(2025) 10 MP CK 1392

In the Madhya Pradesh High Court, Jabalpur Bench

Case No : Writ Petition No. 40301 Of 2025

D.G. Minerals Pvt. Ltd. And Another	APPELLANT
Vs	
State Of Madhya Pradesh And Others	RESPONDENT

Date of Decision : 28-10-2025

Acts Referred:

Constitution Of India, 1950 — Article 226
Companies Act, 2013 — Section 7, 4, 36, 38, 46, 56, 66, 140, 206, 212, 212(1), 212(6), 213, 229, 251, 339, 447, 448, 452
Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471
Code Of Criminal Procedure, 1973 — Section 173, 219, 438, 482

Citation : (2025) 10 MP CK 1392

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : Shobha Menon, Rahul Choubey, Madhur Shukla, Prakash Upadhyay, Amit Dave

Final Decision : Dismissed

Judgement

Vishal Mishra, J

1. This petition under Article 226 of Constitution of India has been filed seeking following reliefs:-

i. to requisition the record and complaint of respondent no.5, on the basis whereof, Complaint No.218/2024 came to be registered by EOW;

ii. to issue a writ of certiorari or such other appropriate writ for quashing registration of Complaint No.218/2024 by the EOW, as also, all the consequential action initiated thereon including notices dated 05.02.2025/P-29A, 22.07.2025/ P-29B, 20.08.2025/ P- 29C, 15.09.2025/P-32A and 03.10.2025/ P-32B and it be held as illegal, arbitrary and

ii-a. To issue a writ a of certiorari or such other appropriate writ for quashing impugned FIR no144/2025 dated 09.10.2025/Annexure P-33, and the same be declared as illegal, void-ab-initio; and abuse of process of law.

iii. any other reliefs as deemed fit on facts and circumstances of the instant case and also summon the records for perusal of this Hon'ble Court.

2 . It is the case of the petitioners that the constitution of Economic Offence Wing is for specific purpose i.e. to investigate certain class of cases and the said wing cannot be converted into investigating agency for investigating routine matters. The nature of allegation does not falls within contour of Economic Offence Wing. The complainant has approached National Company Law Tribunal against the petitioner by preferring a Company Petition on the same allegations, which is pending before the Tribunal. Therefore, respondents cannot undertake two parallel exercise against the petitioners. Furthermore, for violation of provisions of Companies Act, 2013, EOW is not the competent authority to investigate the matter.

3. The basic contention of the petitioners is that EOW is having no authority to investigate the matter and to register the FIR. It is argued that Section 212 sub-section (6) of the Companies Act, 2013, contains a non-obstante clause which provides that "notwithstanding anything contained in the Code of Criminal Procedure, the offences covered under Sections 7, 34, 36, 38, 46, 56, 66, 140, 206, 213, 229, 251, 339 and 448, which attracts punishment for fraud under Section 447, shall be cognizable offence and proviso to the said sub-section lays down that a Special Court shall not take cognizance of any such offence except on the complaint in writing by the Director of Serious Fraud Investigation or the Officer of the Central Government authorized by a general or the special order in writing by the Government". The perusal of the aforesaid shows that in violation of the aforesaid sections, action can only be taken at the behest of the prescribed authorities and not otherwise. In the present case, on the complaint made by respondent No.5, EOW has registered the FIR and proceeding in the matter, coupled with the fact that the respondent No.5 has already approached the NCLT by filing a Company Petition. Under these circumstances, parallel proceedings could not have been initiated by respondent No.5.

4. It is the specific case of the petitioners that when the matter is pending with the Company Tribunal, then EOW was having no authority to deal with the complaint. Learned counsel appearing for the petitioners has relied upon the order passed by Delhi High Court in the case of Ashish Bhalla Vs. State and Another reported in (2023) 303 DLT 568 and judgment dated 24/09/2025 passed by the Hon'ble Supreme Court in the case of Anukul Singh Vs. State of Uttar Pradesh and Anr. i n Criminal Appeal No.4250 of 2025 and also relied upon the judgement filed by the Supreme Court in the case of State of Haryana vs Bhajanlal reported in 1992 Supp (1) SCC 335. It is argued that once the investigation is initiated by SFIO under section 212 of the Act of 2013, parallel investigation by a separate Agency into the affairs of the Company is clearly barred and not permissible.

