



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 03rd December, 2025*
Pronounced on: 29th May, 2026

+ **W.P. (CRL.) NO.1130/2021 & CRL.M.A. 9407/2021**

1. **M/S PPK NEWSCLICK STUDIO PVT. LTD.**

Registered Office at:

Khasra No.275, West End Marg,
 Saidulajab, New Delhi-110030.

Through its Authorised Representative
 Mr. Prabir Purkayastha

.....Petitioner

Through: Mr. Kapil Sibal, Sr. Advocate, Mr. Dayan Krishnan, Sr. Advocate, Mr. Sidharth Agarwal, Sr. Advocate with Mr. Arshdeep Singh Khurana, Mr. Harsh Srivastava, Mr. Shreedhar Kale, Mr. Sidak Singh Anand, Ms. Dikksha Ramnani, Ms. Rupali Samuel, Mr. Vishwajeet Bhati, Ms. Showjhanya Shankar and Mr. Manan Khanna, Advocates.

versus

1. **STATE OF NCT OF DELHI**

(Economic Offences Wing)

Through its Standing Counsel (Criminal)
 Chamber No.437, Lawyers Chamber Block-I,
 Delhi High Court, New Delhi-110003.

2. **SOHAN SINGH**

MG 23, Sarai Rohilla,
 North Delhi-110007.

.....Respondents

Through: Mr. Rahul Tyagi, ASC for State with Mr. Sangeet Sibou, Mr. Aniket



Kumar Singh and Mr. Priyansh Raj
Singh Senger, Advocates for State
Mr S. V. Raju, ASG with Mr. Zoheb
Hossain, Spl Counsel, Mr. Vivek
Gurnani, Panel Counsel, Mr. Kanishk
Maurya, Mr. Kartik Sabharwal and
Mr. Paranjali Tripathi, Advocates for
ED

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**W.P. (CRL.) NO.1129/2021, CRL.M.A. 9397/2021,
CRL.M.A. 9589/2021, CRL.M.A. 18231/2022, CRL.M.A.
21591/2023**

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Through its Authorised Representative
Mr. Prabir Purkayastha

2. PRABIR PURKAYASTHA

S/o Lt. A.K. De Purkayastha
R/o D-132, 2nd Floor, Saket,
New Delhi-110017.

.....Petitioners

Through: Mr. Arshdeep Singh Khurana, Mr.
Harsh Srivastava, Mr. Sidak Singh
Anand, Ms. Dikksha Ramnani and
Mr. Manan Khanna, Advocates.

versus

1. UNION OF INDIA

Ministry of finance
Department of Revenue
North Block, New Delhi- 110001

2. DIRECTORATE OF ENFORCEMENT

10-A, Jamnagar House,



Akbar Road, New Delhi-110011.

.....Respondents

Through: Mr S. V. Raju, ASG with Mr. Zoheb Hossain, Spl Counsel, Mr. Vivek Gurnani, Panel Counsel, Mr. Kanishk Maurya, Mr. Kartik Sabharwal and Mr. Paranjali Tripathi, Advocates for ED

+ **W.P.(CRL) 1146/2021, CRL.M.A. 9600/2021 & CRL.M.A. 33576/2024**

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.....Petitioners

Through: Mr. Kapil Sibal, Sr. Advocate, Mr. Dayan Krishnan, Sr. Advocate, Mr. Sidharth Agarwal, Sr. Advocate with Mr. Arshdeep Singh Khurana, Mr. Harsh Srivastava, Mr. Shreedhar Kale, Mr. Sidak Singh Anand, Ms. Dikksha Ramnani, Ms. Rupali Samuel, Mr. Vishwajeet Bhati, Ms. Showjhanya Shankar and Mr. Manan Khanna, Advocates.

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CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

The aforesaid three Petitions are interconnected and are decided together.

W.P. (CRL.) NO.1130/2021: For Quashing of FIR No.116/2020 dated 26.08.2020 under Section 406, 420 and 120B IPC P.s. Economic Offences Wing.

1. Writ Petition No.1130/2021 under Article 226 Constitution of India read with Section 482 Cr.P.C. has been filed on behalf of the Petitioner for *quashing of FIR No.116/2020 dated 26.08.2020 under Section 406, 420 and 120B IPC P.s. Economic Offences Wing.*
2. It is stated in the Petition that the Petitioner, PPK Newsclick is a law-abiding corporate entity, incorporated under the Companies Act, 2013. It owns and operates “*newsclick.in*,” a well-known independent digital news media Company in India dedicated to covering news from India and elsewhere with a focus on progressive movements. It has become one of India’s most consistent chroniclers of diverse people’s movements and struggles across the country. It hosts the work of critical and progressive voices, from across the country. It also focuses extensively on science and technology and data journalism. It engages extensively with the viewers



across the world and has several lakhs of followers, views and subscribers on its various social media platforms and its website.

3. In the year 2009 when it was founded, it was controlled by *Newsclick India Trust* and later from the year 2015, a Limited Liability Partnership namely, *M/s PP Newsclick Studio LLP*.

4. In or around May, 2017, with an intent to receive investment to allow the LLP to grow and expand, an Agreement dated 01.05.2017 was entered between M/s PP Newsclick Studio LLP and an independent valuer Agency M/s BGJC Associates LLP, to value PP Newsclick Studio LLP. Further, to enable a smooth inflow of any future investment, M/s PP Newsclick Studio LLP was converted into a private limited Company, pursuant to the Board Resolution dated 03.06.2017. *The Company thus, came into existence on 11.01.2018.*

5. It was further submitted that the valuer M/s BGJC Associates, LLP submitted a *Valuation Report dated 28.02.2018 wherein the shares of the Petitioner Company were valued at a price of Rs.9188/- per share having face value of Rs.10/-*. A Certificate dated 05.02.2018, certifying the fair value of the equity share of the Petitioner Company, was also issued.

6. The Petitioner approached for FDI and ultimately an entity *by the name of M/s Worldwide Media Holdings LLC (WWMH)*, invested in the shares of the Petitioner as FDI. WWMH was incorporated on 29.11.2017 as a Limited Liability Corporation, in accordance with the laws of Delaware, USA having its registered office at 28, Old Rudnick Lane, Dover, County of Kent, Delaware 19901.

7. It is further stated that as per the record, there existed a Company with a same name of Worldwide Media Holdings LLC, incorporated on



29.05.2014 bearing file No.5542317, having its registered office at 8, The Green, STE A, Dover, Kent, DE-19901 **which was voided on 01.06.2017**, in the state of Delaware, USA.

8. Under the laws of Delaware, USA, the name of a Company which has been voided, can be used by another person seeking to incorporate a new Company. Therefore, the WWMH with whom the Petitioner had the dealings, was a different Company incorporated on 29.11.2017 and had since then, continued in business. This Company has no connection with the previously cancelled Company, with the same name. Even as per the OA, the investments were made after a gap of more than 1 year, from the date of earlier Company being voided. WWMH is the different Company incorporated on 29.11.2017, though it has the same name of an earlier Company, which got voided.

