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

\+ W.P.(CRL) 1734/2020, CRL.M.A. 5110/2021, CRL.M.A. 5160/2021 & CRL.M.A. 4737/2021

VIKAS CHAUDHARY ..... Petitioner

Through: Petitioner in person with Mr.Vikas Pahwa, Sr. Advocte with Mr.Naveen Kumar, Mr.Shadman Siddiqui, Advocates.

versus

CBI ..... Respondent

Through: Mr.Anupam S.Sharma, SPP for SBI with Mr.Prakash Airan & Ms.Harpreet Kalsi, Advocates.
Mr.N.Hariharan, Sr. Advocate with Mr.Manu Prabhakar, Mr.Samarth K.Luthra, Mr.Siddharth S.Yadav, Ms.Akriti Mittal & Mr.Prateek Bhalla, Advocates for applicant of CRL.M.A.4737/2021.
Ms.Rajdipa Behura, Advocate for intervenor with Mr.Philomon Kani, Ms.Hansika Sahu, Ms.Neha Lingwal, Mr.Swayamtosh Rath & Mr.Ashray Behura, Advocates for applicant of CRL.M.A.5110/2021.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **25.03.2021**

CRL.M.A. 5110/2021, CRL.M.A. 5160/2021 & CRL.M.A. 4737/2021

The applicant of CRL.M.A. 4737/2021 is also the applicant of

CRL.M.A. 5160/2021. The proceedings in the matter qua W.P.(CRL) 1734/2020 filed by the petitioner are listed for the date 09.04.2021 vide which the petitioner has made the following prayers:-

> ***"(a) Issue a writ of mandamus or appropriate direction or orders against the Respondent for registering FIR under section 7, 8, 9 of Prevention of Corruption Act, 1988, read with section 383, 384, 389, 120B Indian Penal Code, 1860 against the Public Servant, Chander Shekhar, Additional Director General, Department of Revenue, Ludhiana Ministry of Finance, & Private Individuals, Anoop Joshi & Rajesh Dhanda, pursuant to the statement 05.01.2020 tendered by the Petitioner to the Respondent, Complaint filed in the first week of September, 2019, Complaint dated 04.02.2020 & Complaint dated 06.07.2020 filed by the Petitioner with the Respondent; and/or***
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> ***(b) Issue a writ of mandamus or order or directions against the Respondents for immediate compliance of the Judgment of the Constitutional bench of the Hon'ble Supreme Court of India, Lalita Kumari V. Government of U.P. & Ors., (2014) 2 SCC 1; and/or***
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> ***(c) Pass any other order/(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."***

The application, that has been filed by the applicant of CRL.M.A. 4737/2021 has been filed on behalf of an applicant namely Anoop Joshi seeking that he be allowed to intervene in W.P.(CRL) 1734/2020 and be allowed to be arrayed as a respondent thereto and be allowed to file a detailed counter affidavit to the said writ petition.

Vide CRL.M.A. 5160/2021 also filed by the very same applicant namely Anoop Joshi, the prayer made seeks an ad interim order to the CBI not to register an FIR against him on the allegations in the writ petition till the disposal of CRL.M.A. 4737/2021.

The applicant of CRL.M.A.5110/2021 is one Mr.Chander Shekhar, Additional Director General, Department of Revenue, Ludhiana Ministry of Finance i.e. the former public servant who seeks intervention in W.P.(CRL) 1734/2020 and seeks that he too be arrayed as a party to the petition.

As regards the prayer that has been made in W.P.(CRL) 1734/2020 seeking directions to the respondent i.e. the CBI for the registration of an FIR under Sections 7, 8, 9 of Prevention of Corruption Act, 1988, read with Sections 383, 384, 389, 120B Indian Penal Code, 1860 against the Public Servant, Chander Shekhar, Additional Director General, Department of Revenue, Ludhiana Ministry of Finance, i.e., the applicant of CRL.M.A. 5110/2021 and against the private individuals namely Anoop Joshi & Rajesh Dhanda of whom Anoop Joshi is the applicant of CRL.M.A. 4737/2021, pursuant to the statement dated 05.01.2020 tendered by the petitioner to the CBI and complaint filed in the first week of September, 2019 and the complaint dated 04.02.2020 & complaint dated 06.07.2020 filed by the petitioner with the CBI, the status report that has been submitted by the CBI states to the effect:-

