2025 INSC 895

REPORTABLE

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO.18084 OF 2024

ANURAG BHATNAGAR & ANR. ...PETITIONER(S)

VERSUS

STATE (NCT OF DELHI) & ANR. ...RESPONDENT(S)

With

SPECIAL LEAVE PETITION (CRL.) NO.18087 OF 2024
SPECIAL LEAVE PETITION (CRL.) NO.18094 OF 2024
SPECIAL LEAVE PETITION (CRL.) NO.18091 OF 2024
SPECIAL LEAVE PETITION (CRL.) NO.18095 OF 2024

J U D G M E N T

PANKAJ MITHAL, J.

1. In Special Leave Petition (Crl.) No.18084 of 2024 and in Special Leave Petition (Crl.) No.18087 of 2024, the challenge is to the judgment and order of the High Court in Crl.M.C.2833 of 2005 and Crl.M.C.3244 of 2005 dated 3rd September, 2024 whereby petitions seeking quashing

of the order dated 1st July, 2005 passed by the Metropolitan Magistrate, New Delhi and the criminal proceedings pursuant to the FIR No.380 of 2005 were dismissed.

2. In Special Leave Petition (Crl.) No.18094 of 2024, Special Leave Petition (Crl.) No.18091 of 2024 and Special Leave Petition (Crl.) No.18095 of 2024, challenge is to the judgment and order of the High Court again dated 3rd September, 2024 whereby petitions seeking quashing of the order dated 3rd June, 2004 passed by the Metropolitan Magistrate, New Delhi and the criminal proceedings pursuant to the FIR No.326 of 2004 were refused on the same and identical grounds as contained in the above referred judgment passed in Crl.M.C.2833 of 2005 and Crl.M.C.3244 of 2005.

3. Since, in all the above SLPs, the facts and contentions are similar, they are being considered and decided by this Court *vide* common judgment by taking SLP(Crl.) No.18084 of 2024 as the lead case and by narrating the facts as stated therein.

4. Heard Shri Ranjit Kumar, Shri Jayant Bhushan, and Shri Rajat Nair, learned counsel for the parties.

5. The short question arising for consideration in Special Leave Petition (Crl.) No.18084 of 2024 is whether the High Court in exercise of its power under Section 482 of Code of Criminal Procedure[1] or under Article 226/227 of the Constitution is justified in refusing to quash the FIR No.380/2005 registered at Police Station, Defence Colony, Delhi, under Sections 420, 120-B and 34 of the Indian Penal Code[2] and the order dated 01.07.2005 passed by the Metropolitan Magistrate, New Delhi, directing for the registration of the aforesaid FIR.

Factual Background:

6. The facts leading to the present dispute are that the complainant M/s Sunair Hotels Limited[3] was allotted land at Bangla Sahib Road, New Delhi, for the purposes of construction and operation of a hotel. The said construction and operation of the hotel, apart from land,

[1] In short 'CrPC'
[2] In short 'IPC'
[3] In short 'SHL'

required substantial financial investments which were not readily available with SHL.

7. A non-banking finance company VLS Finance Limited[4] through its directors and senior officers (the accused) Shri M. P. Mehrotra, Shri Somesh Mehrotra, Mr. Harsh Allagh, Mr. Anurag Bhatnagar, Mr. K.K. Soni & Mr. Pankaj Shrimali, upon acquiring knowledge of the above hotel project approached SHL with the desire to join the project as financial consultants. They assured SHL that it would launch a public issue of 10 lakh equity shares of Rs.10/- each on a premium of Rs.100/- per share so as to resolve its financial crises. Accordingly, SHL entered into a Memorandum of Understanding[5] with VLS on 11.03.1995. The MoU *inter alia* provided that VLS would invest Rs.7 crore as equity and give Rs.10 crore as an interest-bearing security deposit. On the other hand, SHL were to contribute Rs.22 crore. VLS valued the shares of SHL at Rs.60/- per share and promised to bring a public issue of 10 lakh equity shares at a premium of Rs.100/- per share. SHL, however, later discovered that the promise of VLS to

[4] In short 'VLS'
[5] In short 'MoU'

issue shares at a premium of Rs.100/- per share was legally not possible due to the guidelines of the Securities and Exchange Board of India[6], which required a company to have three-year track record of consistent profitability. SHL being a new venture could not have met the said criteria. VLS being an experienced and expert in financial matters deliberately concealed the above guidelines and deceived SHL so as to gain control over the hotel venture.

