
(2010) 02 RAJ CK 0048

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 2426 of 2009

R.F. Properties and Trading Ltd.

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 22-02-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 120B
Constitution of India, 1950 — Article 14, 166
Criminal Procedure Code, 1973 (CrPC) — Section 154, 155, 156, 156(1), 157
Jaipur Development Authority (Jaipur Region Building) Regulations, 2000 — Regulation 8.10
Jaipur Development Authority Act, 1982 — Section 13(3), 90
Prevention of Corruption Act, 1988 — Section 13(1), 13(2)
Rajasthan Urban Improvement Trust (Disposal of Urban Land) Rules, 1974 — Rule 15A, 15B

Citation : (2010) 2 WLN 203

Hon'ble Judges : K.S. Rothore, J

Bench : Single Bench

Advocate : S.S. Hora, for the Appellant; N.A. Naqvi, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

K.S. Rathore, J.—The petitioner has preferred the instant criminal misc. petition under 482 Cr.P.C. for quashing the FIR No. 287/2009 dated 30.10.2009 registered at Police Station Anti Corruption Bureau, Rajasthan, Jaipur for the offence under Sections 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 (for short "the Act of 1988") and Section 120B IPC.

2. In brief the facts of the case are that in August, 2004, an application for setting up of World Trade Park was moved before the State Government and on 01.09.2004, the presentation was made before the Board of Infrastructure Development and Investment Promotion (for short "B.I.D.I.") by the petitioner for setting up a World Trade Park, The proposed design of the building was also shown to the B.I.D.I. for its approval. The World Trade Park to be built shall be a state of art building to provide international showcase to the State industry. The

building itself has been designed to have a computer controlled integrated building management system, wireless LAN, IT friendly environment, high security systems, Trade Information Bureau, Electronic Trading Facilities, Electronics Facilities for Exports Enquiries, Auditoriums, Convention Centre, Trade Fair Zones and Exhibition Centres, Showrooms and display centres, Corporate Offices, Guest Rooms, Multiplex, Conference Rooms with Video Conferencing facility, Business Centres under one roof giving institutional impetus to business facilities. It also provides a buyer's embassy with electronic trading facilities and the design provides corporate environment with world class infrastructure to promote industry and trade. Further, the World Trade Park has special zones for BPO industry and service provides, Biotechnology, Information Technology, Banking and Insurance, Gems & Jewellery, Handicrafts and Textiles etc. besides many events to promote business and tourism.

3. It is also submitted that the World Trade Park would increase business tourism, enhance investment in State, increase employment by providing direct employment to around 5,000 persons and indirect employment to around 20,000 persons.

4. It is further submitted that on 02.12.2004, yet another presentation was made to the Government and while the presentation was made, the price for allotment to World Trade Park could not be determined. Earlier in the year 2002, Entertainment Paradise was allotted 18833 Sq. Yds. of land at around Rs. 2400/- per Sq. Mtr. in the vicinity of this project. Allotment had been made by B.I.D.I. to GE Capital at Rs. 750/- per Sq. Mtr. at J.L.N. Marg of 11487 Sq. Mtr. land. Similar allotment at Rs. 750/- per Sq. Mtr. had been made to Perfexa Business Solutions on 05.08.2003 at J.L.N. Marg by the B.I.D.I. Further, allotment had been made to Radisson Hotel at around Rs. 2400/- per Sq. Yd. near the project by the B.I.D.I. and also to Green Fire Hospital opposite the site of the petitioner at J.L.N. Marg by the B.I.D.I. at Rs. 2400/- per Sq. Yd in November, 2003.

5. On 17.12.2004, the agenda of B.I.D.I. meeting pointed out that looking to the project report and presentation, the World Trade Park would give impetus to business activities increasing investment, industrial development, employment and revenue generation and would also provide a facilitation centre and market with Information Technology inputs.

