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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-52729-2025 (O&M)
Date of decision: 19.09.2025

Neeraj Kansal and others**...Petitioners****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate
for the petitioners.

Mr. Jastej Singh, Addl. A. G., Punjab.

Mr. Vikas Bali, Advocate
for respondent No. 2/complainant.

Mr. Raj Kamal Gupta, Advocate
for respondent No. 3-CBI.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioners, who are accused in FIR No. 10 dated 11.06.2025, registered under Sections 420 and 120-B of IPC (with the offences under Sections 465, 466, 467, 468 and 471 of IPC having added later on) at Police Station Economic Offences Wing, Vigilance Bureau, Ludhiana, under Section 528 of Bharatiya Nagarik Suraksha Sanhit, 2023 (*for short 'BNSS'*) making prayer for handing over the investigation of the aforementioned FIR to Central Bureau of Investigation (*for short 'CBI'*) or any other independent agency/Special Investigating Team.

2. As per the allegations, on 11.06.2025, a complaint sent by the Chief Director, Vigilance Bureau, SAS Nagar and another complaint sent by

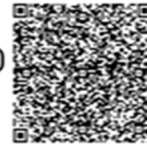
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the Senior Superintendent of Police, Vigilance Bureau, Economic Offences Wing, Ludhiana had been marked to Inspector Simranjit Kaur. On conducting inquiry, it was revealed that in the year 2011, one sale deed qua 17 Kanals 19 Marlas of land was registered in favour of complainant Naresh Kumar Garg and two other sale deeds qua 56 Kanals 18 Marlas of land and 07 Kanals 02 Marlas of land were registered in favour of one Pyare Lal Garg on 05.05.2011. Both of them were the directors of Motia's Royal Estate Private Limited (*for short 'company'*). In February, 2013, some supplementary sale deeds were registered in favour of the company, whereby the ownership of the properties was transferred in the name of the company. After making verification by accused Tarsem Mittal, who was the then Naib Tehsildar, it had come on record that at the time of registration of these supplementary sale deeds, complainant Naresh Kumar Garg and Pyare Lal Garg had not been intimated or called. It was also found that the petitioners, in connivance with Naib Tehsildar, had got the supplementary deeds registered by excluding the complainant Naresh Kumar Garg and Pyare Lal Garg, due to which, direct benefit was availed by the petitioners, who were the then directors of the company and by doing so, wrongful loss has been caused to the complainant and Pyare Lal Garg, thereby cheating them. On these allegations, the aforementioned FIR has been registered. Investigation proceedings have been initiated and are underway. The petitioners have been extended benefit of interim bail and it has come on record that they have joined investigation.

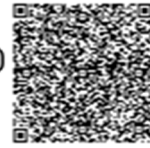
3. It is argued by learned senior counsel for the petitioners, who have been nominated as accused in the aforementioned FIR, that in fact

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petitioners No. 1 and 2 had promoted and incorporated the company in the year 2011 by contributing entire share capital to develop a real estate project in New Chandigarh. Respondent No. 2/complainant and Pyare Lal Garg were appointed as additional directors on 14.03.2011. They did not make any contribution towards share capital. Three different pieces of land were purchased by the company. Due to some inadvertence, the names of complainant Naresh Kumar Garg and Pyare Lal Garg were mentioned as purchasers in their capacity as directors. Petitioner No. 3 was inducted as director on 01.12.2011 but did not play any role in day to day affairs of the company. In the year 2012, a memorandum of understanding was entered into between the complainant, Pyare Lal Garg and the company and in pursuance thereof, supplementary sale deeds were got executed. Complainant Naresh Kumar Garg and Pyare Lal Garg were authorized to enter into agreements with one M/s Altus Space Private Limited, with whom, proposal for collaboration was going on. Subsequently, collaboration agreements were entered into between the company and aforementioned M/s Altus Space Private Limited, which were signed by the complainant and Pyare Lal Garg. Both of them had also entered into agreements with the plot buyers. They resigned on 15.02.2017 as development of the project had been delayed by M/s Altus. Petitioner No. 3 had resigned on 11.10.2016. Petitioners No. 1 and 2 also resigned on 01.07.2017 and ceased to be the directors. Subsequently, with *mala fide*, complainant and Pyare Lal Garg filed a civil suit seeking declaration for joint possession of the land previously purchased by the company and also for setting aside of supplementary sale deeds. They had withdrawn the said civil suit on

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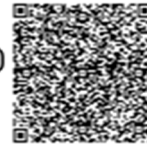


10.07.2021 and then the complaint had been lodged by them in the year 2022, which has culminated into lodging of aforementioned FIR No. 10.