8. SHL in view of the arbitration clause contained in the MoU dated 11.03.1995, initiated arbitration proceedings against VLS alleging that it had not kept its promises. In the said arbitration proceedings, VLS filed a counter-claim seeking return of its entire deposit of Rs.10 crore with interest. The said arbitration proceedings concluded on 18.07.2015 with an award wherein the claim set up by SHL was dismissed, with a direction to SHL to refund security amount of Rs.10 crore to VLS along with interest from the date of deposit till payment. The said award of the arbitral tribunal is a subject matter of challenge before the

[6] In short 'SEBI'

High Court of Delhi under Section 34 of the Arbitration & Conciliation Act, 1996.

9. Some time in the year 2000, VLS discovered fraudulent conduct on part of SHL and its directors. It, therefore, filed a complaint on 14.02.2000 leading to the registration of FIR No.90/2000 at Police Station, Connaught Place, against SHL under Sections 406, 409, 420, 421, 422, 467, 468, 471 and 477-A of the IPC. VLS filed another complaint on 19.02.2002 leading to FIR No.99/2002 again at Police Station, Connaught Place, against some of the directors and office bearers of the SHL under Sections 406, 420, 424, 467, 468, 471, 477 and 120-B of IPC alleging that approximately Rs.15 crore was siphoned off by them from the accounts of SHL. A third complaint was filed by VLS on 27.02.2002 on the basis of which FIR No.148/2002 was registered at Police Station, Defence Colony, under Sections 384, 406, 409, 467, 471 and 120-B of the IPC against some of the office bearers of the SHL.

10. It is alleged that in retaliation to the aforesaid complaints/FIRs lodged by VLS, on 03.06.2004 SHL filed a complaint with an application under Section 156(3) CrPC

against the officials of the VLS. On this application, Metropolitan Magistrate *vide* order dated 03.06.2004 directed registration of an FIR and accordingly, FIR No.326/2004 was registered at Police Station, Connaught Place, under Sections 406, 409, 420, 424 and 122-B IPC. It was alleged in the said complaint/FIR that VLS has failed to fulfil its obligations under the MoU dated 11.03.1995. It had deposited only Rs.8 crore as security instead of Rs.10 crore, as agreed upon. It failed to bring out the public issue of SHL as agreed and that VLS played fraud upon SHL so as to induce them into signing the MoU on terms which were against the guidelines of SEBI.

11. VLS and its officers filed multiple petitions under Section 482 CrPC, a few read with Article 227 of the Constitution before the Delhi High Court seeking quashing of the order of Metropolitan Magistrate dated 03.06.2004 directing for the registration of FIR and for the quashing of the FIR No.326/2004 registered in pursuance thereof. The operation of the order dated 03.06.2004 was stayed by the High Court by an interim order dated 28.07.2004. The stay

order halted all police actions and it was made absolute some time in 2009 with no substantive progress so far.

12. In this background, SHL on 01.07.2005 straight away filed an application under Section 156(3) CrPC before the Metropolitan Magistrate, Patiala House Court, New Delhi, whereupon on the same day an order was passed directing for registration of the FIR, pursuant to which FIR No.380/2005 under Sections 420, 120-B and 34 IPC was registered. In pursuance to the aforesaid FIR which is the bone of contention in the present petition, investigations were completed as there was no stay in that regard and a chargesheet was filed way back in the year 2020 or 2021.

