of the said offence in question.

20. It is submitted that this Court, while exercising their inherent powers under Section 482 of the CrPC, cannot act as if it were a trial court and venture into evaluation of evidence. Placing reliance on the





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Hon'ble Supreme Court's judgment in *Chilakamarthi Venkateswarlu v. State of A.P.*,<sup>1</sup> it is further submitted that at this stage, only a *prima facie* case is to be made out and the standard of proving the case beyond reasonable doubt is not applicable.

21. Therefore, in view of the foregoing submissions, it is prayed that the instant petition may be dismissed.

### **ANALYSIS AND FINDINGS**

22. Heard the learned counsel for the parties and perused the material placed on record including the complaint, FIR, the impugned chargesheet, etc. This Court has also perused the judgments relied upon by the parties and the written submissions placed on record.

23. At this stage, upon perusal of the impugned chargesheet, this Court finds it imperative to discuss the allegations made against the petitioner.

24. In the present matter, it is stated in the chargesheet that upon investigation, it was revealed that EHDL secured a Rupee Term Loan of Rs. 80 crores from IFICI for the purpose of repayment of an existing loan to IL&FS. However, out of the said loan amount, Rs. 19.125 crores each were separately transferred to XIPL and GIPL, and the same was further diverted to EIEL, which was the flagship company of the Era Group. Therefore, it is stated in the chargesheet that all the accused including the petitioner, i.e., accused no. 10, in pursuance of a criminal conspiracy, cheated IFICI and hence, the offence under Section 120B read with Sections 406, 411, 420 and 421 of the IPC is made out in the present case.

25. Adverting to the said charges against the petitioner specifically, the respondent's case relies heavily on the fact that the petitioner was the

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<sup>1</sup>(2020) 17 SCC 595



Director of XIPL and GIPL and the authorized signatory of the accounts of the said companies at the time when the relevant transactions were undertaken by them. It is also the respondent's case that upon investigation, it was revealed that the petitioner had the knowledge of the relevant transactions. The relevant portion of the chargesheet is reproduced below:

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| <i>Companies Name</i>                    | <i>Accused No.</i> | <i>Name of the directors</i>                                         | <i>Name of the authorized signatories</i> |
|------------------------------------------|--------------------|----------------------------------------------------------------------|-------------------------------------------|
| <i>M/s XEMA Infrastructure Pvt. Ltd.</i> | <i>A-5</i>         | <i>1.Yogesh Gupta<br/>2.I.S.Gulia</i>                                | <i>Yogesh Gupta</i>                       |
| <i>M/S Goglet Infotech Pvt. Ltd.</i>     | <i>A-6</i>         | <i>1.Yogesh Gupta<br/>2.Bijender Singh @ Bijender Singh Chaprana</i> | <i>Yogesh Gupta</i>                       |

*16.13 Investigation revealed that Bijender Singh Chaprana(A-9) and Yogesh Gupta (A-10) were employees in Era Construction (India) Ltd @ Era Infra Engineering Ltd (A-6) and they did not have the cheque books of these companies and also they never went to the Bank to get these accounts opened or to obtain cheque books. They were made directors on the instance of Hem Singh Bharana (A-2) and used to follow his instructions. They signed the account opening forms and cheques on time to time on the directions of Hem Singh Bharana (A-2).”*





26. From the above quoted portion of the chargesheet, it is clear that the investigations against the petitioner revealed that he was the Director and authorized signatory of XIPL and GIPL at the time of the relevant transactions, which form the subject matter of the instant criminal proceedings against the petitioner, and he worked on the instructions of Mr. HS Bharana, on whose instance he was made the Director.

27. It is also important to note that as per the findings of the investigation as recorded in the above quoted portion of the chargesheet, the investigating agency reached the conclusion that the petitioner did not have the cheque books or went to the Bank to get the said accounts opened but he only signed the account opening forms and cheques on the directions of Mr. HS Bharana.

