

2025:PHHC:111528



140 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34470-2025
DECIDED ON: 04.07.2025

M/S SUMA FOODS PVT. LTD. AND OTHERS

.....PETITIONERS

VERSUS

CENTRAL BUREAU OF INVESTIGATION & ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Diya Bhagwan, Advocate, for the petitioners.

SANDEEP MOUDGIL, J

1. Prayer

The jurisdiction of this Court under Section 528 BNSS. has been invoked with a prayer to consolidate/club two cases i.e. Case No. CHI/372/2023 arising out of FIR No. RC/DST/2020/A/0002 ("1st FIR") dated 4.3.2020 registered u/s 120-B r/w 420, 468, 471 & 406 IPC, Section 13(2) r/w 13(1)(d) P.C. Act, 1988 at P.S. Central Bureau of Investigation, Special Task Branch (STB), New Delhi (ANNEXURE P-5) wherein, Final Report dated 31.12.2022 u/s 173 Cr.P.C. (ANNEXURE P-9) has been filed. Cognizance has been taken by the Court vide Order dated 2.8.2023 (ANNEXURE P-12). Charges have been framed vide Order dated 30.11.2024 (ANNEXURE P-16) and the case is fixed for recording of further Prosecution Evidence on 19.5.2025. Case No. CHI 94/2023 arising out of FIR No. RC0052020A0017 ("2nd FIR") dated 12.12.2020 registered u/s 406, 409, 420 & 120-B IPC at P.S. ACB Chandigarh (ANNEXURE P-6) wherein, Final Report dated 29.4.2023 u/s 173 Cr.P.C. (ANNEXURE P-10) has been filed; Cognizance has been taken by the Court vide Order dated 11.9.2023 (ANNEXURE P-11);

Charges have been framed vide Order dated 11.12.2023 (ANNEXURE P-14) and the case is fixed for recording of further Prosecution Evidence on 26.05.2025.

2. **Contentions**

On behalf of petitioners:

Learned counsel for the petitioners has contended that Petitioner No.1 is a sister concern of M/s KTC Foods Pvt. Ltd. and both companies are engaged in the same line of business, namely, rice shelling with the promoters and directors of both entities being common and belonging to the same family. In fact, Petitioner No.1 established its rice milling unit on land owned by M/s KTC Foods Pvt. Ltd.. The Central Bureau of Investigation (CBI) registered two separate FIRs both based on substantially similar allegations, pertaining to default in repayment of credit facilities, fraudulent disposal of hypothecated stock, and diversion of funds outside the banking system, pursuant to these two separate ECIRs were registered treating them as predicate offences against KTC Foods, and Suma Foods. Furthermore, the charges in both cases are framed under identical provisions Section 120-B read with Section 420 of the Indian Penal Code (IPC), along with the substantive offence under Section 420 IPC. It is further submitted that there are 15 common witnesses and two common accused persons (out of six accused in each case) in both matters, to substantiate which, a comparative chart of the common witnesses is annexed herewith as *Annexure P-18*. It is asserted by the counsel that although both cases are presently pending before the Ld. Shri Anil Kumar Yadav, JMIC, the trials are being conducted separately, resulting in repetitive and unnecessary appearances by the Petitioners, who are required to travel from Gurugram to Panchkula on an almost daily basis causing considerable hardship.

Moreover, it is pertinent to note that M/s KTC Foods has already been sold as a going concern in liquidation proceedings before the Hon'ble NCLT, Chandigarh, and has consequently stood discharged in the CBI case.

Given the common factual matrix, overlapping allegations, identical charges, common evidence, and shared witnesses, the learned counsel for the petitioner has prayed that a joint trial would serve the ends of justice and conserve valuable judicial time, avoid duplication in the examination of the same witnesses and documents, and eliminate the risk of conflicting judicial findings in two separate proceedings.

In the present case, the registration of two separate FIRs based on the same cause of action is wholly unjustified and unwarranted as any subsequent FIR arising from the same cause of action is impermissible and is liable to be quashed or merged with the earlier one. In support of this submission, reliance is placed on the judgment of the Hon'ble Supreme Court in *T.T. Antony v. State of Kerala, (2001) 6 SCC 181*, wherein it was categorically held that the registration of a second FIR in respect of the same incident is legally impermissible.

Notice of motion.