13. In the aforesaid facts and circumstances, VLS and some of its officers moved the High Court under Section 482 CrPC for the quashing of the FIR No.380/2005 and the order of the Metropolitan Magistrate dated 01.07.2005 directing for the registration of the aforesaid FIR.

14. The above petitions filed by the VLS and its officers have been dismissed by the High Court by the order impugned, holding that the order of the Metropolitan Magistrate dated 01.07.2005 is a speaking order passed after due

application of mind. The dispute raised in the FIR cannot at this stage be held to be a civil dispute only as VLS itself had filed FIRs in connection with the disobedience of the same MoU which establishes that VLS accepts involvement of some criminal element in the violation of the MoU giving rise to the disputes. The issue whether the dispute arising between the parties out of the same MoU is of a civil nature or involves criminality cannot be adjudicated at this stage without the parties having led evidence. Moreover, since the investigations in pursuance of the impugned FIR have been completed and chargesheets have been filed against the accused persons, there is no reason or justification to interfere with the FIR in exercise of powers under Section 482 CrPC or Article 226/227 of the Constitution.

Submissions of the Parties:

15. On behalf of the VLS, it has been argued that the lodging of the instant FIR is a clear abuse of process of the court. Therefore, the High Court ought to have invoked its inherent jurisdiction to quash the said FIR. The Metropolitan Magistrate has ordered for registration of the FIR without there being any complaint to the police

authorities as mandated under Section 154(3) of CrPC. The order under Section 156(3) of CrPC has been obtained by material suppression and concealment of relevant facts, especially with regard to the previous FIRs lodged by SHL and those registered against it. It is a cryptic order which has been passed in a routine manner without application of mind. The dispute as raised in the application under Section 156(3) is primarily a civil dispute with no criminality attached to it. There are no specific allegations against the accused persons.

16. In defence on behalf of the SHL, it has been contended that the FIR is not liable to be quashed at this stage once the matter has been thoroughly investigated and the chargesheets have been filed. The appropriate remedy, if any, for the VLS is to ask for the quashing of the chargesheets. When the investigating agency during investigation has already tested the veracity of the allegations made in the FIR, it is not open for the court to go into the same at this stage. The court is not empowered to act as an investigating agency and to take a different view in exercise of powers under Section 482 CrPC. The

Metropolitan Magistrate, upon pursual of the complaint, has opined that a cognizable offence has been made out and has, thus, passed the order of registration of the FIR which cannot be termed as illegal in any manner.

Points for determination:

17. On the basis of the submissions of the parties, the following points crop up for determination:

(i) Whether an application under Section 156(3) of the CrPC could have been filed without approaching the police authorities;

(ii) Whether the order dated 01.07.2005 passed by the Metropolitan Magistrate is an order passed without application of mind, irrespective of the fact that it states that the parties were "heard" and the documents were "perused";

(iii) Whether the High Court can deny quashing of the order dated 01.07.2005 passed by the Metropolitan Magistrate and the FIR registered pursuant to it for the reason that the investigations have been completed and the chargesheets have been filed against the accused persons;

(iv) Whether the nature of dispute raised in the offending FIR is of a civil nature and there is no involvement of criminality when both sides have previously lodged FIRs originating from the same MoU dated 11.03.1995; and

(v) Whether the present FIR amounts to a successive FIR based upon the same allegations as contained in an earlier FIR No.326/2004 and as such cannot be investigated independently.

18. Now, having outlined the points for determination, we consider it appropriate to deal with the above points serially/sequentially.

Point (i): Whether an application under Section 156(3) CrPC could have been filed without approaching the police authorities?

19. It is a settled law that one of the modes for setting criminal law into motion is by giving information to the police authorities in accordance with Section 154 CrPC whereupon if a cognizable offence is prima facie made out to the satisfaction of the police, it may investigate into the offence even without the permission of the Magistrate. The information so given is ordinarily called the "First

Information", though this terminology has not been used under the CrPC.