> *"1. That the Petitioner, Sh.Vikas Choudhary has filed a Writ Petition (Crl.) No.1734 of 2020 on 15.10.2020 seeking registration of an FIR on the basis of complaints dated September, 2019, 01.02.2020 and 06.07.2020 made by the petitioner to the respondent/CBI against the Additional Director General, Department of Revenue, Ludhiana Zonal Unit and other officers and associates for allegedly demanding a sum of Rs.10 crores and extorting Rs.1.50 crore from the petitioner, inter alia under section 7, 8, 9 of the Prevention of*

Corruption Act, 1988 read with sections 383/384/385/386/389/34/120B of Indian Penal Code, 1860.

2. That no complaint was received by CBI in the month of September, 2019 as stated by the Petitioner in his petition.

3. That the Respondent-CBI received first complaint dated 04.02.2020 from the complainant Sh.Vikas Choudhary in which he had alleged that in the month of July/August 2019, the then ADG, DRI Ludhiana Sh.Chander Skekhar (now under suspension) through his conduits Sh.Rajesh Dhanda and Anup Joshi demanded Rs.10 Crores for not procession against his companies. The said demand was in reference to the companies whose documents were seized on 17.06.2019 by officials of DRI, Ludhiana from the premises of M/s Sadagati Clearing Services Pvt. Ltd at Okhala Delhi, including the documents of the companies of the complainant and his client companies. He has alleged that due to the threat of being arrested and implicated under COFEPOSA, he paid Rs.1.5 Crores in the last week of August 2019 to Anup Joshi's agent through his office assistants.

4. That the Respondent-CBI received another complaint dated 06.07.2020 form Petitioner Vikas Choudhary in respect of same allegations. In this complaint, apart from allegation mentioned, in the complaint dated 04.02.2020 the Petitioner has also alleged that Sh.Chandra Shekhar had shared complainant's and complainant's family's intercepted conversations with Anup Joshi and Rajesh Dhanda, who in turn used the same to threaten the complainant which establishes that they were working on behalf of Sh.Chandra Shekhar.

5. That it has also been alleged in the complaints that a draft complaint containing similar allegations extortion of Rs.1.5 Crores as mentioned above was also recovered by officers of DRI Hqrs, during their search (alongwith DGGI) on 11.09.2019 from the residence of his partner, Sh.Vikas Chandan, Director of M/s Nautilus Metal Crafts Pvt. Ltd. The *petitioner has further alleged that facts related to drafting of the said complaint for the alleged extortion by the suspect officer by misusing his official position were also disclosed by him in his statement recorded under section 108 of the Customs Act, 1962 on 20.09.2019.*

6. That the suspect officer and his two alleged accomplices as mentioned in the complaint were arrested by CBI in another case RC 42/2019 dated 29.12.2019, ACB u/s 7A of PC Act 1988 (as amended in 2018) and 120-B of IPC Delhi and during the investigation of that case, Sh.Vikas Choudhary was examined on 05.01.2020 in which he also repeated the allegations as mentioned above.

7. That since the allegations of abuse of official position are related to decisions taken by the public servant Sh.Chander Shekhar in discharge of his official duties, viz. searches u/s 105 of the Customs Act, 1962 issuing of summons u/s 108 of Customs Act, 1962, legal interceptions under Indian telegraph Act, etc. therefore, previous approval u/s 17A of the PC Act, 1988 (as amended in 2018) is required for registration and investigation of a criminal case against Sh.Chander Shekhar u/s 7, 8, 9 of PC Act 1988 r/w sections 383, 384, 120-B of IPC.

8. That the Respondent-CBI has approached the Competent Authority i.e. Ministry of Finance to grant necessary permission as required under section 17A of PC Act 1988 (as amended in 2018), which is still awaited.",

indicating thereby that presently, the requisite prior approval under Section 17A of the PC Act, 1988 is pending for necessary permission in relation to the complaint that was made by the petitioner vide a complaint dated 04.02.2020 which the CBI submits through its status report as being the first complaint that had been made by the petitioner namely Vikas Choudhary as well as qua a complaint dated 06.07.2020 made by the petitioner in relation to the allegations therein. As observed hereinabove, the aspect of consideration of the merits of W.P.(CRL) 1734/2020 has already listed for 09.04.2021.

