

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

**HON'BLE SHRI JUSTICE SUSHRUT ARVIND
DHARMADHIKARI**

&

HON'BLE SHRI JUSTICE GAJENDRA SINGH

MISC. CRIMINAL CASE No. 34326 of 2021

BETWEEN:-

M/R RUCHI GLOBAL LIMITED (PRESENTLY AGROTRADE ENTERPRISES LIMITED) THROUGH MR. S.N. SADAWARTI S/O SHRI
1. MANOHARLAL SADAWARTI DIRECTOR AND AUTHORISED SIGNATORY, AGED ABOUT 75 YEARS, OCCUPATION: BUSINESS 9/2 SOUTH TUKOGANJ (MADHYA PRADESH)

2. SH. UMESH SHAHRA S/O SHRI KAILASH SHAHRA, AGED ABOUT 58 YEARS, 28, OLD PALASIA, A.B. ROAD, INDORE (MADHYA PRADESH)

3. SH. SAKET BARODIA S/O SHRIRAM BARODIA, AGED ABOUT 53 YEARS, 40, MALI PURA, MAIN ROAD, JUNI INDORE (MADHYA PRADESH)

4. SH. ASHUTOSH MISHRA S/O SHRI SHYAMSUNDAR MISHRA, AGED ABOUT 65 YEARS, 25, 24, BANGLOW, SCHEME NO. 114, PART I, INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S.AC-IV (VYAPAM) BHOPAL (MADHYA PRADESH)

2. BANK OF BARODA THR ITS DEPUTY GENERAL MANAGER PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134, NIPANIYA, INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

(BY SHRI VIKRAM DUBEY (CBI)-ADVOCATE)

MISC. CRIMINAL CASE No. 9208 of 2024

BETWEEN:-

M/S AGROWERB ONLINE PVT. LTD. THROUGH ITS DIRECTOR SHRI
1. KUSHAL GAIKWAD R/O 101 KANCHAN VIHAR 2 KANCHAN BAGH
SOUTH TUKOGANJ INDORE (MADHYA PRADESH)

KUSHAL GAIKWAD S/O SHRI VIJAY GAIKWAD, AGED ABOUT 42
2. YEARS, OCCUPATION: SERVICE H. NO. 77, AHILYAPURA MAIN
ROAD, INDORE (MADHYA PRADESH)

.....APPLICANT

*(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR
GUPTA-ADVOCATE)*

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER THROUGH POLICE STATION AC-IV
(VYAPAM) BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134,
NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9212 of 2024

BETWEEN:-

M/S SUMERU RESOURCES PVT. LTD. THROUGH ITS DIRECTOR SHRI
1. DHIRAJ NAGAR R/O B-11 ALANKAR CHAMBER A 2 RATLAM KOTHI
INDORE (MADHYA PRADESH)

ARVIND KUMAR SHARMA S/O SHRI SHIV KUMAR SHARMA, AGED
2. ABOUT 46 YEARS, OCCUPATION: SERVICE H. NO. 256-A, SUDAMA
NAGAR INDORE (MADHYA PRADESH)

3. DHIRAJ NAGAR S/O SHRI GOVINDDAS NAGAR, AGED ABOUT 54
YEARS, OCCUPATION: SERVICE 503-A TIRUMALA TOWER,

CHOTABANGARDA ROAD, INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

**CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER THROUGH POLICE STATION AC-IV
(VYAPAM) BHOPAL (MADHYA PRADESH)**

**BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE, PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134,
NIPANIYA INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9217 of 2024

BETWEEN:-

**MS. SHASHWAT REALTY DEVELOPERS PRIVATE LIMITED
1. THROUGH ITS DIRECTOR SRI SACHIN GUPTA R/O 120 NANDA
NAGAR, INDORE (MADHYA PRADESH)**

**SACHIN GUPTA S/O OM PRAKASH GUPTA, AGED ABOUT 43 YEARS,
2. OCCUPATION: SERVICE 120 NANDA NAGAR INDORE (MADHYA
PRADESH)**

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

**CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER THROUGH ITS INVESTIGATION
OFFICER, POLICE STATION AC IV VYAPAM BHOPAL (MADHYA
PRADESH)**

**BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
REGIONAL OFFICE PLOT NO. 12 RC 1ST FLOOR SCHEME NO. 134
2. NIPANIYA INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)
(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9247 of 2024