20. Section 154 of CrPC, *inter alia*, provides that information relating to the commission of a cognizable offence can be given orally or in writing to the officer-in-charge of the police station and if it is given orally, it shall be reduced in writing, which shall then be read out to the person giving the information and shall be signed by him. A copy of the information so received and reduced into writing, upon being entered into the book kept for the purpose, shall be given forthwith to the informant.

21. Sub-section (3) of Section 154 CrPC lays down that if the information of a cognizable offence given to the officer-in-charge of the police station is not being recorded or is being refused to be recorded, the informant may send the substance of the said information to the Superintendent of Police concerned in writing and by post, who upon being satisfied that such information discloses a cognizable offence will either direct for the investigation of the offence or may himself investigate the same.

22. A plain and simple reading of Section 154 CrPC as a whole makes it imperative upon the informant to first approach the officer-in-charge of the police station for the purposes of lodging an FIR in respect of a cognizable offence and where the Police refuses to record such information, the remedy is to approach the concerned Superintendent of Police. It is only when no action is taken even by the Superintendent of Police and the information of commission of a cognizable offence is not being recorded by the officer-in-charge of the police station or even by the Superintendent of Police, that the person aggrieved or the informant may move the court of the Magistrate concerned to get the FIR registered and lodged with the concerned police station.

23. Sub-section (3) of Section 156 CrPC simply empowers the Magistrate to order an investigation of a cognizable offence.

24. Section 190 of the CrPC empowers the Magistrate to take cognizance of an offence in three contingencies, namely: (i) upon receiving a complaint of facts constituting the offence; (ii) upon a police report of such facts; and (iii) upon information received from any person other than the police

officer or upon his own knowledge that such an offence has been committed.

25. In view of the provisions of Section 190 read with Section 156(3), the Magistrate is empowered to take cognizance of any offence not only on the basis of the police report submitted under Section 173 of the CrPC consequent to the investigation pursuant to the FIR but also upon receiving a complaint of facts from any person, other than the police officer or on his own motion.

26. On a conspicuous reading of the provisions of Sections 154, 156 and 190 of the CrPC together, it is crystal clear that an informant who wants to report about a commission of a cognizable offence has to, in the first instance, approach the officer-in-charge of the police station for setting the criminal law into motion by lodging an FIR. However, if such an information is not accepted by the officer-in-charge of the police station and he refuses to record it, the remedy of the informant is to approach the Superintendent of Police concerned. It is only subsequent to availing the above opportunities if he is not successful, he may approach the Magistrate under Section 156(3)

CrPC for necessary action or of taking cognizance in accordance with Section 190 of the CrPC.

27. In the instant case, a bare perusal of the application filed under Section 156(3) of the CrPC dated 01.07.2005 would reveal that the informant therein had simply stated that an offence under Sections 420, 120-B and 34 of the IPC have been committed and that the informant had approached the "police officials" several times but in vain, but the application is completely silent as to when did the informant approach the Police or the Superintendent of Police. The application nowhere states that the informant has ever approached the officer-in-charge of the police station for lodging the FIR in accordance with Section 154 of the CrPC or that on refusal to record such information he has availed the remedy of approaching the Superintendent of Police concerned. The mere bald allegation without any details or proof thereof, that the police authorities were approached several times is not acceptable.

28. In ***Sakiri Vasu vs. State of U.P.***[7] it had been observed that if a person has a grievance that the police station is not registering the FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the person aggrieved to file an application under Section 156(3) CrPC before the Magistrate concerned. In other words, the court reiterated that the proper procedure has to be availed of and followed before moving the Magistrate under Section 156(3) CrPC.

29. It is well recognized in law that the person aggrieved must first exhaust the alternative remedies available to him in law before approaching the court of law. In other words, he cannot ordinarily approach the court directly.