4. It is further argued by learned senior counsel that the complaint against them has been made 12 years after the execution of the documents of supplementary sale deeds. They have joined the investigation, which is still going on. They have produced all the documents required from them. Respondent No. 2 has entangled them in this case, despite the fact that complainant and Pyare Lal Garg had exited the partnership and had transferred their shares to the company way back in the year 2016. The FIR has been lodged by abusing the process of law and only with an intent to extort money from the petitioners. Entire transaction qua registration of supplementary sale deeds was within the knowledge of the complainant and Pyare Lal Garg and these deeds were executed with their consent. It is submitted that now with intention to extort money from the petitioners and taking advantage of proximity of Pyare Lal Garg with the ruling party of the State, this FIR has been lodged. Though they have been extended benefit of interim bail but still they are being harassed. The Vigilance Bureau is dancing to the tunes of the complainant. They apprehend that justice would not be given to them. As such, prayer is made for handing over the investigation of the aforementioned FIR to CBI or any other independent investigating agency.

5. Learned State counsel as well as learned counsel for respondent No. 2/complainant have advance notice of the petition and are ready to argue the matter. They have submitted that investigation of the case is still at its nascent stage and is being conducted in a proper manner by the investigating

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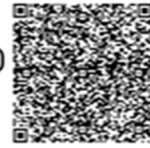
agency. The petitioners have been asked to join the investigation. They have joined the same but have not produced the requisite documents/material. They have been directed to join further investigation in the bail petitions, which have been filed by them and which are pending before this very Court. It is argued that the petitioners, being accused, have no right whatsoever to seek change of investigating agency. More so, they have not been able to quote even a single instance showing that the investigating agency has not been exercising its powers in a proper manner. It is, therefore, urged that the petition is liable to be dismissed.

6. This Court has heard the submissions made by both the sides.

7. At the outset, this Court would like to consider the scope of interference by this Court in exercise of powers under Section 528 of BNSS (which is *pari materia* with Section 482 of the Code of Criminal Procedure).

In ***State of Punjab vs. Central Bureau of Investigation : 2011 (4) RCR (Criminal) 152***, Hon'ble Supreme Court had observed that the High Court, in exercise of inherent powers under Section 482 of the Code, transfer the case at any stage for fresh investigation or re-investigation, even after chargesheet was submitted in the Court. In ***Anant Thanur Karmuse vs. State of Maharashtra : 2023 (5) SCC 802***, it was observed by Hon'ble Supreme Court that constitutional Courts may order further investigation, re-investigation or de-novo investigation, even if the chargesheet is filed and the charges are framed. In ***Iqbal Singh vs. State of Punjab : 2006 (2) RCR (Criminal) 836***, Hon'ble Supreme Court held that if investigation by the local police is not satisfactory, a further investigation is not precluded,

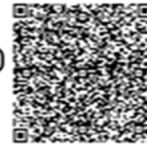
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though accused has no right as to which investigation agency should conduct investigation into the allegations.

8. It is well settled proposition of law that a constitutional Court can direct CBI or any other independent agency to investigate a case. However, such power has to be exercised in exceptional circumstances, when after examining the allegations in the complaint, the Court reaches a conclusion that the complainant could make out a prima facie case with regard to relief sought by him and only when it is satisfied that the investigation has not proceeded in a proper direction or had been conducted in a biased manner. In *Secretary, Minor Irrigation & Rural Engineering Services, U.P. vs. Sahngoo Ram Arya, (2002) 5 SCC 521*, it was observed by Hon'ble Supreme Court that an order directing an enquiry by the CBI should be passed only when the High Court, after considering the material on record, comes to the conclusion that such material does disclose a *prima facie* case calling for an investigation by the CBI or any other similar agency. In *State of West Bengal vs. Committee for Protection of Democratic Rights, West Bengal, reported in (2010) 3 SCC 571*, it was observed that although no inflexible guidelines can be laid down to decide whether or not powers for issuing directions to conduct investigation by CBI should be exercised or not but such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an