5. It is further argued by learned counsel for the petitioners that respondent No.5 has already preferred a Company Petition before the NCLT under Section 213 read with Section 447 of the Companies Act on the basis of the same facts wherein notices were issued to the petitioners. It is argued that the very foundation of the complaint is that the petitioner approached the respondent No.5 and induced him to transfer money into the personal account of the petitioner, which in turn would be invested in the Company and looking to the bright future of the company, petitioners assured good returns to respondent No.5. Therefore, once the initiative is already taken by respondent No.5 before the NCLT, subsequent complaint before the EOW itself was not maintainable and the EOW Authorities were not having any jurisdiction to deal with the complaint. It is further argued by learned counsel for the petitioners that respondent No.5 was also one of the Directors in the Company and he has resigned only in the month of January 2022. Therefore, his involvement in the affairs of the Company is also reflected. She has prayed for quashment of the criminal proceedings against the petitioner.

6. Learned counsel appearing for the respondents has pointed out that a subsequent development has taken place and FIR has already been registered against the petitioner at Crime No.144/2025 for offence under Sections 120-B, 420, 467, 468, 471 of IPC. Now the matter is pending investigation before the Authorities. The perusal of FIR clearly shows that there are huge transactions which are taken place in the accounts of the beneficiaries. The beneficiaries have invested the amount on the assurance given by the petitioners. They have also issued cheques towards repayment to the complainant. Both the cheques have been dishonored. A cheque was issued pertaining to the bank account which has already been closed and the other cheque which was issued pertaining to bank account which was already blocked. The very element of cheating and forgery is clearly reflected. The intention of the accused is clearly reflected from the fact that for making repayment towards the dues, he has issued cheques from the bank accounts which are either already closed or already blocked.

7. It is submitted by learned counsel appearing for EOW that as the respondents/ Authorities are ceased with the investigation of the matter, if some material is found against respondent No.5, they are having authority to register FIR against respondent No.5 also. He can also be made an accused at a subsequent stage when the material is found against respondent No.5. It is further argued that the EOW is having authority for registration of an FIR and to enquire into the allegations regarding financial embezzlement in Whitecollar crime. He has drawn attention of this Court to the notification dated 18th August, 1988 wherein it is categorically mentioned that EOW is having authority to deal with the White-collar crime if the complaint is made.

8. Learned counsel appearing for respondents No.2 to 4 & 6 has argued that the objective of the department i.e. EOW is to serve and protect the citizens of the State and country from the economic offenders and to investigate certain special

White collar Crimes against society, for which, the regular police is not fully equipped or trained, example, Economic Offences, frauds involving large amounts of public fund, concealment of wealth by public servants, evasion of government taxes and dues etc. and to facilitate the forfeiture of assets from those engaging in economic crimes.

9. It is argued that if the objectives of the formation of the department coupled with the allegations made in the FIR are seen then EOW is having authority to investigate into the complaint made against the petitioner. Learned counsel for respondents No.2 to 4 & 6/ EOW further submits that the judgments which are being relied upon by learned counsel for the petitioners are not attracted in the facts and circumstance of the present case. Learned counsel appearing for EOW has relied upon the order dated 01/09/2022 passed by Division Bench of this Court in the case o f Manoj Parmar Vs. The State of Madhya Pradesh and others i n Misc. Criminal Case No.35980 of 2022 and prayed for dismissal of the Writ Petition.

10. Heard learned counsel for the parties and perused the record.

11. The main ground of challenge in the action taken by the Economic Office Wing against the petitioners is that once the matter is already filed before the Tribunal, EOW is having no jurisdiction to deal with the company matters. It is argued before this Court that an attempt is being made to give a colour to the civil dispute and to be converted it into a criminal case. She has heavily relied upon Section 212(6) of Companies Act, 2013 in support of her arguments.

