

TO THE CHIEF JUDICIAL MAGISTRATE
CHANDIGARH

INFORMATION UNDER
SECTION 39(1)(VIII) OF THE CRIMINAL PROCEDURE CODE

(REGARDING OFFENCE RELATING TO CRIMINAL BREACH OF TRUST
BY PUBLIC SERVANT, ETC. i.e. OFFENCE UNDER SECTION 409 OF THE
IPC)

SYNOPSIS OF THE INFORMATION:

Land measuring 30 acres in Chandigarh under the trust and control of public servants (employees of Union of India) in Chandigarh has been illegally designed to be transferred in favour of M/s Parsvnath Film City Limited and an agreement to that effect has been signed on March 2, 2007, just two days after the said company was registered (On Feb 28, 2006) with an authorised capital of 10 lakhs only. The said 30 acres of land in Chandigarh has been valued at nearly 1200 crore of rupees is being/has been transferred for a sum of 191 crores which causes a loss of 1000 crores to the public exchequer. The commission of the offence has passed through an elaborate design camouflaged as an official invitation for development of land. This constitutes an offence of “Criminal breach of trust by public servant” and the undersigned is duty bound under the law to inform about the same.

Sir/Madam,

The undersigned person believes that there has been a commission, and/or the intention, by certain public servants and other persons to commit an offence punishable under relevant sections of the Indian Penal Code (45 of 1860) as mentioned in Section 39 of the Criminal Procedure Code. The undersigned had obtained certain documents under the provisions of “Right to Information Act” and also obtained documents after inspecting the files of the respective companies through the “Registrar of Companies” constituted under the Companies Act of 1956. After analyzing the information and connecting it with the recent information

obtained from the “Registrar of Companies,” commission of this offence has come to light of the undersigned.

As duty bound under the provisions of Section 39 of the Cr. P.C., the undersigned forthwith gives information of such design leading to the commission and the intention to commit an offence to your lawful office.

- 1) That Chandigarh Administration short-listed a company M/s Parsvnath Developers Limited to develop a property of 30 acres for the purpose of “Film City.” **(Annexure C-1)** M/s Parsavnath Developers Ltd was selected on the basis of a requirement of having sufficient expertise and capital/finances to execute the said project. The company was said to have been shortlisted to execute the said project on the basis of the so claimed technical and financial strengths.
- 2) That despite the said requirement, that many persons in Chandigarh Administration signed the agreement to transfer the said 30 acres of land earmarked for the “Film City” project with M/s Parsvnath Film City Limited on March 2, 2007. The company M/s Parsvnath Film City Limited had never bid for the project and was formed just two days prior to signing of the contract, i.e. on Feb. 28, 2007. It did not even have certificate of commencement of business on the said date. **(Annexure C-2)** As on the date of signing of the agreement, M/s Parsvnath Film City Limited had an authorised capital of only ten lakhs and paid up capital of five lakh only **(Annexure C-3)**. The records also show that the company did not have any technical experts on its board and/or as partner and/or as advisor and had no employees. **(Annexure C-4)**.
- 3) A letter from M/s Parsvnath Developers Limited dated Febraury 21, 2007 is also annexed in the official file, wherein one Sh. P. K. Jain on behalf of M/s Parsvnath Developers Limited introduced a company called M/s Parsvnath Film City Limited as a subsidiary company despite the fact that there was no such company in existence as on Feb. 21, 2007 as M/s Parsvnath Film City Limited got registered only on Feb. 28, 2007. There is no corresponding entry in the daily diary register in Chandigarh Administration which shows receipt of the letter dated Feb. 21, 2007, the said letter appears to be placed later on in the official file. This could not have been possible without the connivance with the officials of Chandigarh Administration and other public servants.