On behalf of respondent-CBI

On the asking of Court, Mr. Ravi Kamal Gupta, Advocate appearing on advance notice accepts the same on behalf of respondent-CBI.

At the outset, the Respondent most respectfully submits that the present petition is devoid of merit and is liable to be dismissed. The Petitioners have attempted to portray the two criminal cases as one and the same by selectively highlighting certain similarities, while deliberately ignoring the distinct roles, transactions, and timelines involved in each case. It

is submitted that Petitioner No.1 (Suma Foods) and M/s KTC Foods Pvt. Ltd. are separate legal entities, each with its own corporate identity, financial dealings, and contractual obligations. The mere fact that the two entities may share common promoters or directors does not, in law, justify the consolidation of proceedings or quashing of either FIR. The FIRs registered by the Central Bureau of Investigation (CBI), FIR dated 04.03.2020 against KTC Foods and FIR dated 12.12.2020 against Suma Foods, are based on independent complaints, arising out of distinct loan accounts, distinct transactions, and separate fraudulent conduct. The allegations pertain to separate credit facilities availed by each entity from different banks and relate to different acts of misappropriation and diversion of funds. Therefore, the offences constitute separate causes of action. The Enforcement Directorate (ED), acting in accordance with the mandate under the Prevention of Money Laundering Act (PMLA), has independently registered two separate ECIRs, corresponding to each predicate offence. The registration of ECIRs is procedural and consequential to the FIRs registered by the CBI, and cannot be clubbed merely on the ground of alleged similarity. While it is correct that there may be some commonality of witnesses and certain overlapping factual elements, it does not render the FIRs or the ECIRs identical. Such overlap is incidental and does not affect the legal sustainability of separate proceedings, especially when the criminal acts are distinct in time, manner, and impact. The reliance placed upon the judgment rendered by the Supreme Court in the case of *T.T. Antony vs. State of Kerala (2001) 6 SCC 181* is not applicable to the present case, as the present case is more akin to a situation where multiple offences are committed independently, albeit by related parties, and therefore, each offence requires separate investigation, prosecution, and adjudication.

Since, in the present matter, both FIRs are not based on the same incident but on independent transactions of fraud and default, involving separate entities and separate banking institutions. Furthermore the petitioners' contention that the trial should be consolidated on grounds of convenience and to avoid duplication is administrative in nature and does not, in itself, render the registration of separate FIRs illegal, as procedural inconvenience cannot override substantive legal distinctions between the cases. Lastly, the fact that M/s KTC Foods Pvt. Ltd. has been sold as a going concern in liquidation proceedings before the NCLT does not, by itself, extinguish the criminal liability of the individuals involved, nor does it impact the trial against Petitioner No.1, which is a separate and ongoing matter.

Heard.

3. Analysis

It is not disputed that M/s KTC Foods Pvt. Ltd. and Suma Foods are two distinct legal entities with their own financial dealings and obligations. The alleged defaults, though similar in nature, arise from separate loan accounts and distinct banking transactions. The mere fact that the companies are sister concerns or that some individuals are common to both entities does not merge the underlying offences into a single cause of action. The reliance placed by the Petitioners on *T.T. Antony's case supra* is misplaced, as the Supreme Court held that successive FIRs for the same incident or transaction are not permissible. However, in the present case, the two FIRs pertain to different transactions, though allegedly carried out through similar *modus operandi*.

Moreover, the presence of some common witnesses or overlapping documentary evidence does not justify quashing of either FIR or

consolidation of trials. In *Amitbhai Anilchandra Shah v. CBI*, (2013) 6 SCC 348, the Supreme Court clarified that the identity of accused or similarity in allegations alone cannot be the basis for treating separate FIRs as one, if the transactions are separate in time or nature.

The inconvenience pleaded by the Petitioners, such as travel or duplication of appearances, cannot override the requirements of separate trials where the offences are distinct. Appropriate procedural reliefs, such as seeking clubbing under Section 219 or 220 CrPC (if available) before the trial court, can be pursued by the Petitioners, but this Court cannot mandate consolidation in a blanket manner at this stage.

4. Conclusion

In view of the foregoing, this Court finds no illegality or procedural impropriety in the registration of two separate FIRs and corresponding ECIRs. The offences alleged are distinct in their origin and facts, and the trials must proceed independently in accordance with law.

In view of the discussions made hereinabove, the present petition stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

04.07.2025

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*