30. In the case at hand, the fact reveals that the informant had neither approached the officer-in-charge of the police station or the Superintendent of Police concerned as

[7] (2008) 2 SCC 409

contemplated under Sections 154(1) and 154(3) of the CrPC but has directly gone to the Magistrate under Section 156(3) of the CrPC. In such a situation, the Magistrate ought not to have ordinarily entertained the application under Section 156(3) so as to direct the Police for the registration of the FIR, rather, it ought to have relegated the informant to first approach the officer-in-charge of the police station and then to the Superintendent of Police.

31. The Magistrate while passing the order dated 01.07.2005, directing for the registration of the FIR in exercise of power under Section 156(3) has not considered the above aspect as to whether the informant had exhausted his remedies available in law before approaching him under Section 156(3) of the CrPC.

32. In the facts and circumstances of the case, as the informant had directly moved the Magistrate under Section 156(3) of the CrPC without exhausting his statutory remedies, the Magistrate could have avoided taking action on the said application and could have refused to direct for the registration of the FIR. However, as entertaining an application directly by the Magistrate is a mere procedural

irregularity and since the Magistrate in a given circumstance is otherwise empowered to pass such an order, the action of the Magistrate may not be illegal or without jurisdiction.

33. To sum up, the Magistrate ought not to ordinarily entertain an application under Section 156(3) CrPC directly unless the informant has availed and exhausted his remedies provided under Section 154(3) CrPC, but as the Magistrate is otherwise competent under Section 156(3) CrPC to direct the registration of an FIR if the allegations in the application/complaint discloses the commission of a cognizable offence, we are of the opinion that the order so passed by the Magistrate would not be without jurisdiction and would not stand vitiated on this count.

34. The Magistrate by the order dated 01.07.2005 has simply directed for the registration of the FIR so as to set the criminal law in motion but has not exercised his power under Section 190 of the CrPC of taking cognizance thereof. In such a situation, the order so passed by the Magistrate, though irregular, is of no prejudice to any party, much less to the VLS. Therefore, it is not appropriate for this court to

interfere in the matter or with the order of the Magistrate dated 01.07.2005 or with the order impugned passed by the High Court.

Point (ii): Whether the order dated 01.07.2005 passed by the Metropolitan Magistrate is an order passed without application of mind, irrespective of the fact that it states that the parties were "heard" and the documents were "perused"?

35. Section 156 of the CrPC provides for the power of the police officer to investigate a cognizable offence. It *inter alia vide* sub-section (3) empowers the Magistrate to order an investigation in a cognizable case. No doubt, sub-section (3) does not specifically provide that the Magistrate in passing such an order of investigation has to pass a speaking order or has to apply his mind to the contents of the application or the material produced in support of it. Nonetheless, it is a well recognized principle of law that whenever any power is bestowed upon a judicial authority, it is incumbent that it should be exercised on the basis of sound legal principles by application of mind and by a speaking order. Therefore, a reasoned order upon

application of judicious mind is inherent while passing an order under Section 156(3) of the CrPC.

36. In ***Union of India vs. Mohan Lal Capoor***[8] it has been observed that reasons are links between the material on which the conclusions are based. They disclose how the mind is applied to the subject-matter for a decision. They reveal rational nexus between facts considered and the conclusions reached. Only, in this way, opinions or decisions can be recorded which may be manifestly just and reasonable.

37. It is well accepted vide ***Alexander Machinery (Dudley) Ltd. vs. Crabtree***[9] that failure to give reasons amounts to denial of justice as reasons are live links between mind of the decision-taker to the controversy in question and the decision or the conclusion arrived at.