6. It is also contended that in December, 2004, the residential reserve price of the area i.e. J.L.N. Marg had been Rs. 3000/- to Rs. 6000/- for commercial users. On 04.08.2003, the commercial reserve price of the area was changed to Rs. 12000/- per sq. mtr. The petitioner agreed to pay Rs. 25000/- per sq. mtr. which at that time was far more than the price of the land. The auction of Jaipur Development Authority (for short "the JDA") at that point of time had taken place c a commercial plot on Tonk Road at around Rs. 13000/- per sq. mtr.

7. It has further been submitted tat on 18.01.2005, a meeting was held under the Chairmanship of Chi Secretary attended by Principal Secretary, Urban

Governance, Principal Secretary-Finance, Commissioner-Investment, Commissioner-JDA, Secretary- SSI, Secretary-Urban Governance and Chief Town Planner-JDA, herein it was pointed out that objective was to make World Trade Park a gateway of World Trade in Jaipur. On 20.04.2005, 18th meeting of the B.I.D.I. took place under the Chairmanship of the Chief Minister wherein allotment was made to World Trade Park at Rs. 25000/- per Sq. Mtr. and on 10.05.2005, the petitioner was communicated about the allotment of land by the B.I.D.I. in its 18th meeting and on 25.05.2005 the possession of the land was given to the petitioner by the JDA.

8. On 02.07.2005 the allotment letter of the land was issued stating therein that the plot would only be used for developing a World Trade Park and on 28.07.2005, the maps, as per the design shown to the B.I.D.I. in the project report, were submitted to the JDA for its approval and the same were considered by the Building Plan Committee (for short "the BPC) of the JDA comprising of Commissioner, Secretary, Director-Town Planning and Ors. which recommended the case to the Government for sanction considering it to be a special category building.

9. It has further been submitted that on 31.08.2005, the case of maps was sanctioned by the State Government and on 25.11.2005 the maps were approved by the JDA and the same were released after receiving NOC from the SP, Traffic on 26.11.2005. It is also contended that in the first week of December, 2005, construction work was started and similarly Global Tenders for civil works were invited and thereafter the contract was awarded to M/s Shapoorji Pallonji & Co. Ltd. for Rs. 53,95,00,001/-. Further, in the year 2006, in the prestigious Indian Property Awards, 2006, the World Trade Park wins the Innovator of the year award. On 02.11.2006, a registered lease deed was executed in favour of the petitioner by the JDA and the stamp duty of Rs. 3, 33, 96, 260/- was also paid for registration.

10. Learned Counsel for the petitioner submits that the present FIR has been lodged on substantially the same allegations upon which various litigations in respect of the project in question were decided in favour of the petitioner by this Court as well as by the Hon"ble Supreme Court. As per the petitioner, a PIL i.e. D.B. Civil Writ (PIL) Petition No. 7976/ 2005- S.K. Saini v. State and Ors., was filed challenging the allotment of land inter alia on the power of the Government to allot the land as well as regarding allotment of land on concessional prices. The aforesaid PIL came to be dismissed at the admission stage by the Division Bench of this Court vide order dated 27.09.2005.

11. Another PIL i.e. D.B. Civil Writ Petition (PIL) No. 7593/2005 which was filed by Shri Poonam Chand Bhandari challenging the allotment of land on concessional rates for the project, was also dismissed by the Division Bench of this Court vide its order dated 30.09.2005.

12. Subsequently, yet another PIL was filed by Shri Shripal Jain challenging the

allotment of land to the petitioner, which was registered as D.B. Civil Writ Petition (PIL) No. 8265/2005 and the same has also been dismissed by the Division Bench on 20.10.2005.

13. Shri Shripal Jain again filed a D.B. Civil Writ Petition No. 10223/2005 before this Court and that too came to be dismissed by the Division Bench vide order dated 04.01.2006.

14. The aforesaid order dated 04.01.2006 was challenged by Shri Shripal Jain by way of filing SLP to the Hon"ble Supreme Court which was registered as SLP (Civil) 3730 of 2006, and the same was also dismissed by the Hon"ble Supreme Court on 03.03.2006.