- 4) The agreement to transfer the land to M/s Parsvnath Film City Limited when M/s Parsvnath Developers Limited was shortlisted for the project is illegal and amounts to a fraud and criminal breach of trust as the Administrator and officials who were entrusted with property and dominion over property in their capacity as public servant(s) and therefore have committed breach of trust with respect to the said property.
- 5) That as a necessary requirement to prove their technical expertise for the film city project, M/s Parsvnath Developers Limited showed a company/firm 'Real Good Films (Pvt. Ltd.)' as the technical partner in the project in the Expression of Interest (EoI) which was submitted before April 28, 2006 (The last date of filing of EoI). That though M/s Parsvnath Developers Limited mentioned the name of 'Real Good Films (Pvt. Ltd.)' as early as in April 2006 but the company M/s "Real Good Films Pvt. Ltd." was registered only on February 2, 2007 (**Annexure C-5**) and had no real existence prior to this. No major financial transaction and/or any activity related to production and/or film making and animation was undertaken by "Real Good Films" prior to the representation or even prior to signing of the agreement. The paid up capital of M/s Real Good Films Pvt. Ltd. as filed with the Registrar of Company is only one lakh rupees. (**Annexure C-6**)
- 6) That the public servant who initiated the project and who were incharge of the project were fully aware of the said misrepresentation of a tie-up with M/s Real Good Films Pvt. Ltd. by M/s Parsvnath Developers Limited. It was ignored and never really scrutinised to facilitate the crime. Certain private persons were involved in the whole affair to further facilitate the crime and to give it colour of some sort of credible assessment.
- 7) That the above-mentioned 30 acres of property in Chandigarh is valued at nearly 1200 crores in the open market. That by adopting certain illegalities and committing irregularities in a camouflaged tendering process, certain public servants in association with some others have attempted to transfer the said property for 191 crores, thereby scheming and causing a loss of nearly 1000 crores to the public exchequer.

ILLEGALITIES LEADING TO COMMITTING OF THE OFFENCE: AS EXPLAINED ABOVE:

- 8) That certain official of Chandigarh Administration decided on their own, without proper approvals from the Union Government and/or the Union Cabinet, decided to develop a project by the name of “Film City” on a 30 acres of prime land in Chandigarh in an area defined as falling under the demarcated area of village Sanangpur. That the necessary changes and planning for the purpose of alteration in the Master Plan of Chandigarh was also not done.
- 9) That a proposal was moved in this regard by Director-Information Technology Mr. Vivek Atray, who otherwise is not competent to initiate such major projects. A file noting in this regard (**Annexure C-7**) was generated and signed on March 7, 2006 and the same was sent to the then Finance Secretary, Mr. S. K. Sandhu on the same day i.e. March 7, 2006 and he also forwarded the same to the then Advisor to the Administrator Mr. Lalit Sharma on the same day, i.e. March 7, 2006 and this was forwarded by his office after the approval to the Administrator’s office on the same day, i.e. March 7, 2006 and the project was thereafter approved by the Administrator on the same day, i.e. March 7, 2006.
- 10) That again on March 27, 2006, the file was moved by the Director-Information Technology Mr. Vivek Atray (**Annexure C-8**), and it was sent to the then Finance Secretary, Mr. S. K. Sandhu on the same day and then to the Advisor to the Administrator which was subsequently forwarded by his office after the approval to the Administrator’s office and the decision to call an Expression of Interest was thereafter approved by the Administrator on the same day, i.e. March 27, 2006. The said file was sent back on March 28, 2006 and on the same date it was decided that an advertisement be placed in six newspapers the very next day, i.e. March 29, 2006 (**Annexure C-9**). The said advertisement appeared in all the newspapers, the next day, i.e. on March 29, 2006 (**Annexure C-10**).
- 11) That the said expressions of interest were called without any detailed technical evaluation and/or without any firm plan and/or without any feasibility study for the proposed project or otherwise. Moreover such major projects require the advertisement to be advertised globally and give sufficient time to the prospective bidders to prepare a detailed expression of

interest. The same was not done in this particular case and everything was done in a hush-hush manner.