9. The Petitioner discussed the possibility of investment by WWMH. In order to confirm the regulatory regime in the digital media business and to ensure its compliance, the Petitioner wrote a letter dated 20.12.2017 to Ministry of Information and Broadcasting requesting a clarification to the FDI Policy, in the following terms:

*“1. Does the term “print media” as used in FEMA regulations cover online publication of news (in form of videos/written articles) on a website?
2. Is FDI in a company engaged in the business of online publication of news (in form of videos/written articles) on a website subject to sectoral caps/conditions for FDI prescribed under the FEMA Regulation?”*



10. The Ministry of Information and Broadcasting gave a Reply dated 05.01.2018 with the clarification that “*online publications on website/web portal do not fall under the ambit of print media.*”

11. In the light of the above response, Petitioner was advised that there was no regulatory hindrances/permissions were required for FDI in online publication of news. As per the Valuation Report of M/s BGJC Associated LLP, *the parties agreed to the value of Rs.11510/- per share.* They entered into an Investment Agreement dated 20.03.2018, wherein WWMH agreed to invest a total of USD 4.5 Million in *three tranches of USD 1.5 Million each*, in exchange for a total of 23.07% shares of the Petitioner. The first tranche of investment of 1.5 million USD was remitted on 11.04.2018, in exchange of 7.69% shares of the Petitioner Company. Though the Agreement dated 20.03.2018 provided for further investments of USD 3 Million, but it was never remitted by WWMH. Consequently, WWMH holds 7.69% shares of the Petitioner Company.

12. The Petitioner clarifies that upon receipt of this Inward Remittance, all necessary disclosures that are statutorily required to be made under any law including reporting the remittance to RBI, were made and rules were duly complied. No objection was raised by RBI, in regard to the remittance in question.

13. The Petitioner continued to expand its business and practice independent impartial journalism. Notably, no other foreign direct investment was received by the Petitioner Company, since the one received on 11.04.2018.

14. Suddenly, *in February 2021*, multiple search and seizure operations carried out by the ED under Section 17, PMLA, at the offices of the



Petitioner as well as the premises of various employees, directors, shareholders and contractors of the Petitioner Company, between 09.02.2021 and 13.02.2021. Consequent to search and seizure operations, ED filed an *Application A.A. No.456/2021 under Section 17(4) PMLA* seeking retention of records and devices seized by it, before the Adjudicating Authority, PMLA which is pending consideration.

15. After being served with the O.A., the Petitioner became aware that an *FIR bearing No.0116/2020 dated 26.08.2020 under Section 406, 420, 120B IPC*, has been registered against the Petitioner. It also became aware that the ED herein registered an *ECIR bearing ECIR/14/HIU/2020 on 02.09.2020 under Section 3 & 4 PMLA*. While both the FIR and ECIR have been extensively relied upon by the ED in O.A., but neither of these documents had been supplied to the Petitioner, as part of the relied upon documents.

16. The Petitioner thus, addressed a Letter dated 20.04.2021 seeking the copy of FIR and ECIR, and also filed an Application dated 23.04.2021 before the learned Adjudicating Authority. However, ED neither responded to the Letter dated 20.04.2021 nor to the Application dated 23.04.2021. The Petitioner states that he believes that similar requests were made by the other persons arraigned as Respondents, before the learned Authority, but their request have not been consented to, by the ED.

17. Similarly, the Petitioner aggrieved by the non-supply of the requisite documents, wrote Letters dated 26.04.2021 and 15.05.2021 to the Respondent for these documents, as the same have not been uploaded on the website of the Delhi Police, as per the mandate of law. However, no response has been received by the Petitioner.



18. An Application dated 05.06.2021 before learned CMM, New Delhi with a similar request, had also been preferred. On 06.06.2021, the Respondent supplied the copy of the FIR to the Petitioner. Consequently, the Petitioner withdrew his Application on 07.06.2021. However, learned CMM, South-East District took *suo moto* cognizance of the violation of law by the Respondent, in not uploading and supplying the FIR to the Petitioner.

19. The Petitioner also apprehends that the Respondent had failed to comply with the rigours of Section 157 Cr.P.C in respect of the FIR, inasmuch the same was not forwarded to the CMM. The facts revealed a pattern of evasiveness and opacity being adopted by the Investigating Agency, in their approach during the investigations against the Petitioner.

20. The Petitioner further asserted that the FIR has been registered *malafide*, merely to harass the Petitioner. The contents of the FIR are totally vague, baseless and contains frivolous allegations, even if they are accepted on their face value, they do not disclose any cognizable offence against the Petitioner.

21. The Petitioner thus, ***filed the present Petition*** seeking quashing of the FIR. It is asserted that the FIR is replete with vague allegations, without any justification. It is alleged that the matter relates to *money laundering* and “*the FDI was intended to make payments for ulterior motives clandestinely*” and that “*the news portal has violated the FDI law and other laws of the country and caused loss to the exchequer*”. However, no details of any of these allegations, have been provided. The statements have been made merely to sensationalize the issue and cause prejudice against the Petitioner.

22. A bare perusal of the FIR would show that no person has been induced to do any of the acts stipulated under Section 420 IPC and no



material has been placed on record to satisfy the essential ingredients thereof.

23. For invoking **S. 406 IPC**, there must be entrustment of certain properties to a person which is misappropriated by him in a manner as stipulated under Section 406 IPC. ***This crucial ingredient is also missing from the FIR.***

24. It is claimed that the allegations concerning the FDI are completely untenable for the reasons; ***firstly***, that these allegations do not disclose any cognizable offence and no FIR could have been registered; ***secondly***, the investment of FDI by WWMH in the Petitioner Company, was duly disclosed at arm's length commercial and lawful investment, in terms of law regarding FDI in Digital News Media in 2018. The entire FDI was received through legal banking channels (Authorized Dealers) under intimation to RBI.

25. ***Thirdly***, the allegations regarding over valuation of shares apart from being patently absurd, cannot be sustained as the valuation of shares was in terms of *Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017* which requires that shares and securities to be transferred to entities abroad, must be at a price above the fair value. In the instant case, the fair value of the equity shares have been determined by an independent valuer, as Rs.9188/- per share. Therefore, transfer of shares at Rs.11510/- per share was lawful, which cannot be assailed on any ground.

26. ***Fourthly***, as regard to the allegation that overvaluation was necessary to avoid the FDI cap of 26% on digital news media, it is submitted that it is completely untenable. The Petitioner had sought clarification from Ministry



of Information and Broadcasting which had confirmed that there was no restrictions on FDI in Digital News Media, in 2018. The restrictions of 26% got introduced by the Government Press Note No.04/2019 dated 18.09.2019 as “new clauses”. Therefore, the allegation that the Petitioner was attempting to circumvent FDI laws is absurd, as there was no law then in existence restricting the FDI.

27. *Fifthly*, the allegations of “siphoning” are also baseless, as they pertained to expenses incurred by the Company such as payment of salary, consultancy fee and rent which are permissible in law. The Petitioner being a media and news organization, cannot be faulted for paying salary to the journalist, as it is a basic part of its operation. Further, the FIR does not indicate an ulterior motive for which the expenses have been incurred. Indeed, the primary transaction (the infusion of FDI by WWMH) which has been questioned in the FIR, was a legitimate foreign direct investment made in accordance with rules and regulations, under the applicable laws and through normal banking channels.