15. Subsequently, Shri Poonam Chand Bhandari again filed a D.B. Civil Writ Petition (PIL) No. 850/2006 in the public interest before this Court challenging the allotment of land to the project and the same was disposed of by the Division Bench vide its detailed judgment dated 11.05.2007.

16. Yet another writ petition i.e. D.B. Civil Writ Petition No. 861/ 2007 was filed by Gyan Vihar Senior Secondary School, Jaipur challenging the maps approved for the project, wherein the issue of construction over and above the road falling between the project was also raised. The aforesaid writ petition was disposed of by the Division Bench of this Court vide order dated 11.05.2007.

17. It is also submitted that the order dated 11.05.2007 passed by the Division Bench of this Court in D.B. Civil Writ Petition (PIL) No. 850/2006 was challenged by way of filing Special Leave to Appeal (Civil) No. 17503 of 2007 before the Hon"ble Supreme Court but the same has also been dismissed by the Hon"ble Supreme Court on 08.10.2007.

18. Learned Counsel for the petitioner after referring the details of the litigation in relation to the project in question, submits that the impugned FIR has been lodged with an ulterior motive just to harass and humiliate the petitioner and being aggrieved by the impugned FIR, the present criminal misc. petition has been preferred by the petitioner for quashing the FIR in question.

19. It is further submitted that the case of the prosecution is demonstrably false and lodging of the FIR is an abuse of process of law and the controversy, if any, has already been decided by this Court as well as by the Hon"ble Supreme Court and has no criminality involved.

20. Learned Counsel for the petitioner also contended that the FIR suffers from undue and unexplained delay and latches as a close look at the FIR clearly reveals that the alleged incident is of the year 2005 and there is no explanation for lodging the FIR in question after an inordinate delay in the year 2009. Apart from above, FIR as registered is against the provisions of the Code of Criminal Procedure, especially Sections 154, 155, 156, 157, 162, 169, 170 and 173 Cr.P.C. and is also against the well settled principles of law as enunciated by the Hon"ble Supreme Court in the case of T.T. Antony Vs. State of Kerala and Others,

21. He further submits that the FIR in question ought to be quashed in view of the well settled and applied exception laid down by the Hon''ble Supreme Court in the case of State of Haryana and others Vs. Ch. Bhajan Lal and others, Further, the impugned FIR is lacking essential ingredients of offences as alleged in the FIR insofar as the present petitioner is concerned. It is submitted that upon careful perusal of the FIR and the allegations made therein, it is evident that no case much less a prima facie case is made out against the petitioner.

22. Learned Counsel for the petitioner, in support of his submissions, placed reliance on the judgment of the Hon''ble Supreme Court delivered in the case of T.T. Antony v. State of Kerala (supra), wherein in para 20 the Hon''ble Supreme Court held as under:

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 of Cr.P.C. only the earliest or the first information in regard to the commission of a cognizable offence satisfied 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 of 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 of the Cr.P.C.

23. He further submits that in view of the principles laid down by the Hon''ble Supreme Court in the aforesaid case of T.T. Antony v. State of Kerala (supra), it is prima facie evident that no case is made out against the petitioner and all the challenges to allotment of land were repelled by this Court. Such challenges were made time and again by way of various petitions and all those petitions have been dismissed by this Court as well as the Hon''ble Supreme Court. Further, this Court also held in the litigation challenging the approval of the map that the instant building is a special category building and is an infrastructure project for which the special relaxations by the government were justified and in these circumstances, on the very same allegations lodging the impugned FIR after 4-5 years is clearly an abuse of process.

24. Learned Counsel Mr. Hora appearing on behalf of the petitioner has further submitted that the FIR in question fails to aver that any act of cheating or criminal conspiracy was done by the petitioner. Further, u/s 13(1)(d) of the Act of 1988, the corrupt or illegal means are implicit in the word abuse, however, there is not even a whisper of allegation regarding any corrupt or illegal means. He also submits that when the same controversy has already been decided on judicial site in favour of the petitioner, the same cannot be made subject matter of any criminal investigation and it is clear that FIR in question is an afterthought

action in order to harass and humiliate the petitioner.