28. At this stage, it is important to look into the settled position of law on the issue of the criminal liability of a Director of a company. In the case of ***S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla***,<sup>2</sup> the Hon'ble Supreme Court considered the definition of 'director' as defined under Section 2(13) of the Companies Act, 1956. The relevant portion of the judgment is reproduced below:

*“8. .... There is nothing which suggests that simply by being a director in a company, one is supposed to discharge particular functions on behalf of a company. It happens that a person may be a director in a company but he may not know anything about the day-to-day functioning of the company. As a director he may be attending meetings of the Board of Directors of the company where usually they decide policy matters and guide the course of business of a company. It may be that a Board of Directors may appoint*

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<sup>2</sup>(2005) 8 SCC 89



*sub-committees consisting of one or two directors out of the Board of the company who may be made responsible for the day-to-day functions of the company. These are matters which form part of resolutions of the Board of Directors of a company. Nothing is oral. What emerges from this is that the role of a director in a company is a question of fact depending on the peculiar facts in each case. There is no universal rule that a director of a company is in charge of its everyday affairs. We have discussed about the position of a director in a company in order to illustrate the point that there is no magic as such in a particular word, be it director, manager or secretary. It all depends upon the respective roles assigned to the officers in a company. ....”*

29. A Director of a company cannot be said to be necessarily aware of the day-to-day functioning of such company merely because he holds the post of a Director. There is no presumption that the Director of a company will definitely be in-charge of the conduct or affairs of the company. Therefore, it becomes imperative to aver and establish that the Director concerned was in charge of the day-to-day affairs of the company in order to implicate the said person in criminal proceedings.

30. It is not in doubt that a corporate entity is an artificial person that acts through its officers, directors, etc. If such an entity commits an offence, it would be through the acts and intent of the individuals who are involved in the functioning of the entity and would also be the same in case of a criminal conspiracy.

31. Hence, it is safe to say that any individual who has perpetrated the commission of an offence on a corporate entity's behalf can be made an accused, along with such corporate entity, if there exists sufficient



evidence that shows active role played by him coupled with the requisite criminal intent for the commission of the said offence in question.

32. Before advertng to the merits of this case, it is important at this stage to discuss the settled law on the issue of quashing of criminal proceedings. In the case of *State of Haryana v. Bhajan Lal*,<sup>3</sup> the Hon'ble Supreme Court had set out the broad categories of cases in which the inherent powers of the Court could be exercised for quashing criminal proceedings. The relevant portion of the judgment is reproduced as under:

*“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*

*(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

*(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not*

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<sup>3</sup>1992 Supp (1) SCC 335



*disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.*

*(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*

*(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.*

*(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*

*(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.*

*(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

33. Upon perusal of the above, it is observed that the inherent powers of the Courts must be exercised sparingly and with great caution. From





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the above said judgment, it is clear that the Court may quash a complaint under Section 482 of the CrPC if it is satisfied that the allegations made against the accused, even when they are taken at face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused. Further, the Court may also invoke its extraordinary powers to quash a complaint if the allegations made in the complaint are so absurd and improbable that no prudent person may reach a conclusion that there is sufficient ground for proceeding against the accused.

34. Therefore, it is clear that the question of exercise of the Court's inherent powers under Section 482 of the CrPC to quash criminal proceedings would depend on the facts and circumstances of each case, and there can be no one-size-fits-all approach that the Court can adopt while deciding the same. However, while deciding this question, it should be kept into keen consideration that the Court does not need to determine the genuineness of the allegations and the evidence placed before it. The Court's exercise is merely limited to a determination as to whether the uncontroverted allegations when taken at their face value, disclose the commission of the offence in question by the accused.

35. In the present case, the accused is charged under Section 120B read with Sections 406, 411, 420 and 421 of the IPC. Section 120B of the IPC provides for punishment for the commission of the offence of criminal conspiracy. Section 120B of the IPC reads as under:

***“120B. Punishment of criminal conspiracy. — (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall,***



*where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

*(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]”*

The offence of criminal conspiracy is defined under Section 120A of the IPC, which reads as under:

**“120A. Definition of criminal conspiracy.** — *When two or more persons agree to do, or cause to be done, —*

*(1) an illegal act, or*

*(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:*

*Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.*

*Explanation. —It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.”*

36. The essential ingredients of the offence of criminal conspiracy are *firstly*, an agreement between two or more persons; and *secondly*, the agreement must relate to doing or causing to be done either an illegal act or an act which is not illegal in itself but is done by illegal means.

