Supreme Court of India Janata Dal vs H.S. Chowdhary And Ors. on 28 August, 1992 Equivalent citations: AIR 1993 SC 892, 1993 CriLJ 600, 1992 (3) Crimes 199 SC, JT 1992 (5) SC 213, 1992 (2) SCALE 338, (1992) 4 SCC 305, 1992 Supp 1 SCR 226 Author: S R Pandian Bench: S Pandian, K J Reddy JUDGMENT S. Ratnavel Pandian, J. 1. We gave our conclusions in our earlier Order dated 27th August 1991 reserving the reasons to be given later. Accordingly, we render our reasons in the present judgment. 2. We feel that a prefatory note, though not the detailed facts of the case, is necessary for disposal of these appeals and writ petition. The facts culled out from various documents placed before this Court are as follows: 3. The Ministry of Defence, Government of India approved in August 1980 a proposal forwarded by Army Headquarters (HQ) recommending, inter-alia, the introduction of 155 mm calibre medium gun both towed and self-propelled to meet its defence operational requirements. The choice for obtaining the said gun system/guns was short listed in December, 1982 to (1) M/s. Sofma of France (2) M/s. A.B. Before of Sweden (briefly called 'Before') (3) M/s. International Military Services of U.K. and (4) M/s. Voest Alpine of Austria. In November 1985, there was a further short listing of Sofma and Before. Finally, the order was placed by the Government of India with Before on 24th March 1986 for the supply of 410 numbers (400 plus 10 free) of 155 mm Field Howitzer 77-B gun system/spare guns vide contract No. 6(9)/84/D (GS-IV) for a total amount of SEK 8410.66 million (Swedish Kroners) (equivalent to about Rs. 1437.72 crores or Rs. 14377.2 million). The related contract for supplying the gun package (towed) and other related agreements/contracts were concluded and signed on 24th March 1986 with M/s. A.B. Before. 4. On 17 April, 1987, some leading newspapers of our country gave prominent coverage to a Swedish Radio Broadcast made in the previous day, broadcasting that bribes had been paid to senior Indian politicians and key Defence figures to win the contract awarded by the Government of India to M/s. Before of Sweden on 24 March, 1986. 5. The Swedish Radio repeated the allegation on 17 April, 1987 claiming that it had documentary proof of the payoffs in four installments to Indian accounts in Swiss Banks and it had checked with Skandinaviska Enskilds Banken, the bankers for Before. On the other hand, Before denied paying any kickbacks to Indian politicians or officials for the deal involving the supply of 155 mm Towed howitzers and also issued a statement on 17th April 1987, itself which statement reads thus: AB Before has not paid, or conspired to pay, any bribes in connection with the order. All allegations to the contrary are hereby categorically denied. 6. The Government of India on 17th April 1987 issued a statement denying the allegations contained in the news items based on the broadcast report, made by the Swedish Radio and Television in connection with the arms order placed on Swedish firm, Before and categorized the news item as false, baseless and mischievous. The part of the said statement reads thus: Government's policy is not to permit any clandestine or irregular payments in contracts. Any breach of this policy by any one will be most severely dealth with. 7. On 20th April, 1987, the Minister of Defence (Shri K.C. Pant) made a suo-motu statement on the subject in Lok Sabha stating inter-alia that on the eve of finalising the contract, in response to a reiteration of Government's

policy and a demand for confirmation, M/s. Before had replied, vide their letter of the 10th March, 1986 that they did not employ any Representative/Agent in India for the project: However, for administrative services, e.g. hotel bookings, transportation, forwarding of letters, telexes etc., they use the services of a local firm. 8. The Defence Minister further stated that "if any evidence is produced involving violations of the law, the matter will be thoroughly investigated and the guilty, whoever they may be punished." 9. A similar statement was made by the Minister of State for Defence in Rajya Sabha on 21st April, 1987. 10. This issue created a storm of controversies both in the Lok Sabha and Rajya Sabha. Several issues were raised by the members in the respective Sabhas relating not only to the alleged kickbacks paid by M/s. Before for winning the contract but also about the quality and suitability of the gun selected for procurement. 11. On 20th April 1987, Shri Rajiv Gandhi, the then Prime Minister intervening in the debates in the Lok Sabha stated: ...And like Panditji has said now, you show us any evidence, we do not want proof. We will bring the proof. You show us any evidence that there has been involvement of middlemen, of payoffs or of bribes or commissions, we will take action and we will see that nobody however high-up is allowed to go free. 12. The then Defence Minister following the assurance made by the then Prime Minister stated: The Prime Minister has already intervened on a number of occasions and has said that there are no charges at the moment and if evidence is asked for then we shall look into it. We shall inquire into it and if somebody is found guilty we will punish him. This is the essence of what Members have been asking. 13. During the course of the discussion in Rajya Sabha and Lok Sabha, several members demanded a probe with full details by a Parliamentary Committee. When the matter stood thus on 4th June 1987, the Swedish Embassy in India, forwarded a copy of the Report dated 1st June 1987 of the Swedish National Audit Bureau (SNAB for short) with a note to the Ministry of External Affairs, Government of India, stating that what was made available to the Government of India was only one part of the Report of SNAB but not report in its entirety and the rest was withheld by the Government of Sweden on the bank secrecy requirements. The summary of the observations of the SNAB as extracted in the report of the JPC are as follows: ...that an agreement exists between AB Before and ...* concerning the settlement of commission subsequently to the FH 77 deal; and - that considerable amounts have been paid subsequently to, among others, AB Before' previous agent in India. (*Names not disclosed) 14. However, the report did not disclose the names of the recipients of kickbacks as indicated above. 15. This report of the SNAB (Swedish National Audit Bureau) was discussed by the then Prime Minister with the leaders of the opposition parties on 11 June, 1987. The Government decided to request the Speaker, Lok Sabha and the Chairman of the Rajya Sabha to set up a Joint Parliamentary Committee (hereinafter referred to as 'JPC') to enquire into and establish the identities of the persons who received the payments. But the Speaker and the Chairman of the respective Sabhas declined to set up on their own the JPC to probe into the Before deal. Thereupon, the then Prime Minister during his meeting with the leader of the opposition in Parliament on 17 June, 1987 indicated that the Government