25. Learned Counsel for the petitioner further submits that the investigating machinery can be moved in motion only after registration of FIR u/s 154 Cr.P.C. He also referred to the provisions of Section 157 Cr.P.C. which deals with procedure for investigation and states that if, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered u/s 156 Cr.P.C. to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case and, if necessary, to take measures for the discovery and arrest of the offender. Learned Counsel submits that the procedure has not been followed in the instant case.

26. In support of his submissions, the learned Counsel for the petitioner placed reliance on the judgments delivered by the Hon''ble Supreme Court in the case of P.S. Rajya Vs. State of Bihar, and in the case of Karam Chand Ganga Prasad and Another Vs. Union of India (UOI) and Others, as well as the judgment of the Karnataka High Court rendered in the case of State of Karnataka Vs. G. Lakshman and others, He also referred the principles laid down by the Hon''ble Supreme Court in the case of State of Haryana and others Vs. Ch. Bhajan Lal and others,

27. After referring the FIR under challenge in this petition as well as the judgments in support of his submissions, the learned Counsel for the petitioner prayed that the impugned FIR No. 287/2009 registered at Police Station Anti Corruption Bureau, Rajasthan, Jaipur for the offence under Sections 13(1)(d), 13(2) of the Act of 1988 and Section 120B IPC, deserves to be quashed and set aside as the FIR in question is false at its face value in view of the principles laid down by the Hon''ble Supreme Court in the case of Bhajan Lal (supra).

28. Per contra, learned Additional Advocate General Mr. Naqvi, appearing on behalf of the State submits that the main contention of the petitioner in this petition for quashing the impugned FIR is that the facts and allegations alleged in the FIR are same which have already been decided by this Court as well as the Hon''ble Supreme Court in the various Public Interest Litigations in respect of allotment of land and approval of map of the project in question and they do not want to initiate any investigation in the matter so far as allotment of land to the project in question and approval of map are concerned. He submits that on the basis of the source information received in the Bureau, proper care and caution was taken and before taking any action straightaway on the basis of the source information, a preliminary enquiry was conducted which cannot be termed as an investigation. The preliminary enquiry was conducted by a responsible officer of the Bureau who was Additional Superintendent of Police and during preliminary

enquiry, all the papers relating to allotment of land, subsequent decisions after the allotment, decision of B.I.D.I., various orders passed from time to time by the different authorities as also the judgments passed by the Hon'ble Court in regard to the land in question were considered. The additional material was also collected by the enquiry officer and after taking into consideration all the material including the additional material collected by the Preliminary Enquiry Officer, arrived at a conclusion that prima-facie the evidence is available for registering a case under the provisions of the Prevention of Corruption Act.

29. It is also contended on behalf of the respondent that in the FIR, not only the illegalities committed in the allotment are included but the F.A.R. exceeded by the petitioner is also a part of the FIR and the B.I.D.I. in its 18th meeting held on 20.04.2005, dealt with the matter of the petitioner i.e. World Trade Park. He also referred the minutes of the B.I.D.I. and submits that B.I.D.I. in its meeting, restricted the F.A.R. to 1.75, however, the petitioner in collusion with the Government Officers physically exceeded the F.A.R., although in the documents it is shown only to the extent of 1.75.

30. It is further contended that the petitioner submitted an application before the Commissioner, Jaipur Development Authority on 15.07.2005 and apart from other, it was requested that looking to the nature of the building, the connection of the building above the road may be sanctioned and also stated that this connection area is covered in the F.A.R. of the two plots only i.e. 16614 Sqm. and hence, there is no extra area but only a design feature of the building and accordingly, requested to grant permission for the same. However, a clear height of 56 feet from road is proposed as compared to 22 feet of Sahakar Marg. Accordingly, the permission was granted by the State to connect the building above the road and subsequent therefore, the petitioner not only connected the building above the road but also raised commercial constructions on the above bridge, whereas the permission was to the extent of connecting both the buildings only.