38. The provisions of Section 156 (3) of the CrPC have subsequently been interpreted and it has been held that the Magistrate while directing for registering an FIR has to apply his independent mind based upon legal principles and the order so passed has to be a reasoned order. The

[8] (1973) 2 SCC 836
[9] 1974 ICR 120 (NIRC)

provision so interpreted exists from its inception. Merely because a judgment by the Court has simply interpreted and reiterated the established principles of law that ought to have been into practice, it would not mean that such principles would be applicable prospectively only from the date of its interpretation. The interpretation made later on would not mean that the provision had a different meaning prior to its above interpretation. Therefore, the High Court manifestly erred in holding that at the relevant time there was no requirement of application of mind and for passing a speaking order, as the judgments of the higher courts holding otherwise have been penned down subsequently. In other words, the provision as it stands and interpreted, requires passing of the speaking order on application of mind from the very beginning. Moreover, a speaking order is a part and an essential component of the principles of natural justice, which are applicable to every judicial order. Therefore, it was but natural for the Magistrate to pass a reasoned order, irrespective of the interpretation of the provision subsequently which was in line with the principles of natural justice.

39. The order of the Magistrate dated 01.07.2005 clearly states that the Magistrate had "heard" the counsel on the application under Section 156(3) and had "perused" the complaint which reveals commission of a cognizable offence. The said order is reproduced below:

> *"Fresh Complainant received along with application U/s 156 (3) Cr.P.C. Be checked and registered. Heard on the application U/s 156(3) Cr. P.C. Ld. Counsel for the complainant has relied upon a judgement of Allahabad High Court which is reported as "**2005 CRL L.J. 2028**". The perusal of the complaint reveals the commission of cognizable offence and the SHO Police Station Defence colony is directed to get the case registered and investigate the matter U/s 156 (3) Cr. P.C the compliance report be called for 05.10.2005."*

40. The mere stating in the order that the counsel has been heard and the application and the material produced have been perused, may not be indicative of the fact that the Magistrate had actually applied his mind to the controversy in issue. However, the fact that the perusal of the application and complaint attached to it, satisfied the Magistrate that it discloses a cognizable offence, is very material and relevant which proves the application of mind by him. Once such a satisfaction has been recorded

by the Magistrate, even if wrongly, it is not liable to be interfered with in exercise of inherent powers by the higher courts. The powers vested in the court either under Section 482 CrPC or Article 226/227 of the Constitution of India are not for the purposes of appreciating the evidence or examining the correctness of the evidence collected during investigation to record a different conclusion other than recorded by the Magistrate that he is satisfied that a cognizable offence has been disclosed in the application/complaint. Moreover, when information disclosing commission of cognizable offence is conveyed to the police station, the officer-in-charge of the police station cannot refuse to register the FIR. Therefore, if an FIR has not been registered for any reason at the police station and the Magistrate is satisfied that the information discloses a cognizable offence, he can certainly direct for its registration obviously on compliance of the provisions of Section 154(3) of the CrPC. This is exactly what has been done by the Magistrate by way of his order dated 01.07.2005 though ignoring the remedy under Section

154(3) of the CrPC which, as said earlier, amounts to mere procedural irregularity.

41. In these facts and circumstances, for the reason that the Magistrate not only heard the counsel and perused the documents but has even considered the case law cited and has opined that the information discloses a cognizable offence, implies that he has actually applied his mind to the contents of the application before passing the impugned order directing for the registration of the FIR. Therefore, we find no fault with the order of the High Court in refusing to quash the order dated 01.07.2005 on the above score.

Point (iii): Whether the High Court can deny quashing of the order dated 01.07.2005 passed by the Metropolitan Magistrate and the FIR registered pursuant to it for the reasons that the investigations have been completed and the chargesheets have been filed against the accused persons?

42. We are conscious of the fact that investigation pursuant to the impugned FIR and the submission of the chargesheets thereof would have no lawful existence if the FIR itself is bad or the order directing registration of the FIR is found to be illegal.

