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**(2018) 08 CAL CK 0076**  
**In the Calcutta High Court**  
**Case No : Writ Petition No. 8678 (W) of 2017**

Pawan Kumar Ruia

APPELLANT

Vs

State of West Bengal & Anr.

RESPONDENT

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**Date of Decision : 29-08-2018**

**Acts Referred:**

Indian Penal Code, 1860 — Section 34, 188, 120B, 379, 406, 409, 411, 413, 414, 420, 427, 435, 436, 482  
West Bengal Fire Service Act, 1950 — Section 11C, 11J, 11M, 12, 26  
Code of Criminal Procedure, 1973 — Section 41A, 161, 164  
Constitution Of Indian, 1950 — Article 226

**Citation : (2018) 08 CAL CK 0076**

**Hon'ble Judges : TAPABRATA CHAKRABORTY, J**

**Bench : Single Bench**

**Advocate : Ayan Bhattacharya, Anand Keshari, Rohit Jalan, Rajdeep Majumder, Mayukh Mukherjee, Sanatan Panja**

**Final Decision : Dismissed**

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## Judgement

Tapabrata Chakraborty, J.

1. The writ petition has been preferred primarily praying for the following relief :

â??A writ of/or in the nature of mandamus commanding upon the Respondents, their men, agents and/or assign to rescind and set aside all steps

taken against the Petitioner pertaining to and connected with FIRs being Dum Dum P.S. Case Nos. 1001, 1003, 1004 and 1142 of 2016 including

Chargesheet filed in connection with Dum Dum P.S. Case Nos. 1142 of 2016 as also FIR being Chinsurah P.S. Case No. 496 of 2016.â??

2. Shorn of unnecessary details, the facts are that :

A. On 14th October, 2016 Chinsurah P.S. Case No. 496 of 2016 (in short, Case No. 496/16) was registered on the basis of a suo moto First

Information Report (in short, FIR) by one Nirupam Mandal, Sub-Inspector of Police attached to Chinsurah, Police Station (in short, P.S.) alleging

commission of offences punishable under Sections 379/411/413/414/120B/34 of the Indian Penal Code, 1860 (in short, IPC) against one Subhas Sarkar

and one Umesh Dhali stating inter alia that upon receiving a secret information from a reliable source that some persons had entered into the

abandoned factory shed of Dunlop Shahgunj Factory by breaking open the walls and were stealing materials from the factory premises upon using

various tools/gas cutters etc. and were carrying the fabric scrap materials in two Tata 407 vehicles, he informed the matter to the I.C. Chinsurah P.S.

and as per the direction of the I.C. he reached Gandheswari Ghat on Chinsurah Tribeni Road alongwith two assistant sub-inspectors and found two

Tata 407 vehicles loaded with huge quantities of scrap fabric pieces and managed to apprehend the drivers of the said vehicles who, upon

interrogation, disclosed their identity and stated that they were engaged in stealing materials from Dunlop area premises and in purchasing stolen

articles from other miscreants in regular manner;

B. Thereafter, on 18th October, 2016, Dum Dum P.S. Case No.1001 of 2016 (in short, Case No.1001/16) was registered on the basis of a suo moto

FIR by one Partha Ranjan Mandal, Officer-in-Charge, Dum Dum P.S. alleging commission of offences punishable under Sections

188/427/435/436/120B of IPC against the petitioner and the managerial staff of Jessop and Company Limited (in short, Jessop) responsible for

functioning of the factory stating inter alia that a telephonic information was received on 17th October, 2016 that a flame of fire had been seen inside

Jessop Factory of Kamalpur side and thereafter he reached Gate no.28 at about 18:55 hours and found flames of fire with fumes at a shed beside the

dispensary of Jessop which is known as store. It was noticed that at the site, there was no wooden furniture and electricity connection was also out of

service. It was also noted that the entire factory premises was over seventy acres of land having 29 gates, several sheds and workshops and there

were numerous holes in the boundary wall and dense bushes covered the area, making it impossible for a person to locate another person from a

distance of one foot. It was also noted that the proprietor of Jessop had preferred writ petitions in 2013 and 2014 seeking police assistance but the

Court directions were not complied with by the authorities of Jessop and they had abandoned the premises which suggest criminal and calculated

omission with some ulterior motive on part of the petitioner and the managers responsible for functioning of the factory;