37. It is clear that there should be meeting of minds of at least two or more persons for doing or causing to be done an illegal act or an act by illegal means. Therefore, there should be criminal intent on the part of the persons entering into such agreements for the commission of the offence of criminal conspiracy. As a corollary, it follows that in order to establish



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a charge of criminal conspiracy, knowledge of indulgence in either an illegal act or a legal act by illegal means is *sine qua non*.

38. The learned counsel for the respondent has placed reliance on the judgments of the Hon'ble Supreme Court in ***Kehar Singh v. State (Delhi Admn.)***<sup>4</sup> and ***R. Venkatkrishnan v. CBI***<sup>5</sup> to submit that the offence of criminal conspiracy can be established by adducing circumstantial evidence and that the conduct of the accused and their level of involvement would be a relevant factor for determining the commission of the said offence.

39. In the present case, the petitioner was not named in the instant FIR. Upon investigation, the petitioner was arraigned in the impugned chargesheet on the charges of indulging in a criminal conspiracy to dishonestly induce IFCI to disburse the said term loan by providing misleading information and thereafter diverting the said term loan funds for the purpose other than what it was sanctioned for, thereby, cheating IFCI and causing it wrongful loss.

40. Record reveals that the petitioner was the Director of XIPL and GIPL till 10<sup>th</sup> April, 2010. Accordingly, it is argued by the learned counsel for the respondent that when the amount of Rs. 19.125 crores each was transferred from the accounts of the said companies to EIEL on 24<sup>th</sup> October, 2009, the petitioner was not only the Director of the said companies but also their authorized signatory and had knowledge of the aforesaid transaction.

41. The impugned chargesheet acknowledges the petitioner as the

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<sup>4</sup>(1988) 3 SCC 609

<sup>5</sup>(2009) 11 SCC 737



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authorized signatory of the accounts of the said companies. However, upon perusal of paragraph no. 16.13 of the chargesheet, it is observed by this Court that during the investigation, it was revealed that the petitioner was made Director of the said companies only at the instance of Mr. HS Bharana, who was the promoter of the Era Group, and the petitioner used to follow his instructions. It is further stated in the aforementioned paragraph of the chargesheet that the petitioner merely used to sign the account opening forms and cheques from time to time on the directions of Mr. HS Bharana, and that the petitioner did not get the said accounts opened or had the cheque books of the said companies with him.

42. Taking into consideration the findings in the aforesaid paragraph of the impugned chargesheet, this Court is of the considered view that since the petitioner was working on the directions of Mr. HS Bharana, head of the Era Group, he had no real authority or control over the day-to-day affairs of the said companies and was merely a figurehead.

43. It is further observed by this Court that the uncontroverted allegations made in the impugned chargesheet are merely limited to the fact that the accused was the authorized signatory and the Director of the said companies at the time of the relevant transactions in question. There is no evidence on record to suggest that the knowledge of indulging in the commission of the said offence in pursuance of a criminal conspiracy can be imputed to the petitioner in the present case. Therefore, the conduct of the petitioner does not point towards his involvement in the commission of the offence of criminal conspiracy.

44. Even if there was a larger conspiracy in the present case involving other accused arraigned in the chargesheet, which will be determined in



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due course by the Court concerned, this Court finds no reason to believe that the petitioner was involved in the same as there is no presumption that the petitioner had the knowledge of the alleged conspiracy merely by virtue of being Director and authorized signatory of the said companies, when no specific allegations have been made and evidence has been adduced against him pointing towards his active involvement in the day-to-day affairs of the said companies.

45. Upon perusal of the impugned chargesheet, including the final report dated 31<sup>st</sup> December 2022 and the supplementary final report dated 8<sup>th</sup> October, 2024, this Court finds no evidence and basis to *prima facie* believe that the petitioner was involved in the commission of the offence of criminal conspiracy.

46. Further, the investigating agency/respondent has filed written statements on record along with the bank statements of EHDL, XIPL, GIPL and EIEL, in addition to witness testimonies of PW-6 and PW-101 recorded under Section 161 of the CrPC who were the Manager and Senior Manager/Branch Head respectively of the Union Bank of India, Asaf Ali Road, New Delhi. The said bank statements and witness testimonies merely establish the occurrence of the transactions in question pursuant to which the diversion of the loan amount was given effect. However, there is nothing in the said documents to suggest that the petitioner had the criminal intent and was involved in the criminal conspiracy to divert the funds in pursuance of an illegal act.