12. The objection taken by the petitioners regarding EOW having jurisdiction to deal with the issue is being countered by the respondents contending therein that the terms which have been provided as that no other investigating agency can proceed with the investigation for any offence under the Act if the Central Government assigns an investigation into the company affairs to SFIO under Section 212(1) of the Companies Act. No such assignment by the Central Government is reflected from any of the documents which are placed before this Court. Merely approaching the Company Tribunal by way of filing a Company Petition does not preclude the respondent/complainant to make a complaint to the Economic Offence Wing regarding commission of an offence.

13. The bare perusal of FIR reveals that the petitioners have persuaded the complainant to invest into their company and assured of heavy returns and when the time for returning the money to the investors came, petitioners have issued cheques to the investors of the banks which were either closed or blocked. This goes to show the very intention of the petitioners to cheat the complainant. The very element of cheating is reflected from the FIR.

14. The jurisdiction of the Economic Offence Wing to deal with white collar crimes is reflected from the Notification dated 18th of August 1988 as well as the objectives of the economic offence department, which are as under:-

"The following types of cases may be taken up by or referred to the Bureau :-

a. Abuse of official position by public servants resulting in heavy loss to the public exchequer/ public undertakings, corporations.

b. Abuse of official position by public servants affecting Government's position regarding public distribution system and other social services on an large scale.

c. Cases involving corruption/ abuse of official position relating to large undertakings and projects sponsored by the State Government or in which the State Government has financial interests.

d. Abuse of Governments fiscal policies/financial institutions by private bussinessmen for gaining undue pecuniary advantage.

e. Cases of exploitation of public at large by organised white collar criminals.

The following procedure shall be followed for referring case/cases to the Bureau:

a. No direct reference should be made to the Bureau by the departments. Such reference must be rout through the Home Department.

b. The Department wishing to make a reference to the Bureau should approach the Home Department after decision to make such a reference has been cleared/ decided at least, at the level of the Secretary of the department concerned.

c. Such a reference should invariably be accompanied by a self contained note containing inter alias, the details of allegations findings in the preliminary enquiry (if any), reasons for handing over the enquiry investigation to the Bureau, the level at which the decision has been taken, copy of the minutes of the Minister if such a decision has been taken at that level, etc.

d. No documents or copies thereof would be enclosed at that stage.

e. The Home Department may, after receiving such references, forward it to the Bureau for examination. After examination, the Bureau may intimate to the Home Department if it is taking up the case. Accordingly, the concerned Department would be informed.

f. The Bureau may ask for records, documents from the concerned department if necessary, for examination Once the Bureau takes up the enquiry investigation, it is expected that the concerned department would make available all relevant records and render necessary assistance to the Bureau so that the enquiries/ investigations are expeditiously completed."

Objectives of the Department.

Mission Statement.

"The mission of the Madhya Pradesh Economic Offences Wing is to serve and protect the citizens of our state and country from the economic offenders and to investigate certain special White Collar crimes against society, for which the regular police is not fully equipped or trained e.g. Economic Offences, frauds involving large amounts of public fund, concealment of wealth by public servants, evasion of Government taxes and dues, etc. and to facilitate the forfeiture of assets from those engaging in economic crimes.

....

7. Bureau is dedicated to promote Community awareness of Economic Crimes and corporate abuses and make the civil recovery services available to crime victims through outreach, education and public services events.

8. Substantial involvement of public interest to be judged by size, either in terms of monetary misappropriation or in terms of persons affected."

15. If the aforesaid objectives and the contents of notification dated 18th of August 1988 are applied to the facts and circumstances of the present case, the Economic Offence Wing was having jurisdiction to entertain the complaint filed by the private respondent. In fact, now the FIR has already been registered which is also put to challenge in the petition by way of an amendment. The Division Bench of this Court in the case of Manoj Parmar (supra) had an occasion to deal with a similar issue, wherein it has been held as under:-

"5- There can be no dispute that each wrong/ forgery/ cheating/embezzlement/ defalcation etc. committed by a person constitutes a distinct and independent offence (Narinderjit Singh Sahni vs. Union of India (2002) 2 SCC 210 and State of Jharkhand vs. Lalu Prasad (2017) 8 SCC 1 followed). Therefore, it cannot be said that the petitioner is being prosecuted by the CBI for the same offence he is being prosecuted by the Police of P.S.Ashta, District Sehore.