C. On 18th October, 2016, itself another complaint was lodged by the Officer-in-Charge, Maniktala Fire Station stating inter alia that a devastating fire

took place at Railway Wagon and Coach Building three-storied factory shed near gate no.28 and that the fire spread on all floors originating from

innumerable fire pockets throughout the shed and that it seemed to be a sabotage. It was also stated that the access of fire engines was obstructed by

keeping two damaged vehicles near gate no.28 and that no inbuilt fire and life safety arrangements were installed inside the factory resulting in gross

violation of Sections 11C & 12 of West Bengal Fire Service Act, 1950, constituting punishable offences under Sections 11J, 11M and 26 of the said

Act. On the basis of the said complaint, Dum Dum P.S. Case No. 1003 of 2016 (in short, Case No.1003/16) dated 18th October, 2016 was registered

under Sections 427/435/436/120B of IPC and Sections 11J/11M and 26 of the West Bengal Fire Service Act, 1950;

D. Thereafter on 19th October, 2016, a Dum Dum P.S. Case No. 1004 of 2016 (in short Case No.1004/16) was registered on the basis of a suo moto

FIR by one Satya Dulal Dutta, Sub Inspector of Police, Dum Dum P.S. under Sections 379/411 of IPC against one Sumit Bhattacharjee, Palan

Adhikary, Chottu Roy and Prasanta Mondal for theft of 10 Aluminium corrugated sheets on the night of 18th/19th October, 2016;

E. On 25th November, 2016 a complaint was lodged by Deputy Director/Railway Stores (I&S), Railway Board, Kolkata, stating inter alia that

Ministry of Railways, New Delhi, placed a contract dated 6th September, 2012 for manufacture of ACEMU coaches on Jessop and against the said

contract M/s. BHEL supplied 8 sets of traction electrics valuing Rs.35.85 crores but due to non-performance on the part of Jessop, the contract had to

be cancelled on 22nd April, 2016 and against a further contract dated 2nd February, 2009, a rake was not supplied by Jessop for which it availed free

supply of 3 sets of traction electrics and a stage payment totalling an amount of Rs.11.34 crores and that pertaining to another Wagon contract, free

supply wheel sets, bearings and bogeys for BVZI wagons valuing Rs.2.62 crores as supplied was lying with Jessop and despite various reminders, a

total amount of Rs.49.81 crores had not been returned. On the basis of the said complaint, Dum Dum P.S. Case No. 1142 of 2016 (in short Case No.

1142/16) dated 25th November, 2016 was registered under Sections 420/406/409 of IPC;

F. Challenging the three FIRs (1001/16, 1003/16 and 1004/16), three independent applications under Section 482 of Code of Criminal Procedure (in short, CrPC) were preferred being CRR 3524 of 2016, CRR 3543 of 2016 and AST 311 of 2016 in which orders were passed on 26th October, 2016

observing that there is no scope to stay the proceedings and the petitioner was directed to cooperate with the Investigating Officer (in short, I.O.) and

it was also observed that so long the petitioner will cooperate with the I.O., no coercive action shall be taken against the petitioner. An application for

issuing warrant of arrest against the petitioner was submitted on 7th November, 2016 but such prayer was refused by the Magistrate on 8th

November, 2016, as the Honâ??ble High Court was in seisin over the matter. In the midst thereof, the petitioner challenged the order passed on 26th

October, 2016 before the Honâ??ble Supreme Court and by an order dated 18th November, 2016, the Special Leave Petitions were dismissed as

withdrawn observing that â??as we find that the petitioner is duly protected by the impugned order passed by the High Court, learned senior counsel

appearing for the petitioner seeks permission to withdraw these petitionsâ??;

G. Subsequent thereto, Jessop preferred a writ petition in connection with FIR 1142/16 [WP 28007 (W) of 2016] and pursuant to an order passed in

the same on 12th December, 2016, a joint inspection was conducted and a report was filed. In the midst thereof, an application under Section 482

CrPC was filed by Jessop, inter alia, praying for quashing the FIR 1142/16 (CRR 4022 of 2016). At the same time, the petitioner preferred four

anticipatory bail petitions in connection with (Case Nos.496, 1001, 1003 & 1004). All the said applications were rejected by an order dated 23rd

December, 2016. Subsequent thereto, investigation in two FIRs 1142 & 496 was concluded and charge sheets were filed on 8th March, 2017 and 9th

April, 2018 respectively.