47. After taking into consideration all the evidence on record, this Court is of the considered view that the respondent has been unable to make out a persuasive case as to why the petitioner was named in the





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impugned chargesheet despite paragraph 16.13 of the said chargesheet clearly establishing that the petitioner was a mere figurehead in XIPL and GIPL, and was not in-charge of the day-to-day affairs of the said companies despite being their Director and authorised signatory as he was working merely on the directions of Mr. HS Bharana, the promoter of Era Group, who was actually in-charge of the affairs of the said companies that were sister concerns of EHDL. Therefore, this Court is of the considered view that there is no necessary implication or circumstantial evidence that points towards the petitioner's involvement in the commission of the said offence.

48. In view of the above, it is clear that a *prima facie* view cannot be taken that the petitioner had the requisite criminal intent to indulge in a criminal conspiracy to commit the offence in question. Hence, even if the petitioner was the authorized signatory and the Director of XIPL and GIPL at the relevant time when the said transactions took place, it cannot be said that he was working in tandem with the other co-accused in pursuance of a criminal conspiracy. Therefore, no *prima facie* case is made out against the petitioner under Section 120B of the IPC.

49. While it is established that there is no *prima facie* case made out against the petitioner for indulging in criminal conspiracy to commit an offence, it is important for this Court to examine whether a *prima facie* case is made out against the petitioner for the commission of offence under Sections 406, 411, 420 and 421 of the IPC in the impugned chargesheet even if he was not involved in any criminal conspiracy to commit the said offence.

50. Henceforth, this Court will analyse if a *prima facie* case is made



out against the petitioner individually for the commission of the offence of criminal breach of trust under Section 406 of the IPC, dishonestly receiving stolen property under Section 411 of the IPC, cheating and dishonestly inducing delivery of property under Section 420 of the IPC, and dishonestly or fraudulently removing or concealing property to prevent distribution among creditors under Section 421 of the IPC.

51. Section 406 of the IPC provides for punishment for the offence of criminal breach of trust. The said provision reads as under:

***“406. Punishment for criminal breach of trust. —Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”***

The offence of criminal breach of trust is defined under Section 405 of the IPC, which reads as under:

***“405. Criminal breach of trust.—Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits “criminal breach of trust.”***

52. In the case of ***Delhi Race Club (1940) Ltd. v. State of U.P.***,<sup>6</sup> the Hon’ble Supreme Court held that the elements of the offence of criminal breach of trust include *firstly*, there must be entrustment with a person of property or dominion over property and *secondly*, the person so entrusted (a) dishonestly misappropriated or converted the property to his own use,

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<sup>6</sup>(2024) 10 SCC 690



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or (b) dishonestly used or disposed of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged or of any legal contract touching the discharge of such trust.

53. It is well-established in law that every act of breach of trust will not result in the commission of the offence of criminal breach of trust, unless there is clear evidence of a manipulating act of fraudulent misappropriation of a property with the accused was entrusted. However, at this stage, the Court merely has to determine if a *prima facie* view can be taken that the uncontroverted allegations against the accused disclose the commission of the offence of criminal breach of trust under Section 406 of the IPC.

54. At the threshold, in order to attract Section 406 of the IPC against the petitioner, it needs to be established that the petitioner was entrusted with property or dominion over property.

55. In the present case, the petitioner was the Director and authorised signatory of XIPL and GIPL and not of EHDL. The loan amount of Rs. 80 crores was transferred by IFCI to EHDL, which as per the chargesheet was diverted to four different companies including XIPL and GIPL.

56. Based on the material placed on record, this Court is of the view that EHDL was entrusted with the said loan amount by IFCI, whereas XIPL and GIPL were merely recipients of a portion of the said loan amount which was transferred to them by EHDL.

57. Hence, this Court has no qualms in taking a *prima facie* view that XIPL and GIPL cannot be said to have committed criminal breach of trust and therefore, no uncontroverted allegations and the evidence supporting the same disclose that petitioner being the Director and authorised





signatory of the said companies, is liable for the said offence under Section 406 of the IPC.