6- This Court is not oblivious of the fact that earlier the petitioner had attempted to get FIR quashed on merits but his petition filed under Section 482 of CrPC was dismissed by a Single Bench of this Court vide order dated 21.10.2019 passed in MCrC No.9905/2019 and that order has been affirmed by the Supreme Court in SLP (Criminal) Diary No.18849/2022 vide order dated 15.07.2022.

7- Hence, the petition sans merit and is dismissed accordingly.

8- While going through the record, we noticed that there are total 18 loan transactions for which CBI has registered only single FIR while each transaction of cheating/misappropriation constitutes a distinct offence [See : Narinderjit Singh Sahni and Lalu Prasad (supra)]. As per the provisions of Section 219 CrPC, at the most, 3 such offences committed during span of one year can be clubbed. Therefore, in exercise of the powers conferred under Section 482 CrPC, the CBI is directed to do the needful and to proceed further accordingly."

16 . Once it is held that the Economic Offence Wing is having jurisdiction to deal with the complaint filed by the respondent coupled with the fact that the investigation is at the initial stage and there are specific allegations as reflected from the FIR, then normally the Court in a Writ Petition under Article 226 of the

Constitution of India should not interfere in the investigation and quashed the FIR at the initial stage.

17. The Hon'ble Supreme Court in the case of Neeharika Infrastructure (P) Ltd. vs State of Maharashtra reported in (2021) 19 SCC 401 has laid down certain guidelines after considering the judgment passed by the Hon'ble Supreme Court in the case of Bhajanlal (supra) and has held as under:-

"33. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the accused or "no coercive steps to be adopted" during the investigation or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/ complaint/FIR in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India, our final conclusions are as under:

33.1. Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence.

33.2. Courts would not thwart any investigation into the cognizable offences.

33.3. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on.

33.4. The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the "rarest of rare cases" (not to be confused with the formation in the context of death penalty).

33.5. While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint.

33.6. Criminal proceedings ought not to be scuttled at the initial stage.

33.7. Quashing of a complaint/FIR should be an exception rather than an ordinary rule.

33.8. Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere.

33.9. The functions of the judiciary and the police are complementary, not overlapping.

33.10. Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences.

33.11. Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice.

33.12. The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure.

33.13. The power under Section 482CrPC is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court.

33.14. However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in R.P. Kapur [R.P. Kapur v. State of Punjab, 1960 SCC OnLine SC 21 : AIR 1960 SC 866] and Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426], has the jurisdiction to quash the FIR/complaint.

33.15. When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482CrPC, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR.

33.16. The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers under Section 482CrPC and/or under Article 226 of the Constitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the accused should be relegated to apply for anticipatory bail under Section 438CrPC before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/charge-sheet is filed under Section 173CrPC, while dismissing/disposing of the quashing petition under Section 482CrPC and/or under Article 226 of the Constitution of India.

33.17. Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers under Section 482CrPC and/or under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

33.18. Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied."

18 . If the aforesaid principles are applied to the facts and circumstances of the present case coupled with the fact that the investigation is at the initial stage after registration of FIR as well as the fact that the allegations made against the petitioners are clearly reflected from the contents of the FIR, no case is made out for quashment of the FIR.

19. As already pointed out hereinabove that the Economic Offence Wing is having jurisdiction to deal with the complaint and the bar as mentioned in Section 212 sub-section (6) of the Companies Act 2013, will not come in the way of EOW as there is no assignment of any investigation into the company affairs by the Central Government. It is merely a Company Petition which has been filed by respondent No.5 for which the Tribunal is ceased. There are no allegations of misuse of company property, siphoning of funds which are covered under Sections 447 and 452 of the Companies Act which grant jurisdiction to the SFIO to deal with the issues. In the present case, there are specific allegations of cheating from the very inception as the petitioners have induced the private respondent to invest into the Company for huge gains.

20 . Under these circumstances, when the element of cheating is available from the very inception, no case for quashment of FIR is made out. Therefore, no relief can be extended to the petitioners.

21. The petition sans merits and is, accordingly, dismissed. No order as to costs.