31. Further, the learned Additional Advocate General Mr. Naqvi referred to Regulation 8.10 of the Jaipur Development Authority (Jaipur Region Building) Regulations, 2000 (for short "the Regulations"), wherein the calculation of the F.A.R. of a building is defined. Regulation 8.10(x) of the Regulations provides that only 2 meter wide corridor/passage/ lobby for public use is permitted under the Regulations and in case it exceeds 2 meter, then it should be counted in the F.A.R. It is submitted that the petitioner left the corridor/passage/lobby of 4.5 meter wide, which is contrary to the Regulation 8.10(x) of the Regulations.

32. With regard to civil and criminal proceedings, it is submitted that criminal and civil proceedings are entirely different in nature and the criminal proceedings cannot be quashed merely because of the pendency of the civil proceedings between the same parties. The nature, scope and standard of proof required in civil and criminal proceedings are distinct and in support of his submissions, the learned Additional Advocate General placed reliance on the judgment delivered

by the Hon''ble Supreme Court in the case of Kamaladevi Agarwal Vs. State of West Bengal and Others, more particularly para Nos. 9 and 15.

33. It is further contended that extraordinary powers conferred u/s 482 Cr.P.C. should be exercised sparingly and in exceptional cases while quashing the FIR, as observed by the Hon''ble Supreme Court in the case of Bhajan Lal(supra).

34. Learned AAG, in support of his submissions, also placed reliance on the judgments delivered by the Hon''ble Supreme Court in the cases of (1) Central Bureau of Investigation Vs. A. Ravishankar Prasad and Others, (2) Shri Mahavir Prashad Gupta and Another Vs. State of National Capital Territory of Delhi and Others, (3) Rukmini Narvekar v. Vijaya Satardekar and Ors. (2008) 14 SCC 1 , (4) R. Kalyani Vs. Janak C. Mehta and Others, and (5) Rajesh Bajaj Vs. State NCT of Delhi and Others,

35. It is also contended that in view of the settled proposition of law laid down by the Hon''ble Supreme Court, the proceedings in the matter of anti corruption cases should not be stayed even while exercising powers u/s 482 Cr.P.C.

36. I have heard learned Counsel for the petitioner, learned Additional Advocate General appearing on behalf of the State and carefully gone through the impugned FIR dated 30.10.2009 as well as the documents annexed with the petition and also perused the judgments referred by the respective parties.

37. Before dealing with the present petition, it would be appropriate to first appreciate the judgments passed in various writ petitions/ Public Interest Litigations by this Court as well as the Hon''ble Supreme Court in respect of the project in question.

38. One Shri S.K. Saini had filed a writ petition before this Court being D.B. Civil Writ (PIL) Petition No. 7976/2005 which came up for consideration before the Division Bench of this Court on 27.09.2005 and the same was dismissed by the Division Bench by the following order:

In this petition, the petitioner has challenged the allotment of land to World Trade Park on the ground that the land has been allotted on negligible prices causing huge loss to public exchequer.

No representation has been given by the petitioner to the concerned authorities. The appropriate course for the petitioner is first to give the representation to the concerned authorities to take appropriate action, if the allotment is wrong.

No case is made out for interference at this stage.

The petition stands dismissed at admission stage.

39. The aforesaid Public Interest Litigation was filed challenging the allotment of land, inter alia, on the ground of power of the Government to allot the land on concessional prices and the same came to be dismissed at the admission stage as it was filed without first representing before the concerned authorities.

40. Yet another Public Interest Litigation came to be filed before this Court by one Shri Poonam Chand Bhandari being D.B. Civil Writ Petition(PIL) No. 7593/2005, wherein also Shri Bhandari had challenged the allotment of land to the World Trade Park as the area which was allotted, was meant for facility area and several other submissions regarding allotment of land to the World Trade Park were also made in the aforesaid petition and the same was dismissed by the Division Bench of this Court on 30.09.2005 by the following order:

By this petition, in the nature of Public Interest Litigation, Mr. Bhandari has challenged the allotment of land to World Trade Park.