BETWEEN:-

ISHWARLAL KALANTRI S/O MADAN LALA KALANTRI, AGED ABOUT 57 YEARS, OCCUPATION: SERVICE R/O F-H, 183, SCHEME NO. 54 VIJAY NAGAR INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS INVESTIGATION OFFICER THROUGH ITS INVESTIGATION OFFICER
1. THROUGH POLICE STATION AC IV VYAPAM BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134, NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)
(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9249 of 2024

BETWEEN:-

PANKAJ NAYAK S/O SHRI RAMDAYAL NAYAK, AGED ABOUT 46 YEARS, OCCUPATION: SERVICE 104, LODHIPURA, INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA
PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12 RC 1ST FLOOR SCHEME NO. 134
NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9250 of 2024

BETWEEN:-

VIVEK GUPTA S/O SHRI SURESH GUPTA, AGED ABOUT 46 YEARS,
OCCUPATION: SERVICE H.NO. 387, GANGA NAGAR, DEWAS (MADHYA
PRADESH)

.....APPLICANT

*(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR
GUPTA-ADVOCATE)*

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA
PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE, PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134,
NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9252 of 2024

BETWEEN:-

AMIT GUPTA S/O SHRI PRAKASH CHAND GUPTA, AGED ABOUT 54
YEARS, OCCUPATION: SERVICE H.NO. 211, SUNCITY, DEWAS (MADHYA
PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12 RC 1ST FLOOR SCHEME NO. 134 NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9307 of 2024

BETWEEN:-

M/S PIYALI TRADING CO. PVT. LTD. THROUGH ITS DIRECTOR SHRI
1. MEHER T. KHURODI B-11, ALANKAR CHAMBER A-2, RATLAM KOTHI, INDORE (MADHYA PRADESH)

MEHER T. KHURODI S/O SHRI TEHMURASP KHURODI, AGED ABOUT
2. 70 YEARS, OCCUPATION: SERVICE 201, CHETAK VIHAR, NEW PALASIA NEAR 56 CHOWK, INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134, NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9311 of 2024

BETWEEN:-

M/S VIBUTHI ENTERPRISES PVT. LTD. THROUGH ITS DIRECTOR
1. SHRI DHARMA KARWASRA RAM 404, MANAS BHAWAN, 11 RNT MARG, INDORE (MADHYA PRADESH)

SHRI SHASHANK KHANDELWAL S/O SHRI MANAK CHAND KHANDELWAL, AGED ABOUT 37 YEARS, OCCUPATION: SERVICE H. NO. 402, ARPIT APARTMENT, 3-A, JANKI NAGAR, INDORE (MADHYA PRADESH)
2.

SHRI VINIT JANWASIA S/O SHRI NAVIN CAND JANWASIA, AGED ABOUT 46 YEARS, OCCUPATION: SERVICE H. NO. 501 (OLD NO. 323) M.G. ROAD, MALHAR GANJ, INDORE (MADHYA PRADESH)
3.

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134, NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

MISC. CRIMINAL CASE No. 9314 of 2024

BETWEEN:-

M/S SHUBHAM MERCANTILE PVT LTD. THROUGH ITS DIRECTOR
1. SHRI SUSHIL KUMAR PARE 386-C, KALANI NAGAR, INDORE (MADHYA PRADESH)

SHRI KRISHNA DAS NAGAR S/O SHYAM DAS NAGAR, AGED ABOUT 55 YEARS, OCCUPATION: SERVICE 148, VENKATESH NAGAR,
2.

INDORE (MADHYA PRADESH)

.....APPLICANT

(BY SHRI V.K. JAIN, SENIOR ADVOCATE ALONGWITH SHRI ATUL KUMAR GUPTA-ADVOCATE)

AND

CENTRAL BUREAU OF INVESTIGATION THROUGH ITS
1. INVESTIGATION OFFICER P.S. AC-IV (VYAPAM), BHOPAL (MADHYA PRADESH)

BANK OF BARODA THROUGH ITS DEPUTY GENERAL MANAGER
2. REGIONAL OFFICE PLOT NO. 12, RC, 1ST FLOOR, SCHEME NO. 134, NIPANIYA INDORE (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI HIMANSHU JOSHI-ADVOCATE)

(BY SHRI ABHINAV DHANODKAR-ADVOCATE)

This application coming on for orders this day, Justice Gajendra Singh passed the following:

Heard on : 21st OF MAY, 2024

Order Pronounced on : 31th OF MAY, 2024

ORDER

The issue involved in these Misc. Criminal Cases are common, thus they are being decided by this common order. For the sake of convenience, the facts of Misc. Criminal Case No.34326/2021 are being taken for deciding the controversy involved in this matter.