- 12) That since the sufficient time required for making bidding for any project of this scale was deliberately not granted and so as a result only 14 people replied in response to the advertisement out of which about six were more or less inquiry letters and not proper expression of interest (EoI). However the officials decided to even project the letters received as a part of the EoI received and claimed to have received 14 expression of interest when only 8 were actually EoI's. **(Annexure C-11)**
- 13) The necessary conditions fixed in the expression of interest (EoI) included the condition that the company should have on its board or panel experts from Multimedia and Film Making field and the developer should have tie-ups with the industry in Multimedia and Film Making field. The conditions also stipulated that the company should have the capacity to invest 50 crores in one year and 100 crores in three years apart from the cost of the land.
- 14) That on May 16, 2006 the officials of Chandigarh Administration short listed six actual EoI out of all the inquiry letters and/or the expressions received.
- 15) That subsequently it was decided to call for a joint financial and technical bid on the project, however at the last minute this joint calling of both the financial and technical expression of interest (as mandated by the General Finance Rules (GFR)) was dispensed with and only a technical bid was called for.
- 16) On the basis of the technical bid submitted by all the six parties, two were rejected and four were again short listed.
- 17) Till this stage no "Request for Proposal (RFP)" or the details of the project were prepared and only after the second short listing (when all others were rejected), a company called SBI Caps was appointed to prepare the RFP. This was done without any tendering process and/or without placing any advertisement calling for consultants and for no reasons recorded in the files.
- 18) The company SBI Caps had just one junior level officer stationed at Chandigarh, who coordinated with the Chandigarh Administration for its

service fee and payments only. It's important to mention that the said employee of SBI Caps, Mr. Bharat Ahuja has no expertise in any of the project areas. This weakness was deliberately created so that there be no independent evaluation of the project and no such party which was not manageable enter as the third party consultant and thereby upset the whole scheme of things.

- 19) That on August 25, 2006, Chandigarh Administration had formed a committee consisting of Sh. Kamal Tiwari, Ms. Neelam Man Singh, Sh. Pratap Aggarwal, Mr. Bharat Ahuja along with six Chandigarh Administration officials as a committee to shortlist from the six bidders. None of the committee members were selected in a transparent manner or on the basis of merit. No one in the committee had any educational background and/or knowledge to assess the expertise required for the project. The real experts were deliberately not selected as a design and only close confidants (who presumably agreed to the plans or were already in league) were called in as committee members.
- 20) That there at no stage was any proposal to set up a five star hotel or shopping mall on the 30 acres of land proposed for the "Film City" project. The same was not mentioned in the EoI and was not a consideration in the first short listing of the bidders. However a requirement to have a five star hotel or any shopping mall in a six acres of land out of the 30 acres was maliciously got inserted in the RPF by some of the shortlisted bidders in league and agreement with the officials of Chandigarh Administration. There is no previous mention of this and was inserted later on at the time of closed-door negotiations with the selected developers. This is also apparent from the initial requirement of the contract (as advertised), which provided for experts/tie-up's only from the field of film making and there was no requirement to have a partner or expert tie up with any hospitality or retail shopping specialist.
- 21) The GFR rules have also been deliberately broken which renders the whole tender process as illegal. The GFR Laws have specifically been violated. The GFR-2005 came into force from July 1 2005 vide GIMF No 8/9/E, 11 (A) 2003 dated 1-7-2005 issued under clause B (1) Finance of the Allocation of Business Rules 1961. Rule 152 & 172 make it mandatory for the technical & Financial bids to be submitted simultaneously. The GFR was deliberately not followed so as to rig the whole process with an intention to facilitate the offence detailed in this information.

- 22) GFR also does not provide for calling technical evaluation more than once. If this be done, then it raises doubt about the earlier technical bid evaluation process. To manipulate the process, a vested interest in the government can keep on calling the technical bid perpetually, till the time the final bidders and/or his associates are the only one who remains. A similar design was developed in this particular case where after the first EoI, two different rounds of technical bidding was undertaken.
- 23) The modus-operandi mentioned in the paragraph above is apparent as even after the two stages of bidding one of the parties, M/s KRBL Ltd. was rejected at the last hour and thereby leaving only three parties in the fray. It is said by the insiders that a closed-door deal did not work.
- 24) The reserve price by the Chandigarh Administration in association with SBI Caps was fixed in the most arbitrary manner. The price variation for fixing the reserve price fluctuated from 25 crores to 125 crores (**Annexure C-12**) as on November 16, 2006. This was despite the fact that in April 2006, Chandigarh Administration in response to an RTI reply (**Annexure C-13**) admitted that the estimated price in the area should be around 10 crores an acre. Thereby the reserve price fixed could never have been fixed at less than 300 crores for 30 acres. The actual market price of the land was estimated at 40 crores per acre for such a large chunk of land where heavy development from public resources was under planning (Like the proposed six-lane highway and the Metro originating from the said area). This fact too was deliberately ignored and sidelined while fixing the price of the land. This was done malignantly with dishonest intentions.
- 25) The initial planned lease period was changed and approved to a lease for only 33 years with possible extensions of similar periods (**Annexure C-14**), however the said approved decision was ignored at the time of signing of the agreement and the agreement signed on March 2, 2007 mentioned allotment of the land for a period of 99 years instead of 33 years. This too is a major aberration. There is an objection dated November 11, 2006 by the office of the "Legal Remembrance" too (**Annexure C-15**); which also remains unanswered in the file. Another modification was done in the proposed agreement which modified the penalty cost and reduced the penalty in case of default and non payment of instalment of the next instalment of the bid amount to 20% from the earlier proposed 100% of the amount of default. (**Annexure C-16**) This too has (and is likely to) cause great amount of loss to the Government.