He submits that the land was meant for facility area. He further submits that the possession was given on 25.5.2005, while the land has been allotted on 2.7.2005. His third submission is that land has been sold contrary to Rule 15-A of Rajasthan Improvement Trust (Disposal of Urban Land) Rules, 1974.

The same allotment has also been challenged in the other writ petition in the nature of Public Interest Litigation i.e. CW No. 7976/05. That has been dismissed on 27.9.2005.

Considering the submission and the fact that earlier similar writ petition has been dismissed by this Court, no case is made out for interference.

This petition is also dismissed.

41. Again a writ petition being D.B. Civil Writ Petition No. 8265/2005 came to be filed by one Shri Shripal Jain in the public interest challenging the allotment of land to the petitioner but the same has also been dismissed by the Division Bench of this Court on 20.10.2005 by the following order:

By this petition, petitioner has raised the grievance that some illegal allotment of lands have been made by the respondents to favour some persons referred in para 6 of the petition.

Admittedly, no material is there whether the allotment is not in accordance with law or contrary to the interest of public. Even no representation has been made by the petitioner before the concerned authorities in Government.

No case is made out for any notice.

The petition stands dismissed.

42. Subsequently, another writ petition being D.B. Civil Writ Petition No. 10223/2005 was filed by one Shri Shripal Jain challenging the allotment of land to the petitioner as well as seven others and that too was dismissed by the Division Bench of this Court vide order dated 04.01.2006 in the following terms:

This writ petition has been filed as a public interest litigation questioning the decision of the State Government to constitute the Board of Infrastructure Development and Investment Promotion for the purpose of allotment of land. It appears that the said Board has been constituted to promote investment in the

State. The grievance of the petitioner is that two statutory bodies, namely; Jaipur Development Authority and the Municipal Corporation are in place in the city of Jaipur and, therefore, there was no need to constitute any Board. The submission is wholly fallacious. Firstly, it is the policy matter of the State Government to constitute a body for a particular purpose. Secondly, the purpose for which the Board has been constituted does not fall within the ambit of Jaipur Development Authority Act or the Municipal Corporation Act. The petitioner has also questioned the manner in which land is proposed to be allotted to persons mentioned in Schedule "A" to the writ petition, namely, International Habitat and Convention Center, New Delhi, Raddisson Hotel International, New Delhi, Bharat Hotels Limited, New Delhi, TG Leisure & Resorts (P) Ltd., New Delhi, World Trade Park and Gold Suk Projects, M/s Hero Honda Company, Mahindra & Mahindra and Arihant Cine World Pvt. Limited. The case of the petitioner is that lands are being allotted at throw away price much below market rate. No supporting document has been brought on record to substantiate the case. It appears that the petitioner had moved this Court earlier making same grievance in D.B. Civil Writ Petition No. 8265/ 2005 which was dismissed with observation that "no material is there whether the allotment is not in accordance with law or contrary to the interest of public". In the present petition no fresh material has been brought on record. The only development is that in the meantime the petitioner claims to have filed a representation in the light of the observations of this Court in the said writ petition. The representation appears to have been filed on or about 25th November, 2005 i.e. only about six weeks ago. No ground for interference by this Court is made out.

The petition is dismissed.

43. Shri Shripal Jain challenged the aforesaid order of the Division Bench dated 04.01.2006 by way of filing SLP to the Hon''ble Supreme Court and the same was also dismissed on 03.03.2006.

44. Again Shri Poonam Chand Bhandari had filed a writ petition before this Court in the nature of Public Interest Litigation, which was registered as D.B. Civil Writ Petition (PIL) No. 850/2006 and the same was disposed of by the Division Bench of this Court vide detailed order dated 11.05.2007, wherein the Division Bench dealt with the project of World Trade Park and also considered the fact that this project will provide direct employment to around 5000 persons and indirect employment to around 20,000 persons and it shall be open to all, irrespective of segment or industry and empower the people of Rajasthan and provide them with a word of opportunities.