58. The petitioner is also charged with the commission of the offence of dishonestly receiving stolen property under Section 411 of the IPC, which reads as under:

*“411. Dishonestly receiving stolen property. —Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”*

59. In the case of ***Biran Lal v. State of Madhya Pradesh***,<sup>7</sup> the Hon’ble Supreme Court held that the ingredients of the aforesaid offence includes *firstly*, dishonestly receiving or retaining a property that is stolen and *secondly*, the person receiving or retaining such property must have knowledge or reason to believe that the same is stolen.

60. At the threshold, it is important to establish that the property in question which was received or detained was stolen.

61. In the present case, the petitioner was the Director and authorised signatory of XIPL and GIPL when the relevant transactions took place. A sum of 19.125 crores each was transferred to both the said companies by EHDH.

62. Section 411 of the IPC can only be attracted if the said amount was stolen. As per the allegations made in the chargesheet, the aforesaid amount was transferred to the abovementioned companies out of the loan amount of Rs. 80 crores granted by IFCI to EHDH.

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<sup>7</sup>(1952) 2 SCC 140



63. There is no material placed on record to suggest that the said loan amount was a stolen property and from a bare perusal of the chargesheet, it is clear that the said loan amount was voluntarily sanctioned by IFCI pursuant to an agreement with EHDL. Hence, there is no reason for this Court to believe that the amount received by XIPL and GIPL was in the nature of a stolen property or that the petitioner had any reason to have believed it to be stolen in nature.

64. Therefore, this Court has no qualms in holding that there is no *prima facie* case made out against the petitioner for the commission of offence under Section 411 of the IPC as the evidence adduced by the investigating agency is insufficient for disclosing the commission of the said offence by the petitioner.

65. Moving to the next charge, the petitioner is charged under Section 420 of the IPC in the impugned chargesheet for the commission of the offence of cheating and dishonestly inducing delivery of property. Section 420 of the IPC reads as under:

***“420. Cheating and dishonestly inducing delivery of property.—Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”***

66. The offence of cheating is defined under Section 415 of the IPC, which reads as under:

***“415. Cheating.—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to***



*deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.*”

67. In the case of ***Delhi Race Club (1940) Ltd. (supra)***, the Hon’ble Supreme Court held that essential ingredients of the offence under Section 420 of the IPC are *firstly*, deception of any person, either by making a false or misleading representation or by other action or by omission; *secondly*, fraudulently or dishonestly inducing any person to deliver any property, and *thirdly*, the consent that any persons shall retain any property and *finally*, intentionally inducing that person to do or omit to do anything which he would not do or omit.

68. Based on the material placed on record, there is no allegation or evidence on record against the petitioner which suggests that he was involved in inducing IFCI in any manner to sanction the said loan to EHDL or was involved in the process of getting the said loan sanctioned to EHDL in any manner whatsoever.

69. Therefore, no *prima facie* view can be taken that the offence under Section 420 of the IPC is disclosed against the petitioner even if the allegations made against him in the impugned chargesheet are taken at their face value and accepted in their entirety.

70. Lastly, this Court will examine if the uncontroverted allegations in the impugned chargesheet disclose an offence against the petitioner under Section 421 of the IPC, which reads as under:



***“421. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.—Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”***

71. The elements of the offence under Section 421 of the IPC include *firstly*, a dishonest or fraudulent removal, concealment, delivery, transfer or causing transfer of a property; *secondly*, it should be done without adequate consideration and *thirdly*, there should be intention or knowledge that doing so would prevent the distribution of the said property among his creditors in accordance with law.

72. In the present case, as per the impugned chargesheet, third party interest was allegedly created in the mortgaged property at Palwal, which was secured against the loans sanctioned by IFCL.

73. It is pertinent to mention that there is no allegation or evidence on record to suggest that the petitioner was involved in the creation of third party interest in the said mortgaged property.

74. As a matter of fact, the petitioner had ceased to be Director of XIPL and GIPL on 10<sup>th</sup> April, 2010 and the said property was mortgaged in the year 2011 after which the said third party interest was created.

75. Further, upon perusal of the chargesheet, this Court finds that there is no determinable role played by the said companies in either the





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mortgaging of the said property against the said loans or subsequently creating the third party interest in the said mortgaged property.

76. As per the impugned chargesheet, 9.63 acres out of the total mortgaged property at Bahadurgarh was released on 29<sup>th</sup> August, 2013 pursuant to a representation made by the Era Group that they will avail Working Capital Term Loan (hereinafter “WCTL”) of Rs. 100 crores from Bank of India and the said amount would be used towards repayment of its dues by EIEL to IFCI.