In these Misc. Criminal Cases under Section 482 of Cr.P.C., the petitioners have prayed the following relief:-

a. Quash FIR No.RC2222021A0003/2021 registered at Police Station AC-IV (Vyapam) Bhopal dated 14.06.2021 under Sections 13(2), 13(1) (d) of the Prevention of Corruption Act, 1988 and Section 420, 120-B of the IPC and all the proceedings emanating thereunder and / or pass

any such order/further order (s) as this Hon'ble Court may deem fit and appropriate in the facts and circumstances of the case.

Facts of the case in short are as under:-

[2] The petitioner No.1 in Misc. Criminal Case No.34326/2021 namely M/s Ruchi Global Limited is engaged in wholesale sales of metals, metal ores, cereals and pulses. The Company also deals in oil seeds, such as mustard, soyabean and castor seeds; pulses, including brown and white chickpea. The Company is having credit facilities from four Banks under consortium arrangement led by Bank of Baroda (e-Dena Bank) alongwith Punjab National Bank, Jammu & Kashmir Bank, Oriental Bank of Commerce. The Forensic Audit was allotted to M/s T.R.Chadha & Co. LLP on 10.10.2018 for the period of 01.01.2016 to 31.12.2017 to find out the trail/detail of transactions i.e sole customer, sole suppliers and major transactions with related parties and analysis of Balance Sheet of the Company. The Forensic Audit report was submitted by M/s T.R. Chadha & Co. LLP on 09.07.2019 and forensic audit conducted by M/s T.R.Chadha & Co LLP revealed irregularities of fraudulent nature complaint (annexure P/2) alleging commission of offence of fraud in Credit Facilities maintained with our Navlakha Branch (e-Dena Bank), Indore by way of cheating, diversion and/or siphoning of Bank's funds, misrepresentation of data to the tune of Rs.18835/- was filed with request to register the FIR and take necessary action against Ruchi Global Limited (Borrower Company) and its Directors namely Umesh Shakra, Saket Barodla, Ashutosh Mishra and unknown public servants by Shri Rajesh D Sharma, Deputy General Manager, Bank of Baroda, Region Indore to the Central Bureau of Investigation (respondent No.1) and FIR No.RC2222021A0003 under Section 13 (2) read with 13(1) (d) of Prevention of Corruption Act

and Section 120-B, 420 of IPC was registered on 14.06.2021 in Police Station AC-IV (Vyapam), Bhopal (Annexure P/1) against M/s Ruchi Global Ltd., Umesh Shahra, Saket Barodla, Ashutosh Mishra and unknown public servant and private persons.

[3] Challenging the registration of FIR, Misc. Criminal Case No.34326/2021 was filed and in the course of investigation, the involvement of petitioners in Misc. Criminal Cases Nos. 9208/2024, 9212/2024, 9217/2024, 9247/2024, 9249/2024, 9250/2024, 9252/2024, 9307/2024, 9311/2024 and 9314/2024 were also found and final report under Section 173(2) of Cr.P.C. was submitted to the Court of Special Judicial Magistrate, CBI, Indore under Section 120-B read with Section 420 and 471 of IPC with request to summon to all the accused persons to face the trial in accordance with law keeping further investigation kept open under Section 173(8) of Cr.P.C. against Ashuthosh Mishra (A-4) and directors and signatories of other related parties, role of public servants, if any in the instant case and collection of further evidence on the issues connected and related to the investigation.

[4] The Trial Court vide order dated 02.02.2023 in Special Case CBI 10/2023 has quashed the proceedings against the petitioner No.1 in Misc. Criminal Case No.34326/2021 i.e. M/s Ruchi Global Ltd. and continued the proceedings against the rest of accused persons. Thereafter, Misc. Criminal Cases Nos. 9208/2024 9212/2024, 9217/2024, 9247/2024, 9249/2024, 9250/2024, 9252/2024, 9307/2024, 9311/2024 and 9314/2024 were also filed.