45. The Division Bench while dealing with the question of allotment of land in favour of the petitioner and considering each and every aspect of the matter and the issues which were raised in the petition, disposed of the aforesaid petition vide detailed order dated 11.05.2007 and arrived at a conclusion in the following terms:

63. In view of the foregoing discussion, our conclusions are thus: that Section 90 of the Jaipur Development Authority Act, 1982 permits the State Government to direct the J.D.A. to exercise its powers and perform its duty in accordance with the policy framed and the guidelines laid down from time to time; that such policy and guidelines can be issued for general application or for a class of persons or area or based on some such other criteria in conformity with Article 14 of the Constitution but the power conferred by Section 90 cannot be exercised by the Government to give direction in respect of one individual or a particular case; that for exercise of power under Rule 15-B, the existence of definite guidelines and policy for allotment of land for the purposes of infrastructure projects is necessary- the reserve price and competitive bidding obviates arbitrariness; that the Business Rules framed under Article 166 of the Constitution of India are for the convenient transaction of the business of the State Government and for the allocation of business among the ministers and such Rules cannot override the provisions of the Act or the statutory rules; that though the allotment of land to the respondent No. 4 may not withstand the tests afore-referred yet the said allotment does not call for any interference because of the dismissal of previous writ petitions and the substantial progress having already been made in the completion of the project and also because the decision for allotment of land was taken after extensive consultation and that allotment is found to have not been made for extraneous reasons and at unconscionable low price. The writ petition is disposed of accordingly.

46. The aforesaid order of the Division Bench dated 11.05.2007 was challenged by Shri Poonam Chand Bhandari by way of filing Special Leave to Appeal before the Hon'ble Supreme Court and the same was dismissed vide order dated 08.10.2007.

47. Further, Gyan Vihar Senior Secondary School, Jaipur had also filed a writ petition before this Court which was registered as D.B. Civil Writ Petition No. 861/2007, challenging the maps approved for the project and the issue of construction over and above the road falling between the project land was also raised in that petition. The said writ petition came to be disposed of by the Division Bench of this Court on 11.05.2007 holding the building of World Trade Park to be special category of building and repelling the challenge to the building plans passed the order in the following terms:

30. In what we have discussed above, we dispose of the writ petition by the following order.

(i) The respondent No. 2 shall reconstruct the road with the width of 40" plus 3 meters strip on either side (i.e., 60" wide) running between allotted plot of the respondent No. 3 as early as possible and in no case later than 31st July, 2007;

(ii) The undertaking given by the respondent No. 3 through their Managing Director dated 25.4.2007 is accepted with clarification that the reconstructed road shall be 40" wide plus 3 meters strip on either side (i.e., 60" side) and

made open for traffic and use by the 15th August, 2007.

(iii) The Jaipur Traffic Control Board shall monitor re-construction of the road and ensure that smooth flow of traffic is available on the reconstructed road on and from 15th August 2007. The Jaipur Traffic Control Board is also directed to determine the compensation for the wrongful closure of the road by the respondent No. 3 without its permission in exercise of the power conferred in it u/s 13(3)(vii) of the Act of 1982.

(iv) The parking area so surrendered by the Respondent No. 3 to J.D.A. shall not be given back for its operation on lease, license or otherwise to the respondent No. 3 by the respondent Nos. 1 and 2.

(v) the respondent No. 3 shall pay the cost of Rs. 25,000/- to the petitioner.

48. During the course of arguments, learned Counsel for the petitioner has submitted that the direction issued to the petitioner by the Division Bench in the case of Gyan Vihar Senior Secondary School, Jaipur(supra) have been complied with.

49. Thus, upon bare perusal of the orders passed in relation to the project in question, it is clear that all the aspects i.e. approval of plan and maps, allotment of land to the project, cost of land etc. and other points which were raised in the various Public Interest Litigations/writ petitions, have already been dealt with and decided by this Court as well as the Hon''ble Supreme Court and the sequence of events clearly shows that the project in question has been treated by this Court as a project in the public interest and all the challenges made to the allotment of land from time to time by way of various Public interest Litigations/writ petitions have been repelled by this Court and all the Public Interest Litigations/writ petitions have been dismissed by this Court as well as the Hon''ble Supreme Court.