- 26) That major concessions were given to the short listed bidders illegally in a strange manner of engaging in a question-answer round of letters. The decisions taken in these question-answer exchanges of mail were major decisions and could not have been taken without proper application of mind and approvals at various levels and could not have been possible without changes in the master plan and the urban planning design of Chandigarh.
- 27) That strangely enough, in the end only two parties were left (as one was disqualified at the last moment and the other strangely enough did not submit their bid) and as a result of their bid, M/s Parsavnath Developers Ltd were allotted the 30 acres of land for a period of 99 years for 191 crores. It was thereafter decided that the letter of intent be issued and an agreement be signed only as per the terms already approved.
- 28) That the public servants in Chandigarh Administration signed the agreement to transfer the said 30 acres of land earmarked for the "Film City" project with M/s Parsvnath Film City Limited on March 2, 2007. The company M/s Parsvnath Film City Limited was formed two days prior to signing of the contract, i.e. on Feb. 28, 2007 and did not even have certificate of commencement of business. As on the date of signing of the agreement, M/s Parsvnath Film City Limited had an authorised capital of only ten lakhs and paid up capital of five lakh only. The records also show that the company did not have any technical experts on its board and/or as partner and/or as advisor and had no employees. The company in its balance sheet is already showing a sum of Rs 191 crores in its inventory which is being offset by putting an equal figure under the liability accounting head.
- 29) The agreement to transfer the land to M/s Parsvnath Film City Limited when M/s Parsvnath Developers Limited was shortlisted for the project is illegal and amounts to a fraud and criminal breach of trust as the Administrator and officials who were entrusted with property and dominion over property in their capacity as public servant(s) have committed breach of trust in respect of the said property.
- 30) That as a necessary requirement to prove their technical expertise for the film city project, M/s Parsvnath Developers Limited showed a company/firm 'Real Good Films (Pvt. Ltd.)' as the technical partner in the project in the Expression of Interest (EoI) which was submitted before April 28, 2006 (The last date of filing of EoI). That though M/s Parsvnath Developers Limited mentioned the name of 'Real Good Films (Pvt. Ltd.) as

early as in April 2006 but the company M/s “Real Good Films Pvt. Ltd.” was registered only on February 2, 2007 and had no real existence prior to this. No major financial transaction and/or any activity related to production and/or film making and animation was undertaken by “Real Good Films” prior to the representation or even prior to signing of the agreement. The paid up capital of M/s Real Good Films Pvt. Ltd. as filed with the Registrar of Company is only one lakh rupees.

- 31) That the public servant who initiated the project and who were incharge of the project were fully aware of the said misrepresentation of a tie-up with M/s Real Good Films Pvt. Ltd. by M/s Parsvnath Developers Limited. It was ignored and never really scrutinised to facilitate the crime. The private persons were involved in the whole affair as a technical committee member was to further facilitate the crime and give it a credible standing.
- 32) That the following public servants (among others) appear to have been involved in the offence of criminal breach of trust;
- a. Sh. S. F. Rodrigues
(Administrator of Chandigarh – Promoted and approved the project at all stages; seems was fully aware of the design)
 - b. Sh. Lalit Sharma
(The then Advisor to Administrator – Went through the file on many occasions and also approved the same; seems was fully aware of the design)
 - c. Sh. S. K. Sandhu
(The then Finance Secretary to the Chandigarh Administration – Promoted and approved the project at all stages and was fully aware of all aspects of the project; seems was fully aware of the design)
 - d. Sh. Krishna Mohan
(The then Home Secretary, initiator and chairman of the project at the first state (**Annexure C-17**) and member of the technical committee; seems was fully aware of the design)
 - e. Sh. Vivek Atray
(Director- Information Technology and Director-Tourism who initiated the project and acted as the nodal officer at all stages; seems was fully aware of the design)