At the outset, in reply to a specific Court query, the CBI has categorically submitted that though undoubtedly, RC No.42/2019 dated 29.12.2019, ACB u/s 7A of PC Act 1988 (as amended in 2018) and 120-B of IPC Delhi is pending investigation and that during the course of the investigation in that case, the petitioner herein was examined on 05.01.2020 in which he also repeated the allegations as detailed in the status report. It is categorically submitted on behalf of the CBI by the learned SPP for the CBI that the allegations in relation to RC NO.42/2019 dated 29.12.2019 relate to a trap case which has been registered pursuant to a complaint dated 27.12.2019 made by one Mr.Sudhir Gulati, wherein he has alleged in relation to the settled negotiation demand of a sum of Rs.2.75 Crores with allegations against Sh.Anoop Joshi, i.e. the applicant of CRL.M.A. 4737/2021, Mr.Rajesh Dhanda and Sh.Chander Shekhar, Additional Director General, Department of Revenue, Ludhiana Ministry of Finance, i.e. the applicant of CRL.M.A. 5110/2021.

It has been submitted on behalf of the CBI that the present petitioner bases his claim on the complaints as have been stated in the status report inclusive of the complaint dated 06.07.2020 which relate to the period separate from that in relation to the complaint of Sh.Sudhir Gulati and are even prior to the same, though during the course of the investigation in RC No.42/2019, the present petitioner has made statements before the CBI in relation to the meetings that were held between the petitioner and the persons named Anoop Joshi, Rajesh Dhanda as well as with allegations against Sh.Chander Shekhar, Additional Director General, Department of Revenue, Ludhiana Ministry of Finance all that the present petition has averred through his complaint dated 06.07.2020 vide paragraph 23 thereof, which reads to the effect:-

> ***"23. Sir, I am not the only victim of their extortion racket. Another businessman named Mr.Sudhir Gulati was also blackmailed by ADG Chander Shekhar, Anoop Joshi and Rajesh Dhanda. He filed a complaint with CBI. A trap was laid out and Anoop Joshi & Rajesh Dhanda were caught red-handed. A regular case was registered by CBI bearing no.RC-DAI-2019-A-0042 under Section 7A of PC Act and section 120-B of IPC at the complaint of Sudhir Gulati against ADG Chandra Shekhar, Anoop Joshi & Rajesh Dhanda. The matter is under investigation. My statement in this regard was also recorded by the investigating officer in this case.",***

wherein it has been categorically stated by the present petitioner that he was not the only victim of the extortion racket of Mr.Chander Shekhar, i.e. the applicant of CRL.M.A. 5110/2021, Mr.Anoop Joshi, i.e. the applicant of CRL.M.A. 4737/2021 and Rajesh Dhanda, rather there was another businessman named Mr.Sudhir Gulati who was also blackmailed by ADG Chander Shekhar, Anoop Joshi and Rajesh Dhanda and on a trap having been laid out and Anoop Joshi & Rajesh Dhanda were caught red-handed and the RC bearing No.RC-DAI-2019-A-0042 under Section 7A of PC Act and Section 120-B of IPC was lodged on the complaint of Sudhir Gulati against ADG Chandra Shekhar, Anoop Joshi & Rajesh Dhanda.

It has been submitted on behalf of the CBI that the statements that have been recorded during the course of investigation in RC-DAI-2019-A-0042 under Section 7A of PC Act and Section 120-B of Indian Penal Code, 1860, would not in any manner lead to any fruitful investigation on the complaint that has been made by the present petitioner vide his complaint dated 06.07.2020.

As regards the submission that has been made on behalf of the applicants of CRL.M.A. 4737/2021 & CRL.M.A. 5110/2021 to the aspect that vide a response dated 17.01.2020 made by the CBI to the first bail application of Sh.Chander Shekhar under Section 439 of the Cr.P.C., 1973 in relation to RC 42A/2019 CBI ACB vide paragraph 18 thereof, it was averred to the effect:-