28. The allegations of the Respondent that the shares of face value of Rs.10/- were sold for Rs.11,510/- which was overvalued, is ex facie absurd and deserved to be rejected. It ignores the fact that it is the value of the Company as considered by the investor and not the face value of the share that determines its value. Therefore, the fact that WWMH invested @ Rs.11510/- per share, is indicative of the value they ascribed to the business of the Petitioner and is not evidence of wrongdoing or ulterior motive. The purchase of shares at a higher value than the nominal share value, is not an offence.



29. The transfer of shares or securities to an entity outside India by an Indian entity, are governed by the *Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017* under Notification No. FEMA 20(R)/2017-RB. Regulation 11(1) gives the Pricing Guidelines according to which the price at which a foreign entity subscribes to these shares cannot be less than the fair value worked out at the time of issuance of shares as per internationally accepted pricing methodology for valuation on an arm's length basis, duly certified by a Chartered Accountant.

30. In the instant case, the investment by WWMH was at a value higher than that certified by M/s BGJC Associates LLP, Chartered Accountants, vide Certificate dated 05.03.2018. Following the preparation of the Valuation Report, Certificate of Chartered Accountant and consideration of the relevant FEMA Regulations, the parties had entered into negotiations, after which price of Rs.11,510/- per share, was agreed. There is no question of there being any inducement/cheating or dishonesty in the transaction between the Petitioner and WWMH.

31. The allegations that the investment of WWMH was structured to avoid the alleged 26% cap on FDI, ignores that when the said investment was made, there was no restriction on the amount of FDI that could be invested in digital media Organization. Therefore, there was no question of avoiding or attempting to avoid the laws.

32. It is further submitted that the allegations in the FIR that the payments to various persons were being made, despite the revenue of the Company not matching the payments. However, it is only a bald allegation, a practice that is widely prevalent across sectors and industries, both private and public; in



the absence of any material to show any wrongdoing, it cannot hold up to any serious scrutiny.

33. If the case of the Complainant was to be accepted, then any loss-making Company which pays its employees, would be charged with “siphoning”. Such an absurd interpretation of the law cannot be countenanced.

34. Moreover, the FIR does not show that any enquiry was conducted by the Respondent to ascertain the antecedents of the alleged Complainant, one Sobhan Singh and what was his relation to the allegations made in the Complaint and his source of information. ***No preliminary enquiry has been conducted and the FIR has been registered directly.*** No enquiry has been conducted from Ministry of Information and Broadcasting. Furthermore, the Investigating Agency for violation of FDI laws under the FEMA, would be ED and not the Respondent. Moreover, FEMA primarily allows only for civil penalties, while the powers of ED, are much more extensive under the PMLA than FEMA.

35. Reference is made to Shreya Singhal vs. Union of India (2013) 12 SCC 73 and Vinod Dua vs. Union of India and Ors. 2021 SCC OnLine SC 414. **It is, therefore, submitted that FIR bearing NO.116/2020 dated 26.08.2020 P.S. EOW South, be quashed along with all the pending proceedings.**

Status Report of EoW:

36. The ***Respondent EoW, in its Status Report*** has stated that the FIR was registered on the Complaint of Sobhan Singh, which was duly forwarded by Shri Vijay Kaushik, Under Secretary, Govt. of India, Ministry of Information and Broadcasting, New Delhi, vide its Letter dated



26.08.2020. In the Complaint, there were specific allegations made in regard to illegal misappropriation of funds by the Petitioner M/s PPK Newsclick Studio Pvt. Ltd., resulting in loss to government exchequer. The revenue of this Company has increased from Rs.27.15 lakhs in FY 2017-18 to Rs.1.22 Crores in FY 2018-19. The expenditure of the Company has increased from Rs.64.95 lakhs in FY 2017-18 to Rs.7.83 crores in FY 2018-19.

37. The Company has, therefore, has been incurring huge losses varying from Rs.17.8 lakhs in FY 2017-18 to Rs.6.61 crore in FY 2018-19.

38. This Company received FDI of Rs.9.59 crore from M/s Worldwide Media Holdings LLC, USA during FY 2018-19 which was used for allotment of 8,333 equity shares of Rs.10 each at a premium of Rs.11,510/- per share as against allotment of shares of Rs.10/- at face value, only to the promoters. Apparently, it is much higher than valued by RBI. The reason for charging such huge premium on allotment of shares, seem to be to deliberately avoid the restriction/ cap of FDI in the digital news website at 26% of the capital of the Company, as well as to avoid government approval for such FDI. If the shares were allotted to the foreign investor at the face value, 98% of total capital of the Company was to be allotted to the foreign investor, which was against the FDI policy of the government, for investment in the digital news website.

39. The investor Company M/s Worldwide Media Holdings LLC, USA was incorporated in the State of Delaware, USA giving the address of the Chartered Accountant. This Company was reported as cancelled due to non-payment of tax as on 01.06.2017. It shows that this Company had received FDI of Rs.9.59 crore from M/s Worldwide Media Holdings LLC, USA, after



a gap of more than one year from the date when the Company was cancelled.

40. The reason for incurring *such huge losses was excessive payment of consultancy, salary and rent.* For example, salary/ consultancy fee of Rs.3.82 crore and Rs.1.12 crore respectively was paid during FY 2018-19, even when the total revenue of the Company was Rs.1.10 crore. More than 45% of FDI, was actually diverted/siphoned off for the payment of salary/ consultation fees, rent and other such expenses of the promoters/journalists/ employees associated with the Company. ***Prima facie these facts suggest that the FDI was actually intended to make the payments for ulterior motives, clandestinely.*** The above news portal has violated the FDI law and other laws of the country and caused loss of exchequer resulting in the registration of the present FIR.

41. During the investigations, on perusal of the records of the alleged Company, it had come to light that *M/s PPK Newsclick Studio Private Limited was incorporated on 11.01.2018 and Mr. Prabir Purkayastha was its Promoter Director.* Initially, Mr. Prabir Purkayastha along with other associates, was running an NGO in the name of 'Newsclick India Trust' which used to run *online news portal namely www.newsclick.in.* Subsequently, this NGO was converted into PPK Newsclick Studio LLP. This LLP of the alleged persons, as per the allegations in the Complaint, was incurring huge losses varying from Rs.17.8 lakhs to Rs.6.61 crore in the FY 2017-18 and 2018-19, respectively.

42. After the conversion of the LLP into a Private Limited Company on 11.01.2018 and after opening of the account of the Company on 05.02.2018 in ICICI Bank, *this Company received FDI of Rs.9.59 crore from M/s*



Worldwide Media Holdings LLC, USA in April, 2018, as the said USA Company purchased 8333 equity shares of the alleged Company of Rs.10/- each at a premium of Rs.11,510/- per share.

43. After due investigations, the copy of FIR was forwarded to Enforcement Directorate, **where ECIR14/HIU/2020 was registered and the investigations had been taken up under PML Act.** It is further stated that during investigation and scrutiny of accounts of M/s PPK News Click Studio Pvt. Ltd., it was revealed that FDI of Rs.9.59 crores was transferred to this account on 11.04.2018. Further, fund from various foreign entities were received i.e. an amount of Rs.27.51 crores from Justice & Education Fund Inc. of America, Rs.62.43 Lacs from The Tri-Continental Ltd. 912, Rs.2.89 lakh from GSPAN, Rs.2.0 Lakh from Centro Popular and Rs.2.27 lakh from Viva Salud. All these Companies transferred foreign fund into the account of the Petitioner till October, 2020.