3. Mr. Ayan Bhattacharya, learned advocate appearing for the petitioner argues that the cause of action of FIR 1003/16 is the same as that of FIR

1001/16. The place of occurrence was Jessop factory and the date of occurrence

was October 17, 2016. In view thereof, the FIR lodged by the Fire Department could not have given rise to a separate prosecution. The FIR in 1003/16 in fact militates against the FIR 1001/16. In view of the fact that Jessop factory was abandoned and a police picket was posted there, the police authorities were thus responsible for the delay caused to the fire authorities to reach the spot but such blame has been shifted to the management of Jessop. There cannot be two FIRs in respect of the same offence. In support of such contention reliance has been placed upon the judgments delivered in the cases of T.T. Antony *â"vs-* State of Kerala & Ors., reported in (2001) 6 SCC 181 and Amitbhai Anilchandra Shah *â"vs-* The Central Bureau of Investigation & Anr., reported in (2013) 6 SCC 348.

4. According to Mr. Bhattacharya it would be evident that the tenor of the allegations in FIR 1001/16 is against the management of Jessop. The petitioner being an erstwhile director of Jessop, who had resigned on and from January 29, 2008 from the directorship of Jessop can, therefore, by no figment of imagination be held responsible for such alleged inaction on the part of Jessop. The petitioner has been implicated on the assumption that he is at the helm of affairs of Jessop. In absence of any specific allegation qua the petitioner, by invoking the doctrine of *â"vicarious liabilityâ"*, the petitioner cannot be held responsible in case of offence punishable under IPC. It is trite law that vicarious liability has no application in IPC offences and in support of such contention reliance has been placed upon the judgments delivered in the cases of M/s Thermax Ltd. & Ors. *â"vs-* K.M. Johny & Ors., reported in (2011) 13 SCC 412, Sunil Bharti Mittal *â"vs-* Central Bureau of Investigation, reported in (2015) 4 SCC 609, Asoke Basak *â"vs-* State of Maharashtra & Ors., reported in (2010) 10 SCC 660, Sharad Kumar Sanghi *â"vs-* Sangita Rane, reported in (2015) 12 SCC 781 and Keki Hormusji Gharda & Ors. *â"vs-* Mehervan Rustom Irani & Anr., reported in (2009) 6 SCC 475.

5. He further submits that theft is an offence against possession. Since the petitioner is in possession of factory premises according to Case No.1001/16, the alleged removal of used corrugated sheets from the factory premises of Jessop at the behest of the petitioner cannot be considered to be theft within the meaning of Section 379 of IPC. From a conjoint reading of FIR 1001/16 and FIR 1004/16, it will be evident that the allegations

suffer from antagonistic contradictions and inherent hollowness. Both the FIRs are thus mutually destructive. The subject matter of FIR 1004/16 is

theft of ten Aluminum corrugated sheets (used up condition). It is preposterous to hold that the petitioner being a renowned industrialist had

acknowledged some persons to steal used corrugated sheets. It is, therefore, evident that the allegations levelled in the impugned FIR are patently

absurd and inherently improbable. The aforesaid proceeding, therefore, falls at the teeth of Clause 5 of the judgment delivered in the case of State of

Haryana and others â?vs- Ch.Bhajan Lal and others, reported in AIR 1992 SC 604 (Para 108). The Court in exercise of its jurisdiction under Article

226 of the Constitution can even entertain and examine a question of fact. In support of such contention reliance has been placed upon the judgement

delivered in the case of State of Karnataka â?vs- M. Devendrappa and another, reported in (2002) 3 SCC 89.

6. According to Mr. Bhattacharya on January 16, 2017, a joint inspection was held wherein all the goods were found at the factory premises. This is

again in complete contradiction to the complaint which forms the basis of the FIR 1142 of 2016 wherein it has been stated that the â??materials

supplied to M/s Jessop are not even available or traceable.â? Once all the goods have been found, the prosecution came up with the story that the

goods are highly damaged and not useable. This shows that the sole reason of the investigation is to implicate the petitioner on some ground or the

other. In order to obviate the power under Section 41A of CrPC, the investigating agency had even manipulated the FIR 1142/16 by adding Section

409 of IPC.