43. In the present case with which we are dealing, we have already opined earlier that there is no legal flaw in the order passed by the Magistrate dated 01.07.2005 directing for the registration of the FIR. The order clearly states that the Magistrate is satisfied that the allegations indeed make out a cognizable offence for the purposes of investigation. The said satisfaction recorded by the Magistrate cannot be disturbed in exercise of inherent powers. Therefore, if in pursuance of the said order, the FIR has been registered which discloses a cognizable offence, the same cannot be struck down at this stage. The powers conferred upon the court under Section 482 CrPC or Article 226/227 of the Constitution of India are discretionary in nature and it is not obligatory upon the court to exercise the said inherent power in each and every case, even if the order impugned suffers from minor procedural irregularity, provided there is no miscarriage of justice. Thus, in a case where pursuant to the order of the Magistrate, which is not illegal or without jurisdiction, an FIR has been registered which discloses a cognizable offence and, thereafter, upon investigation, chargesheets have been submitted, there is

apparently no justification for the court to exercise discretionary jurisdiction so as to quash the FIR or the order of the Magistrate.

44. Once much water has flown down the bridge subsequent to the order of the registration of FIR and the registration of FIR, giving rise to a fresh cause of action to challenge the chargesheets, we are of the opinion that the High Court has rightly refused to exercise its discretionary jurisdiction so as to interfere with the FIR as the investigations have been completed and the chargesheets have been filed.

Point (iv): Whether the nature of dispute raised in the offending FIR is of a civil nature and there is no involvement of criminality when both sides have previously lodged FIRs originating from the same MoU dated 11.03.1995?

45. The allegations in the application moved under Section 156(3) CrPC and the material in support thereof reveals that SHL is contending breach of the conditions of MoU dated 11.03.1995 and that it has been induced and deceived by VLS for entering into the aforesaid MoU. VLS has cheated SHL and its officers by making a false promise which was legally impossible to be carried out. The allegations of breach of conditions of the MoU or of

making a false promise by itself may not give rise to any criminal action as no criminality is attached to it. However, there are elements of inducement, criminal conspiracy and cheating which are also borne out from the allegations made in the application and the complaint, which if proved, may amount to commission of an offence. Therefore, once such allegations are made out, it is difficult for the court in exercise of its inherent jurisdiction to interfere with the FIR, only for the reason that some of the disputes are of civil nature which may or may not be having any criminality attached to it.

46. It is well settled by a catena of decisions of this Court, especially in ***State of Haryana & Ors. vs. Ch. Bhajan Lal Singh & Ors.***[10], that the discretion to quash an FIR at a nascent stage has to be exercised with great caution and circumspection. In this connection, it would be beneficial to refer to an old case of Privy Council in ***King Emperor vs. Nazir Ahmad Khwaja***[11] wherein the law was well settled that the courts would not thwart any investigation or that the courts should be very slow in

[10] 1992 SCC (CRI) 426
[11] 1944 SCC OnLine PC 29

interfering with the process of investigation. It is only in rare cases where no cognizable offence is disclosed in the FIR that the court may stop the investigation so as to avoid the harassment of the alleged accused. Even in such exercise of power, the court cannot embark upon an inquiry as to the genuineness or otherwise of the allegations made in the FIR or the complaint which have to be examined only after the evidence is collected.

47. The breach of conditions of the MoU or allegations of false promises in relation to the aforesaid MoU are undisputedly subject matter of the different FIRs lodged by VLS itself. Therefore, violation of those conditions for some reasons have been considered by VLS to be offensive. Therefore, the High Court rightly held that if breach of those conditions of the MoU itself has been considered to be of criminal nature by VLS, it cannot be permitted to turn around and allege that such breach of conditions would be of pure civil nature.

48. Thus, in the above facts and circumstances, we do not consider to go into detail as to the exact nature of disputes involved in the FIR and leave the same to be adjudicated

upon by the appropriate court where the chargesheets have been submitted.

49. The last and one of the most important points that has been raised is:

Point (v): Whether the present FIR amounts to a successive FIR based upon the same allegations as contained in an earlier FIR No.326/2004 and as such cannot be investigated independently?