44. During further investigations, *Mr. Darshan Chajjer, partner BGJC*, the Chartered Accountants who had issued Certificate of Valuation of shares for RBI, was examined and he confirmed that in Jan-Feb 2017, he was approached by Mr. Prabir Purkaystha for conversion of PP Newsclick LLP Company to Private Limited Company, as he was expecting FDI. Mr. Prabir also asked him to get the Valuation Report conducted of the Company, which was arranged by him through Mr. Rachit, Partner RCPL. He got the Company M/s PPK Newsclick Studio Pvt. Ltd. registered in ROC and issued Certificate dated 05.03.2018 regarding valuation of Equity shares of the Company PPK Newsclick Studio Pvt. Ltd.

45. Mr. Rachit Choudhary, Partner RCPL who had conducted the Valuation Report of the Company was summoned, but he did not join the



investigations on account of ill health and requested for some time to join the investigations.

46. *Mr. Amit Chakraborty*, shareholder of the Petitioner Company who remained associated with Mr. Prabir Purkaystha, was also examined who stated that the Company was formed to receive the FDI and foreign fund and he remained associated in the process, as per instructions of Mr. Prabir Purkaystha.

47. *Mr. Prabir Purkaystha and Mr. Pranjal Pandey*, both the Directors of the Petitioner Company have applied for Anticipatory Bail, wherein protection had been granted by this Court.

48. The details of the shareholder/Directors of the Petitioner Company are as follows:

Name and Address of Alleged Shareholders/Directors	Detail of Shareholding	Date of joining as Director
Sh. Prabir Parkayastha R/o D-132, 2 nd Floor, Saket, New Delhi-110017.	99000 Shareholder	Director 11-01-2018
Sh. Pranjal Pandey R/o D-26, 2 nd Floor, Block-D, Saket, New Delhi-17.	-	Director 12-03-2020
Ms. Githa Hariharan R/o D-132, 2 nd Floor, Saket, New Delhi-110017.	100 Shareholder	
Sh. Gautam Navlakha R/o A-5, Block A, Greater Kailash, New Delhi-110048.	100 Shareholder	
Sh. Amit Sen Gupta R/o 8-206, CR Park, New Delhi-110019.	500 Shareholder	
Sh. Durai Swami Raghunandan R/o B-4130, Safderjung Enclave, New Delhi-29.	100 Shareholder	



Sh. Bapaditya Sinha R/o G-1281, CR Park, New Delhi-110019.	100 Shareholder	
Sh. Amit Chakraborty R/o D-626, CR Park, New Delhi-110019.		

49. *Mr. Prabir Purkayastha* was given a Notice to join the investigations, but he sent an intimation letter to be granted one week's time, as he was engaged and wanted some more time to collect the information and the documents.

50. Further verification of foreign fund received by Petitioner Company and their end use, is being verified from various agencies and entities. *Letter Rogatory (LR) proceedings* have been initiated to verify facts from foreign entities.

51. Further, investigations to unearth deep rooted conspiracy of the Petitioner to receive foreign fund for dubious activity is in progress. Moreover, detailed investigation is being carried out and various persons associated with the affairs of the alleged Company, are yet to be examined. Mr. Rachit Chaudhary and Mr. Prabir Purkayastha, both have sought time to produce documents.

52. **It is, therefore, submitted that the investigations are at initial stage and crucial evidence is likely to be collected in further investigations.**

Rejoinder by the Petitioner:

53. The Petitioner filed a **Rejoinder**, wherein it was stated that though the Status Report has been filed on record on 04.10.2021, the State had emailed the copy of the Status Report on 26.07.2021 to the counsel for the



Petitioners which was signed by ACP Anil Kumar, EOW, Delhi Police. The relevant extract of the FIR is as under:

“During the course of investigation reply from RBI has been received where in it is mentioned that as per the Form FCGPR submitted, the foreign inward remittance was under automatic route and there was no delay in issue of shares as well as reporting, as per the extant FEMA regulations in case of M/s PPK New Click Studio Pvt. Limited is concerned.”

54. The bare perusal of the above makes it evident that the entire basis for the impugned FIR which is alleged wrongful foreign direct investment (FDI) received by the Petitioner No.1, has been refuted by RBI itself, which it appears to have written to EOW that the investment was under the automatic remittance, and there was no violation of FEMA regulations. From the perusal of the FIR, it is evident that no cognizable offence has been made out against the Petitioners and the FIR is liable to be quashed. The copy of the emailed Status Report dated 26.07.2021 has been placed on record.

55. It is further submitted that the State during the hearing on 29.07.2021, disassociated itself from the first Status Report and in fact, sought time to file a Status Report, though the First Status Report had already been supplied to the Petitioners. While liberty was granted by this court to the Respondent to file a fresh Report, liberty was also granted to the Petitioners to point out discrepancies, if any, between the two Report.

56. The **second Status Report** was served on the Petitioners on 03.10.2025 and was filed before this Court on 04.10.2021. On perusal of this Report, the Petitioners were shocked to find that the reference to the Reply of RBI had been completely removed and replaced with baseless and



vague allegations, against the Petitioners. This Status Report is a blatant attempt by the EOW to backtrack and obfuscate the First Report, which shows that no cognizable offence has been committed by the Petitioner herein and the FIR is liable to be quashed.

57. No explanation has been given in the second Report as to why the reference to the Reply of RBI has been completely excluded, especially when both the Reports are signed by *Mr. Anil Kumar, ACP, EOW* and both have been officially served upon the Petitioners. In the absence of any explanation, the Court ought to reject the second Report as being an afterthought and *mala fide*.

58. **On merits**, it is submitted that the second Report does not in any manner, show the ingredients of the offence alleged against the Petitioner and had merely makes vague and baseless insinuations.

59. **The first allegation is of Petitioner being a loss-making entity.** It is submitted that even if this allegation is assumed to be correct, the financial performance of a Company, has absolutely no relevance or relation to the offences allegedly committed by the Petitioners. The thrust of the allegations against the Petitioner, was wrongful receipt of FDI at inflated valuations. It, therefore, appears to be an insinuation of the State that the investment was made a high premium, despite the alleged poor financial performance of the Petitioner No.1.

60. It is claimed that such an insinuation deserves to be rejected, outrightly. It is not uncommon for early-stage ventures, to make losses in the first few years of performance and for investors to invest keeping in mind the future prospects of the investee Company. This insinuation is completely at odds, with the prevailing commercial realities in the country.



61. The *World Wide Media Holdings LLC*, the foreign investor had at no point of time, raised any objections in regard to their FDI in the Petitioner Company. None of the money invested in the Petitioner, is public money. Therefore, the financial position of the Petitioner prior to the FDI receipt, is completely irrelevant and ought to be ignored.

62. *The second allegation is in regard to overvaluation of shares to avoid restriction/cap in FDI.* It is asserted that there is no further investigation conducted by the State and it is ex-facie baseless. The details have been given about the receipt of FDI, on 11.04.2018. Notably, it was affirmed by RBI in their Reply, as extracted in the First Report. There was no cap of 26% in Digital Media, which got introduced vide Press Note 4/2019 dated 18.09.2019. The relevant FEMA guidelines also mandated that where a transfer of shares and securities is made by an Indian entity to a foreign investor, the same must be issued at a price not less than the fair value worked out as per internationally accepted pricing methodology.