[5] These Misc. Criminal Cases have been preferred on the ground that in Writ Petition No.28163/2019, the respondents were refrained from taking coercive action but despite having granted interim protection of no

coercive action, the respondent No.2 proceeded to take the coercive action of making the complaint, acting upon which, respondent No.1 registered the impugned FIR. The basis of the FIR i.e. classification and declaration of account of borrower to be fraud on the basis of forensic audit report has been set aside and consequently the FIR against the principal borrower is also quashed then there exists no ground in law to prosecute and try the petitioners in capacity of accomplice only. Where the FIR against the principal borrower does not stand then there can be no offence attributable to the alleged accomplices. The complainant sought to initiate penal action against the petitioners by alleging being accomplice in fraudulent transaction by the borrower while relying solely on the un-communicated forensic audit report and consequent declaration of borrower as fraudster which in itself is *non est* in law and now has been set aside by the Court.

[6] It is also submitted that the Apex Court has reiterated that in the matters where penal consequences are attracted as a result of judicial or quasi-judicial orders, due process prescribed by law must be strictly adhered to. The impugned FIR is nothing but an abuse of process of law and that the complaint is in total transgression of RBI Master Circular dated 01.07.2016 as well as while overreaching the interim orders of this Court has tried to hastily convert consortium proceedings into a criminal dispute, only with a view to harass the petitioners. The allegation raised in the impugned complaint and FIR are absurd and raise bald allegation against unknown public servant for the sole purpose of affixing the grave sections of the Prevention of Corruption Act, 1988. The allegation in the complaint dated 29.05.2021 that unknown public servants were involved, the complainant Bank has sought to shield its own public servant from scrutiny, censure and further investigation by smartly giving reference to

one examination of staff accountability purportedly carried out on 05.11.2018 as per which no staff accountability was observed. The Prevention of Corruption Act can only be invoked against public servants and the present FIR invoking sections 13(1) (d) and 13(2) of the said Act against the petitioners is wholly illegal.

[7] Counsel for the respondent No.2 submitted that the Hon'ble Supreme Court in case of State Bank of India Vs. Rajesh Agrawal in para 9.1 has held that no opportunity of hearing is required for the purpose of lodging first information report. The Hon'ble Supreme Court in case of Punjab National Bank Vs. Vijay Soni and Another (SLP (Civil) Diary No.47470/2023) in its interim order dated 14.12.2023 has held that the order passed in the case of Surendra Patwa (Writ Petition No.28648/2019) will not be read as a precedent that the registration of FIR would be quashed for non compliance of the circular dated 01.07.2016. In pursuance to the same, the Bank has filed MCC No.675/2024 under Rule 30A of the High Court Rules before the High Court for the purpose of bringing necessary modification in the order passed by the Writ Court in Writ Petition No.28163/2019. Contention of the petitioners that the OTS has been approved by the Bank of Baroda and now nothing remains thereafter is a falsified statement being made by the petitioner because the complaint so been made by the Bank of Baroda was under the capacity of the lead bank of the Joint Lenders forum. There were other banks as well viz. Punjab National Bank, Oriental Bank of Commerce and Jammu and Kashmir Bank who consented to the submission of the said complaint before the competent authorities. Contention of the petitioner that the Forensic Audit has been quashed by this Court is not the scenario. Order has been solely quashed on the ground of audi alterum partum. The liberty

has been granted to the Bank to again proceed in accordance with law. The CBI has also filed SLP before the Hon'ble Supreme Court. This Court in the case of Ameeta Argal and Others Vs. Punjab National Bank and others (Writ Petition No.19777/2023) has held that in light of orders of the Hon'ble Supreme Court in Punjab National Bank Vs. Vijay Soni and another [SLP (Civil) diary No.47470/2023] the order of Surendra Patwa has been rendered denuded of its precedential value so far as it relates to quashment of FIR. The relief of quashment of FIR cannot be granted till Apex Court decided the issue in Punjab National Bank Vs. Vijay Soni and another [SLP (Civil) Diary no.47470/2023]. As per the Annexure P/28 of MCRC 34326/2021 filed by M/s Ruchi Global Ltd before this Court containing Minutes of Minutes of Joint Lenders Forum, it has clearly been specified that the Bank has submitted its complaint to the Central Bureau of Investigation on 13.11.2019, whereas the petitioners being backed with malicious intention is specifying that the complaint has been submitted after the directions of this Hon'ble Court vide order dated 19.12.2019. The investigation against the public servant is still pending.

[8] The respondent No.1 has also backed the respondent No.2.

We have perused the record.

[9] So far as the contention of petitioners as regards opportunity of hearing not being afforded before filing of complaint to the CBI is concerned, the same is misconceived in the light of the judgment of Apex Court passed in the case of State Bank of India & Ors. Vs. Rajesh Agrawal and Ors reported in (2023) 6 SCC 1, wherein it has been clearly directed that before filing of FIR, no opportunity of hearing is required to be given to the accused person.