50. Undoubtedly, SHL got lodged FIR No.326/2004 at Police Station, Connaught Place, Delhi, against VLS and its officers. The aforesaid FIR was registered pursuant to the order of the Magistrate dated 03.06.2004 passed on an application moved by SHL under Section 156(3) of the CrPC. The aforesaid application and the FIR primarily allege that VLS and its officials have breached the MoU by failing to fulfil its financial obligations of not launching a public issue at premium etc. The allegations made in the application under Section 156(3) of the CrPC and the complaint/FIR No.326/2004, if compared with the present FIR, are similar but not virtually same. In short, the present FIR No.380/2005 is upon the same information and allegation as contained in the earlier FIR

No.326/2004 but still different. Both the FIRs are by SHL through its authorized representative and both are against VLS and its officials which are mostly common but there is some variance in the allegations and the parties.

51. The earlier FIR No.326/2004 was registered at Police Station, Connaught Place, under Sections 406, 409, 420, 424 and 122-B IPC while the impugned FIR No.380/2005 was registered at Police Station, Defence Colony, again alleging the breach of MoU and it is *ex-facie* evident that SHL deliberately chose to lodge the second FIR 380/2005 at a different police station as a camouflage as the earlier proceedings were under an order of stay of the High Court.

52. Section 300 CrPC debars a second trial. This is based on the public policy that no one should be harassed twice for the same offence by putting him to trial again and again.

53. In ***Jatinder Singh & Ors. vs. Ranjit Kaur***[12], the issue was whether a first complaint having been dismissed for default, could a second complaint be maintained. This Court considered the matter and observed that there is no provision in the CrPC or any other statute which debars a

[12] 2001 (2) SCC 570

complainant from preferring a second complaint on the same allegations if the first complaint did not result in conviction, acquittal or even discharge. However, when a complaint is dismissed on merits, a second complaint on the same facts cannot be made except in a very exceptional circumstance.

54. It has been well settled that successive FIRs in respect of a same cognizable offence are not maintainable provided that on the basis of the earlier FIR, investigations have been completed and the trial had either resulted in conviction or acquittal of the accused.

55. It may be noted that in the case at hand, in connection with the earlier FIR No.326/2004 on a petition filed under Section 482 of the CrPC by VLS, interim order of stay of investigation was passed which has been made absolute with no further progress in the matter. Therefore, pursuant to the FIR No.326/2004, there is no trial which may have resulted in conviction or acquittal of the accused person. Therefore, agreeing with the view that there can be no second FIR and no fresh investigation on receipt of the subsequent information but as on the basis

of the earlier first information, there is no conviction and acquittal, it cannot be said that a second complaint/FIR is not maintainable.

56. Further, in ***State of Bombay vs. Rusy Mistry***[13], information of the commission of the same offence was given to the police at two different places, by different persons and at different times. The Court held that both the reports will be independent First Information Reports.

57. In the case at hand, as previously stated, FIR No.326/2004 was lodged at Police Station, Connaught Place, New Delhi, whereas the subsequent FIR No.380/2005 was lodged at Police Station, Defence Colony, New Delhi. Both the FIRs may be based on similar allegations but they are not virtually the same. The allegations are different and even the parties against whom the FIRs were filed are not the same. Therefore, such a subsequent FIR may be maintainable but we refrain ourselves from making any final comment on the above aspect as no such finding on this aspect has been returned by the court below.

[13] AIR 1960 SC 391

58. Since in connection with FIR No.380/2005, investigations have been completed and the High Court has refused to quash the said FIR in exercise of its discretionary power, we do not deem it necessary to exercise our discretion to override that of the High Court and leave the matter to proceed further in accordance with law.

59. Thus, in the overall facts and circumstances of the case, we do not wish to interfere with the orders impugned and the petitions are dismissed with the observations as made above.

..... J.
(PANKAJ MITHAL)

..... J.
(S.V.N. BHATTI)

NEW DELHI;
JULY 25, 2025