63. The Chartered Accountants, had duly issued the Certificate dated 05.03.2018 giving the fair value of the shares of Petitioner at Rs.9,188 per share. The Petitioner could not have issued the shares to World Wide Media Holdings LLC, at Rs/10/-, as the same would be in violation of the extant FEMA guidelines. The issuance of shares at a premium, was a commercial decision and it is the prerogative of the Board Directors to decide the premium amount and the wisdom of the shareholders on whether they want to subscribe to those shares, at the said price. In a day-to-day market, unless and until a rate is fixed by any govt. Authority or unless there is any restriction on the amount of share premium under any law, the price of the shares is decided on the basis of mutual understanding of the parties



concerned. The *Discounted Cash flow* method is used to conduct the valuation in an established method accepted by all international standards, including Ministry of Finance. The Petitioner No.1 further stated that it has tremendous viewership, on its online platforms. The allegation of State in relation to overvaluation is therefore, baseless.

64. The *third allegation made is of siphoning of FDI received from WWMH LLC by alleging that more than 45% of the FDI was siphoned off for the payment of salary/consultation fee, rent and other expenses.* However, this allegation does not make out any cognizable offence. It also fails to appreciate that any FDI or even domestic investment received in a Company, is utilized for operating expenses of that Company. The allegation is absurd and merits dismissal outright.

65. The *fourth allegation is Non-cooperation by Petitioner No.2 with the investigation.* However, in compliance of the Notice dated 30.06.2021 the Petitioner No.2 and 3 had appeared before the State on 07.07.2021 and 09.07.2021. Further Notice was issued, but a request was made by Petitioner No.2 for deference of his appearance by a week, as the documents requested were voluminous. Thereafter, the Petitioners have appeared before the Investigating Agency and fully co-operated in the investigations.

66. In the end, it is submitted that despite a period of nearly 1.5 years since the registration of FIR, no material showing cognizable offence has been placed on record by the State, and *the FIR and ECIR are liable to be quashed.*

Submissions heard and record perused.

67. An FIR No. 116/2020 under Section 406/420/120-B IPC P.S. EOW has been registered against the Petitioner Company on the Complaint of one



Shri Sobhan Singh, received in the Government of India which was forwarded to the Respondent EOW which resulted in the registration of the FIR. The basic allegation against the Petitioner Company was of having received FDI in the sum of Rs.1.5 Million USD (Rs.9.59 Crore) on 11.04.2018 in exchange of 7.69% shares of the Petitioner Company.

68. The Petitioner has explained that initially at the time of its foundation in the year 2009, the Petitioner was controlled by Newslick India Trust and later in the year 2015 it became M/s PP Newslick Studio LLP. However, in and around May, 2017 with an intent to receive investment to allow the LLP to grow and expand, an Agreement dated 01.05.2017 was entered between M/s PP Newslick Studio LLP with M/s BGJC Associates LLP to value PP Newslick Studio LLP. Thereafter, the Petitioner converted itself into a private limited Company pursuant to Board Resolution dated 03.06.2017 and it came into existence on 11.01.2018. The Petitioner became a Private Limited Company in order to be able to receive FDI from foreign entity.

69. It is further the admitted that M/s Worldwide Media Holdings LLC agreed to invest a total of USD 4.5 Million in three tranches of USD 1.5 M each in exchange of total 23.07% shares of the Petitioner. The first tranche of 1.5 Million was received by the Petitioner on 11.04.2018. The first allegation against the Petitioner was that there was overvaluation of shares to avoid restriction/cap in FDI. The Petitioner has explained that there was no regulatory permission required for FDI in online publication of news. In fact, the Petitioner had written a Letter dated 20.12.2017 to Ministry of Information and Broadcasting requesting a clarification to the policy in respect of print media and also in respect of FDI in a Company engaged in the business of online publication of news.



70. Ministry of Information and Broadcasting gave a reply dated 05.01.2018 with a *clarification that “online publication on website/web portal do not fall under the ambit of print media.”* From the response received from the Ministry in respect of FDI Policy, it was clearly evident that there was no cap on the online publication of news and thus, the Agreement between the Petitioner and M/s Worldwide Media Holdings LLC and, therefore, the Investment Agreement dated 20.03.2018 cannot be said to be in violation of any law or disclosing any criminal offence. The receiving of 1.5 Million USD that were remitted on 11.04.2018 in exchange of 7.69% shares of the Petitioner Company.

71. The allegation of the State was that there was alleged over valuation of shares to avoid restriction/cap in FDI. **Firstly**, as per reply of the Ministry of Information and Broadcasting dated 05.01.2018, received on 11.04.2018, there was no cap/restriction on receipt of the FDI in digital media.

72. **Secondly**, the FEMA guidelines mandate that where a transfer of shares and securities is made by an Indian entity to a foreign investor, the same may be issued at a price not less than the fair value worked out as per internationally accepted pricing methodology. The Petitioners accordingly appointed M/s BGJC Associates LLP Chartered Accountants, who gave the fair value of the shares vide Certificate dated 05.03.2018 for Rs.9,188 per share. There is no illegality or any manipulation pointed out in respect of the working out fair value of the shares of Petitioner No.1 Company. The fair valuation assessment of the shares had been done of the Petitioner Company in accordance with the FEMA regulations. **Therefore, to say that**



the Petitioner could not have issued the shares to M/s Worldwide Media Holdings LLC at Rs.10/-, would in violation of extant FEMA guidelines.

73. Further, after due negotiations with the M/s Worldwide Media Holdings LLC that the share value was worked out as Rs.11,510/- and 1.5 Million USD was remitted in exchange of 7.69% shares of the Petitioner Company. The said price was worked out between M/s Worldwide Media Holdings LLC and the Petitioner after due negotiations and their mutual decisions. On the assessment of day to day market and the prospects of growth of the Company, that the price was mutually agreed by the Petitioner and M/s Worldwide Media Holdings LLC. ***It is an economic decision which does not spell out any criminal offence.***

74. The valuation was done through the established method of Discounted Cash Flow which was the accepted international standard including by the Ministry of Finance. **All the relevant factors were duly examined by the in assessing the fair price value of the shares.**

75. The ***next allegation against the Petitioner was of siphoning of the FDI received from M/s Worldwide Media Holdings LLC, in payment of salary, consultation fee, rent and other expenses of the promoters, journalists, employees associated with the Company.***

76. However, when a Company is functioning especially in the business of digital print media, such expenses are bound to occur. Even if it is accepted that there were over payments and excessive expenditure incurred by the Petitioner, then too it does not disclose any criminal offence. The allegation of siphoning is, therefore, not tenable.