77. It is alleged in the chargesheet that even after the receipt of the said WCTL, the dues of IFCI were allegedly not cleared and therefore, IFCI was cheated by the Era Group.

78. However, upon perusal of the chargesheet, in this alleged act of cheating, this Court does not find any determinable role played by the petitioner, who had ceased to be a Director of XIPL and GIPL by then.

79. Therefore, no allegations made in the impugned chargesheet or evidence against the petitioner suggest that he was involved in the alleged fraudulent creation of third party interest in the mortgaged property, which prevented the distribution of that property to EHDL’s creditor, i.e., IFCI and hence, no offence under Section 421 is disclosed against the petitioner from the allegations made against him in the impugned chargesheet.

80. After considering the charges against the petitioner in the impugned chargesheet, this Court finds that in view of the allegations made against the petitioner, there is no reason for the petitioner to be arraigned as an accused in the impugned chargesheet as the said allegations do not *prima facie* disclose the commission of the



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abovementioned offences by the petitioner as there is no evidence placed on record by the respondent to suggest otherwise.

81. As the consequential proceedings emanating from the impugned chargesheet is also sought to be quashed in the instant petition, this Court will now examine the summoning order dated 24<sup>th</sup> June, 2023 passed by the learned CMM, which is reads as under:

*“As per record, the present case was registered on the written complaint of Ms. Sara Nazmi, DGM Law, Industrial Finance Corporation of India (IFCI), Head Office, Delhi, dated 24.08.2020.*

*Briefly stated, it is alleged that all the accused persons dishonestly induced IFCI Ltd. to disperse the term loan by submitting misleading facts/information wrong CA Certificates and thereafter, diverted the TL funds for the purpose other than it was granted. Thereby, in pursuance of criminal conspiracy they have cheated IFCI Ltd. and incurred wrongful gain to the tune of Rs. 331 Crores to themselves and wrongful loss to IFCI Ltd. Thus, they have committed an offence punishable U/s 120-B r/w 406, 411, 420, 421 IPC and substantive offence thereof.*

*I have gone through the challan filed U/s 173 Cr.PC, statements and documents annexed with it.*

*Perusal of the charge-sheet and documents levelled against the accused persons and material on record is prima-facie sufficient to proceed with the case. Accordingly, I take cognizance of the offence U/s 120-B r/w 406, 411, 420, 421 IPC. And substantive offences U/s 406, 411, 420 and 421 IPC.*

*Accordingly, summons be issued to M/s Era Housing & Developers India Ltd through its Authorized Representative (A-1), Hem Singh Bharana (A-2), M/s XEBEC Hospitality Pvt. Ltd. through Authorized Representative (A-3), M/s Xema Infrastructure Pvt. Ltd. through Authorized Representative (A-4), M/s Goglet Infotech Pvt. Ltd. through Authorized Representative (A-*





**5), M/s Era Infra Engineering Ltd through Authorized Representative (A-6), Pankaj Jain, CA (A-7), M/s Era Landmark Ltd. through Authorized Representative (A-8), Bijender Singh @ Bijender Singh Chaprana (A-9), Yogesh Gupta (A-10), M/s Mehak Relatech Pvt. Ltd. through Authorized Representative (A-11), M/s Sameeksha Estate Pvt. Ltd. through Authorized Representative (A-12), M/s Magad Realtors Pvt. Ltd. through Authorized Representative (A-13), M/s Sachet Infrastructure Pvt. Ltd. through Authorized Representative (A-14), M/s Digamber Buildcon Pvt Ltd. through Authorized Representative (A-15) and M/s Manogyan Estate Pvt Ltd through Authorized Representative (A-16), through IO for 14.08.2023. ”**

82. In the case of *Pepsi Foods Limited v. Special Judicial Magistrate*,<sup>8</sup> the Hon’ble Supreme Court clarified the duty of the magistrate while passing a summoning order to an accused. The relevant portion of the judgment is quoted as under:

*“28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinize the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the*

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<sup>8</sup> (1998) 5 SCC 749



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*allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”*

83. The issuance of a summoning order in criminal proceedings requires meticulous examination of the material on record and cannot be treated as a routine mechanical exercise by the Court concerned. It is important for the Court concerned to conduct a comprehensive analysis of both the factual matrix and the applicable law before setting the criminal proceedings into motion, even though the said analysis may not be recorded in detail in the order.