- f. Sh. Manjit Brar
(Director – Information Technology – Handled the files on many occasion and attended the meetings on technical evaluation and other; seems was fully aware of the design)
- g. Sh. Bharat Ahuja and other officials of SBI Caps
(Official consultant of the project on Film City)
- h. Major Nirvikar Singh
(ADC to the Governor Punjab – Handled the files on all occasions when it was sent to the Administrator and liaised with all other public servants and bureaucrats in Chandigarh Administration)

33) That the following other individual (among others) appear to have been involved in facilitating the offence of criminal breach of trust by a public servant;

- a. Sh. Pradeep Kumar Jain
(Managing Director of Parsvnath Developers Limited)
- b. Sh. P. K. Jain
(Advisor of Parsvnath Developers Limited and Parsvnath Film City Limited)
- c. Sh. Satish Kaushik
(Director/Owner/Partner of Real Good Films (Pvt. Ltd.))
- d. Sh. Patrick Kerr
(Rumoured to be close to all stake holders, the officials of Chandigarh Administration, political leadership as well as certain property builders including the Parsvnath directors: exact role needs to be ascertained)
- e. Other directors and managers of Parsvnath Developers Limited, Parsvnath Film City Limited and Real Good Films Pvt. Ltd.

34) That the following other individual (along with some others) appear to have been involved or aware (**Annexure C-15**) of the design to commit an offence of criminal breach of trust;

- a. Sh. Kamal Tiwari
(Independent expert, as proposed and as mentioned by Chandigarh Administration – Role not certain and requires verification)
- b. Ms. Neelam Man Singh
(Independent Expert, who attended the meeting and did the technical selection for the project, as mentioned by Chandigarh Administration)
- c. Sh. Pratap Aggarwal
(Independent Expert from CII, who attended the meeting and did the technical selection for the project, as mentioned by Chandigarh Administration)
- d. Sh. V. K. Bhardwaj
(The then Chief Engineer and the officiating DC who attended the technical shortlisting of technical committee – Now working in association with a private builder/DLF)
- e. Sh. R. K. Rao
(Deputy Commissioner and Estate Officer of Chandigarh)
- f. Sunita Monga
(Chief Architect and member of the technical committee)

35) That an offence of “Criminal breach of trust by public servant,” as defined under Section 409 IPC appears to have been committed and to rule out any such a possibility requires credible and independent investigation.

36) That similar offence(s) of criminal breach of trust by public servant also appears to have been taken place in some other projects, including those titled as “Entertainment City and Theme Park,” and “Education City,” which also needs independent verification. The undersigned is trying to obtain more information in the regard and as and when more credible information is available, will try to provide complete details on the same too.

As mentioned above, the undersigned while scrutinising documents relating to the “Film City” has become aware of the commission of, and the intention of, certain public servants and other persons to commit an offence as defined under Section 409 IPC and so as duty bound under the provisions of Section 39 of the Cr. P.C., the relevant information of such commission and intention has been passed to your

lawful authority for such further necessary legal action as may be deemed fit by you in the matter.

Informing you;

Hemant Goswami
#3, Shivalikview Business Arcade,
Sector 17, Chandigarh 160 017

Telephone: +91-172-5165555

E-Mail: goswami@hemant.org

Place: Chandigarh

Date: January 16, 2009

C/c: Chief Justice of Punjab and Haryana High Court – For information with a request to ensure that the information sent under the provisions of Section 39 of Cr.P.C. are lawfully handled; and for developing the necessary administrative mechanism as the superintending court, so as to receive information u/s 39 of Cr.P.C. by all the Magistrate(s) (There appears to be no mechanism and no precedence w.r.t. receiving information u/s 39 of Cr.P.C. in Chandigarh)

Enclosed: Copies of relevant documents from Annexure C-1 to Annexure C-17: A total of 30 pages numbered from 13 to 42.