77. Significantly, one ***Status Report dated 26.07.2021, copy of which was forwarded to the Petitioner as an advance copy, though not placed on***



record, clearly stated that during the course of investigation a Reply from RBI had been received *wherein it was mentioned that as per the Form FCGPR, the foreign inward remittance was under automatic route and there was no delay in issue of shares as well as reporting, as per the extant FEMA regulations in case of the Petitioner.*

78. *This correspondence, though mentioned in unserved Status Report, was subsequently withdrawn, but is sufficient to explain that there were no violations by Petitioner, established.*

79. The State had also claimed that *this alleged FDI was received from M/s Worldwide Media Holdings LLC* which was incorporated on 29.11.2017 in accordance with laws of Delaware, USA having its registered office at County of Kent, Delaware 19901. However, according to the State **it was voided in 01.06.2017 in the State of Delaware, while the Petitioner had subsequently dealt with the M/s Worldwide Media Holdings LLC while entering into an Agreement on 20.03.2018.** it is evident that this Company M/s Worldwide Media Holdings LLC which had been voided was not in existence and it was a fraudulent transaction undertaken by the Petitioner.

80. However, it has been explained by the Petitioner that as per the State laws of Delaware, if a Company is voided, then another person can seek to incorporate a new Company in the same name. The M/s Worldwide Media Holdings LLC with whom the Petitioner had the dealings was incorporated on 29.11.2017 though in the same name as M/s Worldwide Media Holdings LLC which had been earlier voided on 01.06.2017. There is nothing which has come out in the investigation of the State that the M/s Worldwide Media



Holdings LLC with which the Petitioner had the dealings was a non-existing Company. In fact, the Status Report is completely silent on this aspect.

81. The Petitioners have been charged *with the offence under Section 420 IPC* which deals with cheating and dishonestly inducing delivery of property.

82. The term '*cheating*' is defined under *Section 415 IPC*, which states that whoever by deceiving any person fraudulently or dishonestly induces the person so deceived to deliver any property is said to have committed the offence of cheating.

83. For the offence of cheating, it is necessary that there must be an aggrieved person who has been cheated out of his valuable property. In this case, M/s Worldwide Media Holdings LLC is the entity which had forwarded 1.5 Million USD to the Petitioner. However, there is no Complaint whatsoever, by the Company about having been cheated by the Petitioner. Pertinently, the Complaint had been made by one Shoban Singh, who was merely an informant and was not the aggrieved person. There is nothing which has emerged even during the investigations as reflected in the Status Report, that there was any person who was aggrieved or who was cheated by the Petitioner. *The offence of cheating even if all the allegations made are admitted, is not established.*

84. The *second offence with which the Petitioner has been charged under Section 406 IPC for having misappropriated the property that was entrusted to him by some person.* By the same logic there is neither any person who has claimed to have entrusted a property or that it has been misappropriated by the Petitioner. There may have been a business transaction of investment and purchase of shares by M/s Worldwide Media



Holdings LLC on payment of 1.5 Million USD, but by no stretch of interpretation can it be said to be an entrustment by M/s Worldwide Media Holdings LLC or misappropriation by the Petitioner.

85. Even if all the allegations are accepted, **no offence under 406 or 420 IPC is disclosed in the FIR** and in the subsequent investigations that have been undertaken.

86. The continuation of such FIR is nothing but a **gross abuse of the process of law and is hereby, quashed.**

W.P. (CRL.) NO. 1146/2021:

Quashing of the investigation in ECIR bearing ECIR/14/HIU/2020 dated 02.09.2020 registered under Sections 3 and 4 PMLA.

87. Writ Petition under Article 226 of Constitution of India read with Section 482 Cr.P.C. has been filed on behalf of the Petitioners, ***for quashing of the investigation in ECIR bearing ECIR/14/HIU/2020 dated 02.09.2020 registered under Sections 3 and 4 PMLA.***

88. The factual background in the ECIR, is the same on which FIR, was registered. It is additionally submitted that ***violation of FEMA, is not a scheduled offence under PMLA.*** The Respondent as well ED has attempted to create jurisdiction in a manner described above to browbeat and harass the Petitioners and its employees. Within seven days of registration of FIR, ED took cognizance of the offences mentioned in the FIR and used the same as the scheduled offences, to assume the jurisdiction for investigation under PMLA, disclosing the preplanned and concerted effort to register the FIR in haste.



89. The Petitioner and its Directors have been summoned multiple times by ED, without even furnishing the copy of the ECIR. It is submitted that the FIR and the ECIR and the investigations conducted therein, is merely an attempt to silence the independent and impartial reporting of various issues of national importance and are intended to create a chilling effect on various persons, including journalists, discouraging them from exercising their constitutional right of freedom of speech. **W.P. (Crl.) No. 1146/2021:**

W.P. (CRL.) NO.1129/2021:

90. **W.P. (Crl.) No. 1129/2021:** Writ Petition has been filed by the Petitioners for directing the Respondent *to supply a copy of an Enforcement Case Information Report (ECIR) bearing ECIR/14/HIU/2020 dated 02.09.2020 for the offence under Sections 3 & 4 of the Money Laundering Act.*

91. It is submitted that despite moving an Application to the learned CMM *to supply the copy of the ECIR, no such copy has been supplied.* On the other hand, the Petitioners are continuing with their investigations and have been summoning various persons associated with the Petitioners to record their statements under Section 50 PMLA. The Petitioner No. 2 has joined the investigations and has provided all the information sought, furnished several documents and reports of the company.

92. Allowing the Respondent to follow such an approach is arbitrary, unfair and prejudicial to the Petitioners' right to a fair and impartial investigation under Article 21 of the Constitution of India, which provides that every person has a right to be informed about the allegations against him for which reliance is placed on *In Re: Madhu Limaye, (1969) 1 SCC*



292; Court on its Own Motion v. State 2010 SCC OnLine Del 4309; Youth Bar Association v. Union of India (2016) 9 SCC 473; Dhanpat Singh v. Emperor, AIR 1917 Pat 625; Panchanan Mondal v. State (1971) CrL.L.J 875 and Jayantibhai Lalubhai Patel v. State of Gujarat 1992 CrL.L.J. 2373; J. Sekar v. Union of India 2018 SCC OnLine Del 6523; Shri Chamundi Mopeds Ltd. v. Church of South India Trust Association (1992) 3 SCC 1; Allegeny Finlease Pvt. Ltd. and Ors. v. Deputy Director, Directorate of Enforcement 2017 SCC OnLine ATPMLA 1.

93. It is further contended that the duty to disclose ECIR, also draws strength from the structure of the PMLA and the rules framed thereunder. The Scheme provides that it is only upon the existence, crystallization of allegations, and recording of reasons to believe that action under PMLA can be taken. The “reasons to believe” is the only safeguard against unchanalized exercise of police powers by the State. The Noticee impugning the action of the agency can do so, only by demonstrating that the “reasons to believe” do not exist. None of this can happens, unless the parties are provided with the reasons so recorded.

94. ECIR is merely the commencement of any investigation under PMLA. There is no statutory backing, nor are the actions taken by ED pursuant to the registration of ECIR granted any protection similar to Section 172 Cr.P.C. Thus, if the scheme of the Act is to disclose the “reasons to believe”, its *fortiori* assumes disclosure of ECIR. It cannot be termed as an internal document and must be considered as a public document, which ought to be disclosed to the public.

95. Section 65 PMLA stipulates that the provisions of Cr.P.C. shall be applicable to the investigation and other proceedings. Section 2(na) PMLA



defines investigation to include “*all the proceedings under this Act conducted by the Director or by an authority authorised by the Central Government under this Act for the collection of evidence.*” There is no provision under PMLA governing or dealing with investigation. Thus, Cr.P.C. must govern all the investigations under PMLA, which has been recognised by the Supreme Court in the case of Ashok Munilal Jain v. Assistant Director, Directorate of Enforcement Criminal Appeal No. 566/2017, decided on 22.03.2017.