[10] Now we are referring the parameters for quashing the FIR. The

Apex Court in the case of *Kapil Agrawal and Ors. Vs. Sanjay Sharma and Ors. reported in (2021) 5 SCC 534* has held that when registration of an FIR is an abuse of process of law or is a degenerate weapon of harassment then the same can be quashed in exercise of powers under Article 226 of the Constitution or Section 482 of the Code of Criminal Procedure.

[11] Now we come to the controversy involved in this case. The transaction regarding which the fraud is alleged is credit facility sanctioned from four Banks under consortium arrangement led by Bank of Baroda (e-Dena Bank) alongwith Punjab National Bank, Jammu & Kashmir Bank, Oriental Bank of Commerce extended to the M/s Ruchi Global Limited (Petitioner No.1 in Misc. Criminal Case No.34326/2021)

[12] The mode of fraud is stated that M/s Ruchi Globale Ltd got opened 06 Inland Letters of credit in favour of Sumeru Resources (petitioner No.1 in M.Cr.C. No.9212/2024) and Vibhuthi Enterprises Pvt. Ltd. (Petitioner No.1 in M.Cr.C.No.9311/2024) with a clear intention of diverting the bank funds and the said fund were ultimately received in the bank accounts of Ruchi Global Ltd. and Letter of Credit was accommodative in nature and was used to divert funds by Ruchi Global Ltd in conspiracy with Vibuthi Enterprises Pvt. Ltd.(Petitioner No.1 in M.Cr.C.No.9311/2024), Piyali Trading Co. Pvt. Ltd, (Petitioner No.1 in M.Cr.C. No.9307/2024), Shubham Mercantile (Petitioner No.1 in M.CR.C. 9314/2024) Shashwat Realty (Petitioner No.1 in M.Cr.C. No.9217/2024) and Agroweb Online Pvt. Ltd (Petitioner No.1 in M.Cr.C. No.9208/2024). The Arvind Kumar Sharma, Director M/s Sumeru Resources Pvt. Ltd. (Petitioner No.1 in M.Cr.C. No.9212/2024), Vinit Janwasia, Director M/s Vibuthi Enterprises Pvt. Ltd. Sachin Gupta

Director M/s Shashwat Realty Developers Pvt.Ltd and Krishna Das Nagar Director Shubham Mercantile Pvt. Ltd were also the employees of Ruchi Global Ltd or Ruchi group of companies, who assisted the borrower company Ruchi Global Ltd. in the aforesaid manner to cheat lender bank for diverting the bank fund.

[13] The crux of the prosecution is stated that M/s Ruchi Global Ltd in conspiracy with M/s Sumeru Resources Pvt. Ltd, M/s Vibuthi Enterprises Pvt. Ltd, M/s Piyali Trading Co. Pvt. Ltd., M/s Agroweb Online Pvt. Ltd., M/s Shashwat Realty Developers Pvt. Ltd and M/s Shuham Mercantile Pvt Ltd., through their respective directors/representatives and employees had committed cheating, forgery and through the same, misappropriated Non Fund Based Bank Credit facility to the tune of Rs.66,09,58,300/- causing wrongful gain for themselves and subsequent wrongful loss to the Lenders Bank.

[14] The proceedings against the M/s Ruchi Global Limited has been closed by the Trial Court on the basis of order dated 21.11.2023 in Writ Petition No.28163/2019 and order dated 25.07.2023 in Writ Petition No.23800/2021 passed by this Court. When the proceedings have been terminated against the M/s Ruchi Global Ltd to whom credit facility was sanctioned, then the proceedings against rest of the petitioners to whom it is stated that they conspired with Ruchi Global Ltd. cannot be continued.

[15] In view of above, Misc. Criminal Case No.34326/2021, 9208/2024 9212/2024, 9217/2024, 9247/2024, 9249/2024, 9250/2024, 9252/2024, 9307/2024, 9311/2024 and 9314/2024 are allowed. The proceedings against the petitioners based on the FIR No.RC2222021A0003/2021 registered at Police Station AC-IV (Vyapam) Bhopal is also hereby quashed.

Certified copy as per rules.

Office is directed to place the photocopy of this order in all the connected Misc. Criminal Cases.

(S.A. DHARMADHIKARI)
JUDGE

(GAJENDRA SINGH)
JUDGE

praveen