> ***"That, during investigation, Vikas Chowdhary Director of M/s Sadagati clearing services Pvt. Ltd. was also examined. He stated that after the search conducted by DRI Ludhiana at M/s Sadagati clearing services Pvt. Ltd., accused Sh.Anoop Joshi and Sh.Rajesh Dhanda demanded a bribe amount of Rs.10 Crores on behalf of accused Chander Shekhar, ADG, Ludhiana. He paid Rs.1.5 Crore to Sh.Anoop Joshi in the month of August, 2019. On his dictation, the details of the bribe transaction was written down by his brother-in-law Sh. Vikas Chanden in a diary. The said diary was seized by DRI (HQ) during the search at the residence of said Sh.Vikas Chandan on 11.09.2019. Vikas Chowdhary also stated that his mobile phones as well as those of his family members including his wife's and daughter's were intercepted by accused Sh.Chander Shekhar at DRI Ludhiana. The details of conversation Vikas Chowdhry had with accused Chander Shekhar at the latter's office was shared by Sh.Anoop Joshi and Rajesh Dhanda with him. Further, Anoop Joshi also shared the details of telephonic conversations Vikas Chowdhry had with other private persons. During investigation, 07 compact disc containing intercepted calls of mobile phones of Sh.Vikas Chowdhary as well as his family members provided by DRI, Ludhiana Zone are under analysis. The statement of Sh. Vikas Chowdhary and evidence***

collected so far reveal the conspiracy between accused Sh.Chander Shekhar an Sh.Rajesh Dhanda and Anoop Joshi to collect bribe money from exporters.,

as well as the response of the CBI vide paragraph 11 of its counter affidavit in W.P.(Crl.)972/2019 filed by Anoop Joshi, wherein it had been submitted by the CBI to the effect:-

"11. That it may be mentioned here that much prior to the complaint in the present matter, on 11.09.2019, a PAN India search operation was conducted jointly by Directorate of Revenue Intelligence Headquarters and Director General GST Intelligence on various firms including M/s Nautilus Metal Craft Pvt. Ltd. (firm owned by Vikas Chowdhary and Vikas Chandan). During the said search at the premises of Vikas Chandan, DRI seized a diary wherein Vikas Chowdhary had mentioned that he had paid a bribe of Rs.1.5 Crore to co-accused Chander Shekhar, ADH through Petitioner and co-accused Rajesh Dhanda. During investigation, Vikas Choudhary stated that he had paid the said bribe under threat for not taking any action in the matter of raid conducted in his firm M/s Sadagati Clearing Agency Pvt. Ltd., thereby establishing the nexus between the accused in committing high level corruption after intimidating the firms. It seems that the alleged complaints dated 02.01.2020 and 18.03.2020 against Vikas Chaudhary and others by the Petitioner is a counter blast and a defence tactic of the Petitioner and co-accused to somehow wriggle out of names in the diary and scuttle progress of the present investigation.

It may be mentioned here that during the raid conducted by DRI at the office of Clearing House Agency in the present matter, around 300 files of various companies were seized, which included the files of Complainant. He was thereafter informed by the Petitioner that action would be taken against him under COFEPOSA, which could lead to search at the premises of complainant and also his arrest in order to demand a bribe of Rs.3 crores from him.

Similarly, other firms whose files were seized by the DRI must have been threatened which fact could have been investigated after having access to the mobile phones of the accused at the earliest so that the accused could be prevented from exerting pressure on those firms not to cooperate with the investigating agency. Co-accused rajesh Dhanda and Chander Shekhar however refused to give their thumb impression for providing access to their mobile phones. Against the order of the Ld. Spl. Judge directing them to provide their thumb impression to the investigating agency, they on the very next day approached this Hon'ble Court where arguments were heard on daily/weekly basis while staying the operation of the order passed by the Ld.Spl. Judge till the next date of hearing. However, unfortunately the country went under lockdown and the accused were successful in their endeavour to dilate the investigation on important aspects which would expose the extent of corruption and the officials involved in the offence.

The present petition is an attempt to scuttle the investigation, by way of intimidation of the investigating officers, to expose high level corruption which might be running into several hundred crores an as such deserves dismissal.