96. Both Section 154 and 155 Cr.P.C. of Chapter XII Cr.P.C. provide that every information relating to the commission of an offence, shall be reduced into writing and be entered into a book by such officer in such form as may be prescribed. The Chapter XII Cr.P.C. leaves the form, manner, and nomenclature regarding recording of such information, to subordinate legislation. The term “FIR” is not defined. *Therefore, the investigating agency under the PMLA is bound to reduce any information received by it for an offence under PMLA into writing.* The character of the information itself, cannot be changed so as to term it as “confidential” information recorded in an “internal document”.

97. It is claimed that ED in multiple cases has voluntarily disclosed ECIR, while filing applications and complaints under Section 8 PMLA. It is *ex facie* evident that the action of Respondent No. 2 in supplying ECIR as and when it pleases, in the absence of any guidelines or policy determining the same, is an action that is fully capricious and falls foul of the requirements of equal treatment under Article 14 of Constitution of India.

98. The meaning and import of arbitrariness in State action has been elucidated by the Supreme Court in countless judgments, including Kumari



Shrilekha Vidyarthi and Ors. v. State of UP and Ors. (1991) 1 SCC 212. A prayer is, therefore, made that the direction be given to ED to supply the copy of the complaint/ECIR dated 02.09.2020 to the Petitioner.

99. The ***Respondent No. 1 in its Reply*** stated that on registration of FIR No. 0116/2020 under Section 406/420/120B IPC, the EOW found a *prima facie* case of money laundering punishable under Sections 3 & 4 PMLA against the Petitioners.

100. The investigations were conducted to identify the proceeds of crime and also other persons involved in money laundering. The ECIR/14/HIU/2020 dated 02.09.2020 was recorded against the Petitioners. During the investigations, search was conducted at the premises of the Petitioners under Section 17 PMLA on the basis preliminary investigation and scrutiny of documents recovered from the premises of the Petitioner. It had *reasons to believe* that the Petitioners are in possession of proceeds of crime generated out of criminal activities relating to scheduled offence and has thus indulged in an offence punishable under Section 4 PMLA.

101. The Respondents had relied upon State of *State of Haryana v. Bhajan Lal and Ors.* 1992 Supp (1) SCC 335, *State of Orissa v. Ujjal Kumar Burdhan* (2012) 4 SCC 547, *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others* 2021 SCC OnLine SC 315 wherein it was held that only in case where no cognizable offence or offence of any kind is disclosed in the FIR, then the Court will not permit the investigations to go on. The power for quashing should be exercised sparingly with circumspection in rarest of rare cases. While examining an FIR in complaint, quashing of which is sought, the Court cannot embark upon an enquiry of the reliability of genuineness or otherwise of the allegations made in the FIR/complaint



and the criminal investigations should ought not to be scuttled at the initial stage.

102. When a prayer for quashing of FIR, is made by the Accused and the Court exercises its power under 482 Cr.P.C., it only has to consider whether the allegations in the FIR disclose commission of cognizable offence or not.

103. It is submitted that without admitting to the claims made by the Petitioners with respect to non-existence of offences under Sections 406 and 420 IPC, the Petitioners have very conveniently refrained from making any reference to the ***existence of the offence of criminal conspiracy in terms of Section 120B IPC***. The offence of criminal conspiracy is clearly made out in the facts of the case as the amount of Rs.9.59 crores has been brought into India in the garb of investment in digital media under automatic route. This investment transaction was carried out by Prabir Purkayastha in connivance with Jason Pfletcher and Neville Roy Singham.

104. It is well settled that for an offence of criminal conspiracy under Section 120B IPC, it is not essential that the Accused person must commit an overt act and mere agreement between two or more persons to commit an illegal activity is sufficient to constitute the offence of criminal conspiracy. The very act of entering into an agreement by the co-conspirators is in itself an offence and punishable under law. The offence under Section 120B IPC is a separate and independent offence and the PMLA investigation flowing from the commission of the offence of criminal conspiracy is well within the framework of law.

105. For this, reliance is placed on Yogesh @ Sachin Jagdish Joshi v. State of Maharashtra (2008) 10 SCC 394, wherein it was held that the offence of conspiracy is a substantive offence and renders the mere agreement to



commit an offence punishable even if the offence does not take place pursuant to the illegal agreement. Reliance is also placed on Ahsan Ahmad Mirza and Others v. Enforcement Directorate, W.P.(Crl.) 2780/2019, C.M. No.5528 of 2019, wherein it was held that Section 120B IPC is distinct, independent and stand-alone offence and is one of the scheduled offence under PMLA. Where a property is derived or obtained by any person directly or indirectly as a result of criminal activity relating to the offence of conspiracy, it would come within the definition of proceeds of crime, including its concealment, possession, acquisition, etc. as untainted property which comes within the purview of money laundering as defined under Section 3 PMLA.

106. It is further contended that FIR is not an encyclopedia and does not contain all the facts pertaining to the offence as observed by the Apex Court in Superintendent of Police through CBI v. Tapan Kumar Singh (2003).

107. It is further stated that the investigation is at a crucial stage where the department has identified the proceeds of crime and is further following the money trail to unearth further proceeds of crime and the *modus operandi* by which the processes and the activities relating to laundering of money had been executed.

108. Reference is further made to State of Maharashtra v. Arun Gulab Gawali (2010) 9 SCC 701, wherein it has been held that the High Court shall not use its inherent powers at the crucial stage of investigation.

109. The Respondent has further asserted that if two offences are made out from the same set of facts, then the person is liable to be tried under the two different enactments. In addition to the investigations in this ECIR, the



Respondent/Directorate of Enforcement is also investigating the FEMA violations that have taken place in the course of transactions.

110. It is further stated that the allegation of *mala fide* intention of the Complainant is of no importance, once the ECIR has been recorded. The Supreme Court in CBI v. Ravi Shankar Srivastava, (2006) 7 SCC 188 had observed that the Court must be careful that the powers under Section 482 Cr.P.C. is exercised on the basis of sound principles. The inherent power should not be exercised to stifle a legitimate prosecution.

111. Reliance is also placed on Abhishek Banerjee and Another v. Directorate of Enforcement in W.P.(Crl.) 1808/2021 and Criminal M.A. 14972-73 of 2021, decided on 11.03.2022 wherein it was held that the allegations of *mala fide* do not have any place in criminal investigations.

112. Insofar as supplying the copy of ECIR is concerned, it is stated that it is an internal document for commencement of investigation. It has no statutory or legal recognition and therefore, the Accused cannot have a right to claim a copy of ECIR. Reliance is placed on Vijay Madanlal Chaudhary v. Union of India and Others, SLP (Crl.) No. 4634/2014, wherein it has been held that ECIR is an internal document and the Accused has no right to claim a copy of the same. ***On merits, all the averments made in the Petition are denied.***

113. The ***Petitioner, however, has stated that*** cognizant of the position that no offence under Sections 406/420 IPC is made out against the Petitioners, the ED has relied upon invocation of Section 120B IPC in the said FIR. It is submitted that in terms of FIR, no offence under Section 120B IPC is made out. Criminal conspiracy is an agreement between two or more persons to do an illegal act or an act, which is not illegal by illegal means.