84. The Court concerned must demonstrate through their summoning order that they have thoroughly examined the material placed on record and applied judicial mind to the case at hand. This involves a careful evaluation of the nature and substance of the allegations contained in the complaint and the chargesheet, along with a careful scrutiny of all the available evidence, both oral and documentary.

85. The Court concerned must satisfy itself that the evidence presented is of sufficient weight and credibility that could potentially lead to the establishment of charges against the accused if the case proceeds to trial.

86. The summoning order must show that there is application of mind by the Court concerned as it serves to determine whether there exists *prima facie* evidence of the commission of the alleged offence against an accused person. The issuance of a summoning order is not a mechanical process and it should reflect application of judicial mind, ensuring that the criminal proceedings are not set in motion without sufficient grounds against the accused.

87. In the present case, the learned CMM passed a summoning order





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dated 24<sup>th</sup> June, 2023 against all the accused persons named in the chargesheet, including the petitioner.

88. As has been thoroughly analysed above, this Court upon perusal of the record placed before it finds that there is no *prima facie* case made out against the petitioner and there are insufficient grounds to proceed against him in the instant criminal proceedings.

89. This Court after applying its mind to the material placed before it, is unable to understand the reason for issuing summons against the petitioner as there is no *prima facie* case made out against him satisfying this Court that there is a potential for establishing the charges against the accused in the trial.

90. Upon perusal of the impugned chargesheet, this Court is of the view that no *prima facie* case can be made out against the petitioner for the commission of any offence.

91. It is important to understand that while deciding the question of quashing of criminal proceedings against the accused, this Court merely has to be satisfied that there is a *prima facie* case against the accused. However, in the present case, this Court is not satisfied that the uncontroverted allegations against the petitioner and the evidence in support of the same placed on record *prima facie* disclose the commission of any offence by the petitioner.

92. In the case of *State of Karnataka v. L. Muniswamy*,<sup>9</sup> the Hon'ble Supreme Court held that the High Courts are entitled to quash a criminal proceedings to secure the ends of justice. The relevant portion of the judgment is as under:

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<sup>9</sup>(1977) 2 SCC 699



*“7... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice. The ends of justice are higher than the ends of mere law though justice has got to be administered according to laws made by the legislature. The compelling necessity for making these observations is that without a proper realisation of the object and purpose of the provision which seeks to save the inherent powers of the High Court to do justice, between the State and its subjects, it would be impossible to appreciate the width and contours of that salient jurisdiction.”*

93. Upon perusal of the material placed on record, and specifically the impugned chargesheet, it is apparent that no direct allegation or any evidence in support thereof can be found attributing criminal intent to the petitioner.

94. There is no witness testimony or documentary evidence which points towards the culpability of the petitioner and therefore, this Court is inclined to hold that no *prima facie* case is made out against the petitioner.

95. Therefore, this Court is of the considered view that the material on which the prosecution seeks to rely against the petitioner is absolutely



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inadequate to sustain the charges against him and continuing the instant proceedings would lead to further harassment of the petitioner.

96. This Court also observes that the instant proceedings against the petitioner may partake the character of a lame prosecution against the petitioner, in which case the process itself would be in the nature of punishment to the petitioner.

### **CONCLUSION**

97. In view of the discussion above, this Court finds it an appropriate case to exercise its inherent powers under Section 482 of the CrPC and accordingly, the impugned chargesheet dated 31<sup>st</sup> December, 2022 originating from FIR/RC No. 219/2020(E) 0009, registered under Section 120B read with Sections 406, 411, 420 and 421 of the IPC at Police Station CBI, EO-I, New Delhi and the consequential proceedings emanating therefrom are quashed *qua* the petitioner in the present case. Accordingly, the instant petition stands allowed.

98. It is made clear that the observations in this judgment are restricted only to the present petitioner and no view has been expressed in respect of the other accused named in the impugned chargesheet and the case against them must take due and lawful course.

99. The instant petition along with the pending applications, if any, stands disposed of.

**(CHANDRA DHARI SINGH)**  
**JUDGE**

**JANUARY 21, 2025**  
**rt/st/ryp**

*Click here to check corrigendum, if any*