7. He further contends that the investigating agency went on showing the petitioner arrested in one after another case. It is astonishing that the police

custody of the petitioner was sought for in seriatim and not simultaneously. Mala fide of the investigation is evident from the mode and manner of

arrest of the petitioner and taking him in police remand for prolonged period.

8. From the charge sheet filed in Case No. 1142/16, it would be evident that CFSL reports pertaining to fire of Case No.1001 of 2016 and Case

No.1003 of 2016 were made part of the said charge sheet. This clearly shows that the investigation for the fire is just taken from the investigation of

Case No. 1001 and Case No.1003 of 2016. Therefore, three proceedings have

been simultaneously triggered on for the self-same incident.

9. He further submits that the suo moto FIR 496 of 2016 was registered on the occasion of arrest of two persons viz. Subhas Sarkar and Umesh

Dhali. The petitioner was neither named in the said FIR nor any allegation was made against him. It was during investigation of other cases such as

Case No.1001 of 2016, Case No. 1003 of 2016 and Case No. 1004 of 2016, the petitioner was sought to have been entangled in the instant case on

account of alleged confessional statement of the co-accused persons. It is inherently absurd to hold that the petitioner being a business magnet had

engaged two persons to steal nine pieces of scrap fabric roll. Confessional statement of the co-accused person being a very weak piece of evidence is

of no evidentiary value in absence of any other incriminating material. It is, therefore, evident that the instant prosecution falls foul of the parameters

laid down by the Honâ??ble Supreme Court of India in State of Haryana vs. Choudhury Bhajanlal, reported in 1992 (Supp.) 1 SCC 335.

10. He further submits that by the FIR 1142/16, Indian railways had sought for compensation to the tune of Rs.49.81 crores from Jessop. From the

tenor of the said FIR, it would be evident that the same is essentially civil in nature for which no FIR could have been initiated. Failure on the part of

Jessop to perform its contract in part cannot be considered to be a criminal offence. The prosecution case is essentially civil in nature for which no

criminal prosecution can be allowed to be launched. In support of such contention he has placed reliance upon the judgments delivered in the cases of

Thermax Ltd. (supra), Madhavrao Jiwajirao Scindia â??vs- Sambhajirao Chandraojirao Angre, reported in (1998) 1 SCC 692, Thelapalli Raghavaiah

â??vs- Station House Officer & Ors., reported in (2007) 10 SCC 424 & Chandran Ratnaswami â??vs- K.C. Palanisamy & Ors., reported in (2013) 6

SCC 740.

11. Referring to the contents of FIR 1142/16, Mr. Bhattacharya contends that for commission of offence of cheating, mens rea from the very

inception is paramount. Regard being had to the fact that the first contract awarded by railways was performed by Jessop and on account of some

supervening circumstance Jessop could not perform the second contract in time for which corporate guarantee was given by Jessop, the allegation of

existence of mens rea of Jessop is unfounded, far less that of the petitioner, who

being a former director cannot be said to be the directing mind of

Jessop. In support of such contention reliance has been placed upon the judgments delivered in the cases of Uma Shankar Gopalika â?"vs- State of

Bihar, reported in (2005) 10 SCC 336, VESA Holdings Pvt. Ltd. â?"vs- State of Kerala, reported in (2015) 8 SCC 293 and International Advanced

Research Centre for Powder Metology and New Materials & Ors. â?"vs-Nimra Cerglass Technics Pvt. Ltd. & Anr., reported in (2016) 1 SCC 348

12. Non-refund of security deposit and alleged retention of free supply items by Jessop, according to Mr. Bhattacharya, cannot constitute an offence

under Section 406 of IPC. The contents of the FIR 1142/96 do not reveal any breach of trust with mens rea. In support of such contention he has

placed reliance upon the judgments delivered in the cases of S.W. Palanitkar â?"vs- State of Bihar, reported in (2002) 1 SCC 241, Dalip Kaur â?"vs-

Jagnar Singh, reported in (2009) 14 SCC 696, I.O.C. â?"vs- NEPC India Ltd., reported in (2006) 6 SCC 736, GHCL Employees Stock Options Trust

â?"vs- India Infoline Ltd., reported in (2013) 4 SCC 505, Harry Jones â?"vs- The King Emperor, reported in (XXVIII) CWN 831, Asoke Basak

â?"vs- State of Maharastra, reported in (2010) 10 SCC 660 and Dibyendu Goswami â?" vs- Uttara Chowdhury & Ors., reported in 1999 (1) CHN

425.