114. The ED in the Reply has alleged that criminal conspiracy is made out “in view of the connivance between Prabir Purkayastha, Jason Pfetcher and Neville Roy Singham”. It is asserted that such allegation of conspiracy, is completely baseless and there is absolutely no material on record to substantiate the allegations of ED. These are only bald and baseless assertions, which are not supported by any material.

115. There is no agreement to commit either an illegal act or a legal act by illegal means. The allegations in the FIR at the highest is that FDI was infused in the Petitioners Company at inflated value in violation of FDI guidelines. **Firstly**, there was no cap on FDI in 2018 and **secondly**, even if there is any violation alleged, it would constitute an offence under Foreign Exchange Management Act (FEMA), which is not a scheduled offence.

116. Furthermore, **thirdly**, according to Status Report dated 05.08.2021, submitted by ED in Bail Application No. 2317/2021, it had been stated that RBI had not found any violation of any FDI guidelines by the Petitioners. The FDI infusion in the Petitioners Company was in full compliance with the FDI guidelines.

117. From the reply of ED, it is evident that the allegation that there is a clear-cut existence of a scheduled offence, is totally misconceived and baseless.

118. The contention of the ED that the investigation is at a crucial stage, cannot be considered in isolation and it must be appreciated that for the aforesaid legal position, the FIR must disclose a commission of cognizable offence. If the FIR does not disclose any offence or the allegations are patently absurd and born out of *mala fide*, then merely by claiming that



investigation is at a crucial stage, it would not be an impediment for the Court to quash the FIR.

119. Two years have passed since the registration of impugned ECIR in 2022. The Petitioner No. 2 and various employees of Petitioner number one have joined investigations on numerous occasions in 2021, after which they have not been summoned even once between September 2021 to June 2022. The manner in which the investigations have been conducted clearly show that the same is a fishing and roving exercise in the financial affairs of the Petitioners without the existence of any offence.

120. Furthermore, while ED has alleged that it is investigating into alleged violations under FEMA, but no summons or notice of inquiry under FEMA, has been received by the Petitioners till date. All the summons issued to the Petitioners are only under the PMLA and it is for the first time that ED has claimed that it is also investigating the Petitioners under FEMA as well. No copy of ECIR has been provided and the Petitioners are not even aware of the provisions and the statutes under which they are being investigated.

121. The ED has claimed that *mala fide* of the Complainant is immaterial in the investigations after the registration of ECIR, but this contention is also misconceived and untenable in law. The Petitioners have a constitutional right to a free and fair investigation and *mala fide* registration of impugned ECIR and *mala fide* investigation being conducted by ED hampers the investigations. Moreover, in terms of Bhajan Lal (supra), S.N. Sharma (supra), where criminal proceedings are manifestly attended with *mala fide* or are maliciously instituted with an ulterior motive, the same is bound to be quashed. Not only are the present proceedings only *mala fide*, but also an



arbitrary attack and abuse of powers on the free and impartial journalism of the Petitioners.

122. While the ED has contended that ECIR is an internal document and the copy of the same cannot be provided to the Petitioners, the ED has failed to appreciate that even in the case of Vijay Madan Lal Chaudhary (Supra), Supreme Court has not held that ED can, as a matter of right, reject the request for supply of ECIR. It has merely stated that it is not mandatory that, in each case, ED shall supply the copy of ECIR and non-supply of ECIR will not constitute violation of the Constitutional right of the Accused.

123. Further, the ED has filed an Application bearing Criminal M.A. No. 9589/2021, dated 22.06.2021 in Criminal W.P. (Crl.) 1129/2021, in which it was submitted that ED has decided to supply the copy of ECIR to the Petitioners herein. Thus, it cannot now turn back and change the legal position. Pertinently, no copy of ECIR has been supplied to the Petitioners till date despite the aforesaid submission of the ED. It is, therefore, submitted that the ECIR and all the proceedings emanating therefrom may be quashed.

Submissions heard and the record perused.

124. As has already been discussed above, even if all the averments made in the FIR are admitted, no offence under Sections 420/406 IPC is made out. From the response of ED also, it is evident that they are trying to claim that the offence under Section 120B IPC, is still made out. However, on what basis the criminal conspiracy is being alleged is not explained, except that Prabir Purkayastha and Jason Pfetcher, had entered into an agreement.

125. Merely because the parties entered into an agreement is not sufficient to constitute criminal conspiracy, unless the ED is able to show what is the



illegal objective or the means which have been adopted by the Petitioners and the other persons which can be termed as criminal conspiracy.

126. The response of the ED itself reflects that even if the entire allegations against the Petitioners are admitted, no offence is disclosed in the FIR. Pertinently, extensive investigations have been carried out by ED for about a year and a half and Petitioners as well as its employees have been summoned and examined many a times, but nothing incriminating till date has been found or placed on record. Aside from bald assertions of there being a criminal conspiracy, there is not a whisper of any incriminating allegation, which would even remotely suggest the commission of the offence punishable under Section 4 PMLA.

127. In the case of Harish Fabiani & Ors. vs. Enforcement Directorate & Ors. 2022:DHC:3892-DB, the Division Bench of this Court held as under:

"The Hon'ble Supreme Court has been clear and categorical in its reasoning as evident from the para extracted above. The undeniable sequitur of the above reasoning is that firstly, authorities under the PMLA cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed; secondly, the scheduled offence must be registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum; thirdly, in the event there is already a registered scheduled offence but the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or quashing of the criminal case of the scheduled offence, there can be no action for money laundering against not only such a person but also any person claiming through him in relation to the property linked to the stated scheduled



offence. In other words no action under PMLA can be resorted to unless there is a substratum of a scheduled offence for the same, which substratum should legally exist in the form of a subsisting (not quashed) criminal complaint/inquiry or if it did exist the accused has since been discharged or acquitted by a Court of competent jurisdiction."

128. In this regard reference may also be placed on para 253 of Vijay Madanlal Choudhary vs. Union of India (2023) 12 SCC 1 which reads as under:

"253. Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now."



129. Relying on the above principles, Calcutta High Court *in M/s Nik Nish Retail Ltd. & Anr vs. Assistant Director, Enforcement Directorate, Govt. of India & Ors.* held, “*The quashing of FIR of regular case automatically created a situation that the offences, stated and alleged in the FIR has no existence; thus the “Scheduled Offence” has also no existence after quashing of the FIR. When there is no “Scheduled Offence”, the proceeding initiated under the provisions of Prevention of Money Laundering Act, 2002 cannot stand alone.*”

130. It has been held that if the FIR under predicate offence is quashed, the ECIR automatically, is liable to be quashed. **Consequently, the complete ECIR is also quashed.**

131. ***Once the ECIR itself is quashed, the prayer for supply of the copy of the ECIR has become infructuous.***

Conclusion:

132. In the light of aforesaid discussion, the aforesaid three Writ Petitions are allowed. **The FIR No. 0116/2020 and the ECIR bearing ECIR/14/HIU/2020 are hereby, quashed and W.P. (Crl.) No. 1129/2021, is hereby disposed of, as infructuous.**

**(NEENA BANSAL KRISHNA)
JUDGE**

**MAY 29, 2026
VA**