The accused including Petitioner have filed numerous petitions before this Hon'ble Court using dilatory tactics in order to put hurdles in the smooth investigation of the case.",

as well as the response of the CBI to W.P.(Crl.)991/2020 of Rajesh Dhanda vide paragraph 15 thereof, which reads to the effect:-

"15. That investigation of the case is at crucial and initial stage, as the investigation progresses, there is a possibility that a larger conspiracy would be unearthed. Petitioner played an active role in commission of offence, in criminal conspiracy with other accused persons for demanding and accepting the bribe amount from the complainant on the behest of co-accused Chander Shekhar, ADG,DRI, Ludhiana.,

with also mention of the present petitioner and his statement of having paid a bribe of Rs.1.5 Crores to the co-accused Chander Shekhar, ADG through accused Anoop Joshi and Rajesh Dhanda as averred in paragraph 14 of that counter affidavit, the submission made on behalf of the CBI is to the effect that all the said averments relate only to the aspect of a larger conspiracy that would be involved which the CBI would investigate but that the investigation in RC No.42/2019 would not suffice for the concluding and conducting of the investigation on the complaints of the petitioner. To similar effect is the submission made on behalf of the petitioner by the learned senior counsel present.

It is also the avowed contention on behalf of the petitioner that whereas the allegations on the complaint of Sudhir Gulati relate to the alleged commission of an offence punishable under Section 7A of the POC Act, 1988, the allegations in the complaints made by the petitioner herein relate to extortion. *Prima facie* the said contentions made on behalf of the petitioner and the CBI appear to be correct.

Reliance that has been placed on behalf of the respondents thus, presently, on the verdict of the Hon'ble Supreme Court in ***"Samaj Parivartan Samudaya and others Vs. State of Karnataka and others" (2012) 7 SCC 407*** with specific reliance on the observations in paragraph 15 thereof which reads to the effect:-

> ***"15. CEC was required to submit quarterly reports, which it has been submitting and with the passage of time, large irregularities and illegalities coupled with criminality were brought to the notice of this Court. CEC, in discharge of its functions and responsibilities, was examining the matters in both the States of Andhra Pradesh and Karnataka. These***

violations have come to the surface as a result of enquiries conducted by CEC, regarding illegal mining and mining beyond their leased areas by these companies. It was pointed by CEC with specific reference to these companies that there was not only illegal extraction of iron ore but the minerals were also being extracted beyond the leased area specified in the lease deeds. Further, there was unchecked export of iron ore from the border areas of the two States, Andhra Pradesh and Karnataka. This related to the quantum, quality and transportation of ore as well.",

as well as on the verdict of the Hon'ble Supreme Court in ***"Krishna Lal Chawla & Ors. Vs. State of U.P. & Anr."*** in CRL.A. No.283/2021, a verdict dated 08.03.2021 with specific observations therein in paragraph 5 & 6 thereof, which read to the effect:-

"5. Indeed, a closer look at the decision in Upkar Singh takes us to the contrary conclusion. In regard to the question of material improvements made in a subsequent private complaint by the same complainant against the same accused with regard to the same incident, it may be useful to refer to the following excerpt from Upkar Singh, which further clarifies the holding in T.T. Antony:

"17...In our opinion, this Court in that case only held that any further complaint by the same complainant or others against the same accused, subsequent to the registration of a case, is prohibited under the Code because an investigation in this regard would have already started and further complaint against the same accused will amount to an improvement on the facts mentioned in the original complaint, hence will be prohibited under Section 162 of the Code."

(emphasis supplied)

It is the aforementioned part of the holding in Upkar Singh that bears directly and strongly upon the present case. This Court in Upkar Singh has clearly stated that any

further complaint by the same complainant against the same accused, after the case has already been registered, will be deemed to be an improvement from the original complaint. Though Upkar Singh was rendered in the context of a case involving cognizable offences, the same principle would also apply where a person gives information of a non-cognizable offence and subsequently lodges a private complaint with respect to the same offence against the same accused person. Even in a non-cognizable case, the police officer after the order of the Magistrate, is empowered to investigate the offence in the same manner as a cognizable case, except the power to arrest without a warrant. Therefore, the complainant cannot subject the accused to a double whammy of investigation by the police and inquiry before the Magistrate.

We are cognizant of the fact that in the present case, no investigation had begun pursuant to NCR No. 158/2012 filed by the Respondent No. 2 for a certain period. However, the overall concern expressed by this Court in Upkar Singh, about the misuse of successive complaints by the same party, where the second complaint is clearly propped up to materially improve on the earlier one, resonates with us. We regret to say that the same thing which this Court had categorically prohibited in Upkar Singh has happened in the present case.