13. Mr. Majumder, learned advocate appearing for the State respondents submits that even though the petitioner had officially resigned from Dunlop

and Jessop, however, in a surreptitious manner he used to control and operate the day to day functions and affairs of the said companies. In each case

there are statements of witnesses including existing directors of the said companies under sections 161 and 164 of the CrPC, which succinctly

describe the role of the petitioner in the functioning of the said companies.

14. He further submits that a bare perusal of the respective FIRs in 1001/16 and 1003/16 would reveal that the place of occurrence in such FIRs are

different from one another. In FIR 1001/16 the place of occurrence of the fire was at a shed beside the dispensary of Jessop known as store. On the

other hand in FIR 1003/16, the place of occurrence was at the Railway Wagon and Coach Building, a three storied factory near gate no.28. The rough

sketch map also clearly indicates that the said places of occurrences are completely different from one another. Moreover, different items were



seized from the places of occurrence, thereby making the said cases distinct from one another. In support of such contention reliance has been placed

upon the judgments delivered in the cases of Surender Kaushik and Others â?"vs- State of Uttar Pradesh and Others, reported in (2013) 5 SCC 148

and Babubhai â?"vs- State of Gujarat and Others, reported in (2010) 12 SCC 254.

15. The allegation of malicious institution of cases against the petitioner, being Case No.496 and Case No.1004/16 is absolutely unfounded. In the

Case No.1004/2016 the accused persons upon interrogation disclosed their identity and also stated that they were engaged in stealing materials from

the Dum Dum factory premises. Post registration of the case, letters and requisition were sent to the petitioner for identification of the seized stolen

materials of Dunlop factory as per order of Ld. Additional District Sessions Judge, Chinsurah but he did not turn up for such identification. The fact

that the confession of the petitioner was voluntary and same was made in a fit state of mind has not been disputed by the petitioner.

16. It would be explicit from statements of several employees as well as existing directors, who have given their statements under section 161 as well

as under section 164 of the CrPC, that on the instruction of the petitioner the security personnel were removed from the factory of Jessop.

Furthermore, the petitioner also ensured that the electricity in the said factory is disconnected and that there is no maintenance of boundary walls of

Jessop factory premises. The petitioner intentionally stopped production and manufacturing processes at the said companies. Thereafter, in connivance

with others the petitioner ensured that vital equipmentâ??s (the fixed assets), such as machineries are stolen and sold in the black market. There

were no valuable machinery in working condition available at Jessop or Dunlop factory premises.

17. As regards the contention of the petitioner that he was arrested even after obtaining an interim protection from this Honâ??ble Court vide order

dated 26.10.2016 it needs to be stated that the condition envisaged in the said order was to the effect that the petitioner shall cooperate with the

investigating agency. However, in spite of repeated notices sent thereafter on 28th October, 2016 and 2nd November, 2016 the petitioner did not

extend his cooperation.

18. He categorically denies the contention of the petitioner that even though the

railway authorities never expressly intended an investigation, the Case

No. 1142/2016 was registered and submits that the Deputy Director/ Railway Stores (I&S) Railway Board in the complaint had specifically requested

for an investigation with regard to the illegal acts of the petitioner.

19. Mr. Majumder denies the allegation of interpolation in FIR 1142/16 and submits that as per the Police Regulations, the written complaint was

received by a Duty Officer of the P.S., who is of the rank of an ASI. Thereafter the said written complaint was forwarded to the Officer in Charge of

the said P.S., who upon application of his mind, drew up the FIR under the relevant provisions.

20. He argues that as per the contract, it has been stated that goods worth 35 crores had been supplied by BHEL. The said goods were traction

motors. While, the rest of the goods worth 14 crores had been supplied by the railway authorities, which were wheels. Jessop was supposed to

assemble ACEMU Coaches. However, the petitioner being rife with mens rea did not take any steps for assembling the said coaches. Instead there

had been dishonest misappropriation of government properties to the tune of Rs 49 crores. The railway authorities, had cancelled their contract with

Jessop and had also intimated the authorities such facts and also requested them to return the goods. However, the materials were never sent to the

railway authorities. Moreover, the fire which has been described in the charge sheet is completely different from the previous cases of fire, as it

relates to intentionally destroying communications with railway authorities and other official documents of the said company.