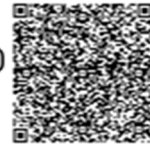
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order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

9. Reliance can further be placed upon ***K.V. Rajendran vs. Superintendent of Police, CBCID South Zone, Chennai, (2013) 12 SCC 480***, wherein it was observed by Hon'ble Supreme Court that the power of transferring investigation from State investigating agency to any other independent investigating agency like CBI must be exercised in rare and exceptional cases where the Court finds it necessary in order to do justice between the parties and to instil confidence in the public mind, or where investigation by the State police lacks credibility and it is necessary for having "a fair, honest and complete investigation", and particularly, when it is imperative to retain public confidence in the impartial working of the State agencies. Reference can also be made to ***Ram Jethmalani vs. Union of India, (2011) 8 SCC 1***, wherein it was observed by the Apex Court that if there is deficiency in investigation or prosecution is visible or can be perceived by lifting the veil which try to hide the realities or covering the obvious deficiency, the Courts have to deal with the same with an iron hand appropriately within the framework of law. In order to ensure that the criminal prosecution is carried on without any deficiency, in appropriate cases, this Court can even constitute Special Investigation Team and also give appropriate directions to the Central and State Governments. Reliance can further be placed upon ***Vishal Thakur vs. Union of India : AIR 2024***

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Supreme Court 414, wherein it was observed that such powers must not be exercised by the Court in the absence of cogent justification indicative of a likely failure of justice in the absence of exercise of power to transfer the investigation. The petitioner must place on record strong evidence indicating that the investigating agency has portrayed inadequacy in the investigation or prima facie appears to be biased.

10. In view of the above, the law can be summarised to the effect that this Court can exercise its constitutional powers in transferring investigation from State investigating agency to any other investigating agency including CBI only in rare and exceptional cases when it is revealed that the investigation is prima facie tainted/biased and investigation has been influenced. Before directing CBI to investigation a case, the Court must reach a conclusion on the basis of the pleadings and material available on record that a prima facie case is made out against the accused. However, the investigation by CBI is to be granted only in exceptional circumstances, where the Court is of the view that accusation is against a person who by virtue of his post could influence the investigation and may cause prejudice to the cause of the complainant.

11. On applying the above discussed principles of law to present case, it is to be seen as to whether a case is made out for directing further investigation by CBI or by any other independent investigating agency or whether the petitioners, being accused can ask for the same? The allegations against the petitioners are that they had committed offence of cheating with respondent/complainant No. 2 and Pyare Lal Garg by getting executed supplementary sale deeds qua the properties qua which sale deeds had been

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executed in the name of the company through respondent No. 1 and the above said Pyare Lal Garg and thereby they had caused huge loss of money to respondent No. 2 and other victims. The petitioners have been extended benefit of pre-arrest bail. Investigation proceedings are going on. The petitioners have not been able to show that the investigation is being conducted by the investigating agency in a tainted or biased manner. Simply saying that one of the victims is closely associated with ruling party of the State is not sufficient. Even otherwise, an accused has no say in choice of investigating agency or manner of investigation unless there is mala fide exercise of power by the investigating officer. Reliance in this regard can be placed upon *Romila Thapar and others vs. Union of India and others : (2018) 10 Supreme Court Cases 753*. However, as mentioned above, in the present case, the petitioners have not been able to given even a single instance to show that the investigation is being conducted in a tainted or biased manner. In view of the above discussed facts, this Court is of the considered opinion that no case has been made out warranting interference by this Court. Accordingly, the petition is dismissed.

12. However, it is clarified that the detailed discussion as made above shall not be treated as a finding on the merits of the case and the proceedings of the case shall continue in accordance with law and will not be influenced by the findings given in this order.

19.09.2025

Waseem Ansari(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No