6. The grave implications of allowing such misuse may be understood better in light of the following exposition by this Court in Amitbhai Anilchandra Shah v. CBI & anr., (2013) 6 SCC 348:

> *"37. This Court has consistently laid down the law on the issue interpreting the Code, that a second FIR in respect of an offence or different offences committed in the course of the same transaction is not only impermissible but it violates Article 21 of the Constitution. In T.T. Antony [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] , this Court has categorically held that*

registration of second FIR (which is not a cross-case) is violative of Article 21 of the Constitution…"

(emphasis supplied)

Article 21 of the Constitution guarantees that the right to life and liberty shall not be taken away except by due process of law. Permitting multiple complaints by the same party in respect of the same incident, whether it involves a cognizable or private complaint offence, will lead to the accused being entangled in numerous criminal proceedings. As such, he would be forced to keep surrendering his liberty and precious time before the police and the Courts, as and when required in each case. As this Court has held in Amitbhai Anilchandra Shah (supra), such an absurd and mischievous interpretation of the provisions of the CrPC will not stand the test of constitutional scrutiny, and therefore cannot be adopted by us.,

as well as reliance is also placed on behalf of the applicants of CRL.M.A. 4737/2021 & CRL.M.A. 5110/2021 on the verdict of the Hon'ble Supreme Court in ***"Amitbhai Anilchandra Shah Vs. Central Bureau of Investigation" (2013) 6 SCC 348*** with specific reliance on the observations therein in paragraph 36 & 37 thereof, which read to the effect:-

"36. Now, let us consider the legal aspects raised by the petitioner Amit Shah as well as CBI. The factual details which we have discussed in the earlier paragraphs show that right from the inception of entrustment of investigation to CBI by order dated 12-1-2010 [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] till filing of the charge-sheet dated 4-9-2012, this Court has also treated the alleged fake encounter of Tulsiram Prajapati to be an outcome of one single conspiracy alleged to have been hatched in November 2005 which ultimately culminated in 2006. In such circumstances, the filing of the second FIR and a fresh charge-sheet for the same is contrary to the provisions of the Code suggesting that the petitioner was

not being investigated, prosecuted and tried "in accordance with law".

37. This Court has consistently laid down the law on the issue interpreting the Code, that a second FIR in respect of an offence or different offences committed in the course of the same transaction is not only impermissible but it violates Article 21 of the Constitution. In T.T. Antony [(2001) 6 SCC 181 : 2001 SCC (Cri) 1048] , this Court has categorically held that registration of second FIR (which is not a cross-case) is violative of Article 21 of the Constitution. The following conclusion in paras 19, 20 and 27 of that judgment are relevant which read as under: (SCC pp. 196-97 & 200)

> *"19. The scheme of CrPC is that an officer in charge of a police station has to commence investigation as provided in Section 156 or 157 CrPC on the basis of entry of the first information report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of the evidence collected, he has to form an opinion under Section 169 or 170 CrPC, as the case may be, and forward his report to the Magistrate concerned under Section 173(2) CrPC. However, even after filing such a report, if he comes into possession of further information or material, he need not register a fresh FIR; he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section 173 CrPC.*
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> *20. From the above discussion it follows that under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 CrPC only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 CrPC. Thus there can be no second FIR and consequently there*

can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences. On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering the FIR in the station house diary, the officer in charge of a police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 CrPC.

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27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [Ram Lal Narang v. State (Delhi Admn.), (1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation *based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution."*

The above referred declaration of law by this Court has never been diluted in any subsequent judicial pronouncements even while carving out exceptions.",

is presently misplaced in view of the different contours of the complaint made by the petitioner of W.P.(Crl.)1734/2020 as that of the complainant Sudhir Gulati pursuant to which the RC No.42/2019 has been registered by the CBI.

Taking the said aspect into account, the intervention application and the application filed by the applicants seeking a stay of the proceedings in relation to W.P.(Crl.)1734/2020 as well as any directions for non-registration of the FIR as prayed on behalf of the applicant of CRL.M.A.5110/2021 cannot be granted and is declined and the other applications i.e. CRL.M.A. 5160/2021 seeking directions & CRL.M.A. 4737/2021 seeking that the applicant be allowed to intervene in W.P.(CRL) 1734/2020 and be allowed to be arrayed as a respondent thereto and be allowed to file a detailed counter affidavit to the said writ petition are thus declined.

W.P.(CRL.)1734/2020

The matter be thus re-notified for 09.04.2021.

ANU MALHOTRA, J

MARCH 25, 2021/'Neha Chopra'