21. With regard to the contention of the petitioner that he was taken in police custody in seriatim, Mr. Majumder submits that the petitioner was

arrested in the cases as his complicity transpired in course of investigation and his prayer for bail was repeatedly turned down by the learned Court

below and a detailed report to that effect was filed in terms of an order passed in the present matter on 29th March, 2017.

22. The parameters to determine as to whether two FIRs are relating to the same offence or occurrence are the "consequence test" and the

test of "sameness". The offences forming part of FIR 1003/16 do not arise as a consequence of the offences alleged in the FIR 1001/16. The

places of occurrence in such FIRs are different from one another. In FIR 1001/16

the place of occurrence of the fire was at a shed beside the dispensary of Jessop known as store whereas in FIR 1003/16, the place of occurrence was at the Railway Wagon and Coach Building, a three storied factory near gate no.28. Such fact would also be evident from the rough sketch maps prepared by the I.O.s in the respective cases. The said FIRs are absolutely distinct from one another. The argument of Mr. Bhattacharya that the cause of action of FIR 1003/16 is the same as that of FIR 1001/16 is thus not acceptable to this Court. The judgments delivered in the cases of T.T. Antony (supra) and Amitbhai Anil Chandra Shah (supra) have no manner of application in the instant case inasmuch as the FIR 1003/16 is neither a consequence of the FIR 1001/16 nor the said FIRs are pertaining to the same incident.

23. In Case Nos.1001/16, 1003/16 and 1004/16, the investigation is still in progress and on prima facie reading of the FIRs and the materials on record, I am unable to opine that that the said FIRs are liable to be quashed at this stage of investigation. When there are only allegations and recriminations, the Court cannot anticipate the result of such investigation and render a finding on the question of mala fides on the materials at present available. It would be improbable to issue the direction, as sought for by the petitioner, amounting to a mandamus to close the case before the investigation is complete.

24. It does not seem to be a case where the I.O.s have over-zealously taken any hasty decision by misusing their position in registering the cases and commencing the investigation or had proceeded carte blanche drawing no legal bounds. The gravamen of accusation also does not appear to be originating from any personal animosity or political vendetta.

25. In the FIR 1003/16 and the FIR 1142/16, specific liability has been imposed upon the petitioner who, was at the helm of affairs in Jessop Company. In both the cases there are statements of witnesses under Section 161 and also under Section 164 of CrPC which describe the role of the petitioner in the functioning of the company. The Case No.1001/16, Case No.1003/16 and Case No.1142/16 comprise of unrelated incidents and the fire incident pertaining to Case No.1142/16 is different from the fire incidents pertaining to Case No.1001/16 and Case No.1003/16.

26. The truthfulness or otherwise of the statements incorporated in the FIRs can

be gone into, when sterling and incontrovertible evidence is placed on record to establish the falsity of the allegations. This Court in exercise of its discretionary jurisdiction cannot go into the veracity of the factual position and cannot conduct a roving enquiry into the pros and cons of the matter and weigh the evidence as if it is conducting a trial. Thus, quashment of the FIRs and the charge sheets filed at this stage would not be appropriate.

27. Though the learned advocate appearing for the petitioner has argued the issues touching the merits of the case by referring to several documents and decisions but in my view, it is wholly unnecessary to enter into the factual arena once I record a finding that a prima facie case is made out on reading of the FIRs including the documents brought on record.

28. In Case No.496/16, the accused persons on interrogation stated that they were engaged in stealing materials from Dunlop premises. From the contents of the FIR in Case No.1001/2016 it appears that the fire occasioned though there were no wooden furniture and the machinery parts found at the spot were also not inflammable. There was no natural source of ignition and the electricity connection was also out of service for almost three years and that in spite of direction passed in the earlier writ petition no steps were taken by the company owners to stop theft /trespass/ damage in the factory premises. In Case No.1003/16 the complaint was that the fire incident seemed to be a sabotage having a conspiracy angle and that there was no inbuilt fire and life safety arrangements in the factory premises. In the Case No.1004/16 the accused persons admitted that they have stolen articles from Jessop factory premises. In Case No.1142/16 specific complaint was lodged to the effect that an amount of Rs.49.81 crores was withheld by Jessop. The allegations in the FIR 1142/16 prima facie relates to entrustment of various sets of traction electrics and other spare parts to Jessop for the purpose of construction of coaches/rake. Admittedly the coaches and rake were not supplied and as such the allegations give rise to strong suspicion of commission of cognizable offences.