50. This Court also held in the litigation challenging the approval of the map that the instant building is a special category building and an infrastructure project for which the special relaxations by the Government were justified and in these circumstances, on the very same allegations lodging an FIR after 4-5 years is clearly an abuse of process.

51. Upon careful perusal of the FIR, it reveals that the FIR contains wrongful allotment in favour of the petitioner and with regard to joining two buildings by a bridge on public road and it is also alleged that approval of map was made contrary to the provisions of law and sanction granted by the State Government was also not in accordance with the provisions of law. Thus, allegedly, with an ulterior motive the land has been allotted to the petitioner on concessional price and the map has been approved by the Minister and officers of the JDA and Municipal Corporation.

52. The complaint made by the Additional Superintendent of Police, ACB, Jaipur is nothing but the same has been filed ignoring the verdict of this Court as well as

the Hon''ble Supreme Court given in various writ petitions/Public Interest Litigations filed from time to time and all the allegations, as alleged in the FIR, have been settled by the Court of law and even upheld by the Hon''ble Supreme Court.

53. Now the FIR requires to be examined on the basis of the test laid down by the Hon''ble Supreme Court in the case of Bhajan Lal(supra). Even if the complaint is taken at its face value and is accepted in its entirety, the same does not, prima-facie, constitute any offence or make out any case against the petitioner and all the irregularities which have allegedly been committed by the petitioner, have already been settled by this Court as well as the Hon''ble Supreme Court by various judgments. Further, the allegations made in the complaint and other material collected by the Anti Corruption Bureau, do not disclose a cognizable offence, justifying an investigation by police officers u/s 156(1) Cr.P.C.

54. As already stated, the allegations alleged in the complaint have already been dealt with by the Court of law, even if, any irregularity is committed or illegal construction is raised by the petitioner, the JDA and the Municipal Corporation are empowered to take action against such construction, if raised by the petitioner in violation of the map approved by the authorities and power is given to the authorities concerned to take penal action against such person who violates the law.

55. It is admitted that the allegations made in the FIR and the evidence collected in support of the same, have already been settled by the Court of law and the same do not disclose commission of any offence or make out a case against the accused. Further, the allegations made in the FIR are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused. Thus, entire criminal proceedings are manifestly attended with mala fide and the proceedings are maliciously instituted with an ulterior motive for wreaking vengeance and with a view to spite him due to private and personal grudge.

56. In the case of P.S. Rajya (supra), Hon''ble the Supreme Court held that "The standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. In the instant case the charge in the departmental proceedings and in the criminal proceedings is one and the same. If the charge which is identical could not be established in a departmental proceedings and in view of the admitted discrepancies in the reports submitted by the valuers one wonders what is there further to proceed against the appellant in criminal proceedings."

57. I have also carefully gone through the judgments referred by the respective parties. The basic judgment in the present case is the judgment of the Hon''ble Supreme Court in the case of Bhajan Lal (supra), wherein 7 principles have been laid down by the Hon''ble Supreme Court and on examination of the FIR in

question and considering the fact that extraordinary powers u/s 482 Cr.P.C. should be exercised sparingly and that too in rarest of rare cases, applying the aforesaid ratio, it reveals that the FIR in question is contrary to the judgment delivered by the Division Bench of this Court as well as the Hon''ble Supreme Court and the allegations alleged in the complaint have already been redressed by this Court and the Hon''ble Supreme Court. Therefore, the FIR which is under challenge in the present petition, at its face value, appears to be false and the complaint is lodged against the petitioner maliciously and with an ulterior motive and as such, the FIR in question deserves to be quashed and set aside.

58. In view of the observations made herein above, the present criminal misc. petition stands allowed and FIR No. 287/2009 dated 30.10.2009 registered at Police Station Anti Corruption Bureau, Rajasthan, Jaipur for the offence under Sections 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 and Section 120B IPC is hereby quashed and set aside. There shall be no order as to costs.