29. From a composite reading of the FIRs it is, thus, explicit that the factory premises of Dunlop and Jessop were not properly maintained and no steps were taken to prevent such theft/trespass/damage and that the fire at Jessop factory premises occasioned though there was no source of ignition. The authorities of Jessop had failed to return the amount received in terms of the

contract executed. Whether the petitioner can at all explain the allegations and as to whether such explanation can be accepted are all matters which will be gone into at the relevant stage of the proceedings. The allegations levelled against the petitioner are neither bald nor pertain to mere skirmishes and his involvement and complicity thus cannot be ruled out at this stage. It is, however, made clear that this Court has not offered any observation on the merits of the case.

30. It is well known that a decision is an authority for what it decides and not what can logically be deduced therefrom. It is also well known that even a slight distinction in fact or an additional fact may make a lot of difference in decision making process.

31. The allegations levelled in the FIRs pertaining to the premises of Jessop need to be considered together and not in isolation. A particular line

cannot be taken up from the FIR 1142/16 and highlighted. A composite reading of the contents of the FIR 1142/16 along with the other FIRs and the

statements made by the witnesses including the existing directors of the company under Section 161 and 164 of the CrPC would clearly reveal the

involvement of the petitioner in the offences alleged. The contents of FIR 1142/16 cannot be construed to be merely a civil dispute and as such the

judgments delivered in the cases of Madhavrao Jiwajirao Scindia (supra) and Thermax (supra), upon which the petitioner has primarily relied, have no

manner of application in the facts and circumstances of the instant case. Moreover, by an order dated 24th December, 2016 the Court was also

pleased to reject the prayer for anticipatory bail of the petitioner in the cases in question. Therefore the question of the cases bearing civil complexion

does not arise as this Honâ??ble Court has found criminal element in the cases. From the order dated 11th January, 2017 passed in CRR 4022 of

2016 preferred challenging the Case No.1142/16, it is explicit that the Court arrived at a prima facie satisfaction that the allegations including the

allegation of criminal breach of trust in the said case give rise to strong suspicion of commission of cognizable offences.

The judgments delivered in the cases of Uma Shankar Gopalika (supra) and S.W. Palanitkar (supra) and in the case of Asoke Basak (supra), which

originated from an order passed in a complaint petition, are thus distinguishable. There is no dispute as regards the proposition of law that vicarious

liability has no application in IPC offences as reflected in the judgments delivered in the cases of M/s Thermax Ltd. (supra) and Keki Hormusji

Gharda (supra) upon which the petitioner has primarily relied. However, in the instant case the FIRs disclose that specific allegations have been

levelled against the petitioner. The gravamen of accusation does not appear to be originating from any personal animosity or political vendetta and as

such the judgment delivered in the case of Swapan Kumar Guha (supra) as cited by the petitioner has no manner of application in the instant case. In

the facts of the present case, no mala fide is attributable to the action of the respondents and as such the guideline as detailed in paragraph 102 (clause

7) of the judgment delivered in the case of Bhajan Lal (supra) has no manner of application and accordingly the other judgments cited by the petitioner

pertaining to the said issue are also not applicable to the facts of the case.

32. The Writ Court ordinarily would not exercise its inherent jurisdiction to quash a criminal proceeding and, in particular, a first information report

unless the allegations contained therein, even if given face value and taken to be correct in their entirety, disclosed no cognizable offence. Such

jurisdiction is required to be exercised sparingly, carefully and with caution and that too in the rarest of rare cases.

33. Applying such proposition of law to the facts of the case, this Court is unable to grant the reliefs, as prayed for in the writ petition.

34. Accordingly, the writ petition is dismissed. There shall, however, be no order as to costs. Urgent Photostat certified copy of this judgment, if

applied for, be given to the parties, as expeditiously as possible, upon compliance with the necessary formalities in this regard.