would move a motion in the Monsoon Session of Lok Sabha for the appointment of a Parliamentary Committee to probe into the Before deal. Accordingly, the Minister of Defence (Shri K.C. Pant) moved a motion on 29th July 1987 in the Lok Sabha for appointment of the JPC. While moving the motion, the Minister on 3rd August 1987 after recalling the whole sequence of events stated inter-alia as follows: Two facts emerged from a careful study of the Report of the Swedish National Audit Bureau. These are, firstly, that sizable payments were made in 1986. It would also be seen that the most crucial portion of the Report, which contains particulars of the recipients of the amounts paid by Before, have not been disclosed to us. 16. Further in justification of the Constitution of JPC, the Defence Minister added that "That Government has nothing to hide. The Government wants to get at the truth and that is why this Committee has been set up." 17. Therefore, certain substitute motions were moved by the Parliament Members and ultimately after a discussion in both the houses, the JPC was constituted with the appointment of its chairman on 28.8.88 totally consisting of 30 elected members - 20 from Lok Sabha and 10 from Rajya Sabha for making the inquiry into the following matters: (i) Whether the procedures laid down for the acquisition of weapons and systems, were adhered to in the purchase of the Before' gun; (ii) to ascertain the identity of the persons who received, and the purpose for which they received, payments of the following amounts: (a) SEK 170-250 million (b) SEK 29.5 million (c) SEK 2.5 million from M/s. Before (as referred to in the Report of the Swedish National Audit Bureau, received by the Government of India on June 4, 1987); (iii) arising out of the enquiry, if there is prima facie evidence that M/s. Before have in addition to payments mentioned in (ii) above, made any other payments for securing the Indian contracts, the identity of the persons who received such payments shall be ascertained; (iv) to determine if any Indian laws/rules/regulations have been violated either by M/s. Before or by persons as indicated in (ii) and (iii) above. 18. Of the elected members, two members by name Shri Mahabir Prasad and Smt. Sumati Oraon resigned w.e.f. 16.3.1988. One other member, Dr. K.G. Adiyodi died and three other members of the Committee ceased to be members of the Committee consequent on their retirement from Rajya Sabha w.e.f. 2.4.1988. In place of the members, who resigned and a member who died, these other members from the Lok Sabha were elected. 19. The JPC submitted its report on 22nd April 1988 with its conclusion, the resultant portion of which reads as follows: (i) to (xii)... (xiii) That there is no evidence to establish that the Before' payment totaling SEK: 319.4 million involved a violation of any Indian law. (xiv) There is no evidence of any other payment having been made by Before for winning the Indian contract. 20. One of the Members gave his note of dissent disagreeing with the conclusions of the Committee. 21. Para 7.176 of the Report of JPC reads as follows: 7.176. The Committee note that during discussions, in September, 1987 with the Government of India team, the Before officials gave the following information regarding the names of Companies and details of payments made to them by way of winding- up charges: (i) SVENSKA INC. PANAMA - SEK 188.4 million (ii) MORESCO/MOINEAO - SEK 81 million in three S.A. (PITCO) Geneva instalments of SEK 37 million,

SEK 12 million and SEK 32 - million, (iii) A.E. SERVICES Ltd., U.K. SEK 50 million 22. It is further seen from the Report of the JPC that Mr. Lars Gothlin, Chief Jurist and Senior Vice-President of the Noble Industries was examined by the JPC and during the examination his attention was drawn to a statement of Mr. Thumbhole, Chairman of the Noble Industries, which is the holding company of M/s. A.B. Before that so far as he was aware, payments had been made to Indians or to an Indian company in connection with the contract. Of course, the Chief Jurist finding himself in a piquant situation, said that the words of Dr. Thumbhole were twisted. (Vide paras 7.41 and 7.56 of the Report of JPC). 23. In spite of the conclusion in the Report of the JPC, allegations of malpractices in the deal with Before, payments of kickbacks and receipt of illegal gratification were persistently reiterated and the matter was recently agitated. Meanwhile, there was a change of Government. In the aforesaid circumstances, the Superintendent of Police, CBI/DSPE/ACU-IV, New Delhi registered a First Information Report on 22nd January 1990 in Crime No. RC 1(A)/90/ACU-IV under Section 120-B read with Sections 161, 162, 163, 164 and 165-A of the Indian Penal Code read with Sections 5(2), 5(1)(d) and 5(2)/5(1)(c) of the Prevention of Corruption Act, 1947 read with Sections 409, 420, 468 and 471 of the Indian Penal Code against 14 accused of whom three are named, they being (1) Shri Martin Ardbo, former President of M/s. A.B. Before, Sweden, (2) Shri. Chadha alias Win Chadha, S/o Shri Assa Nand, President of M/s. Anatronic General Corporation/Anatronic General Companies Ltd., C/4, Main Market, Vasant Vihar, New Delhi and Shri G.P. Hinduja, New Zealand House, Hay Market, London SW-1. The rest of the 11 accused are stated in general as directors/employees/holders/beneficiaries of account code and public servants of the Government of India. The preface of the First Information Report shows that the case was registered "on the basis of reliable information received from certain sources, certain facts and circumstances that have become available, through media reports dated 1st June 1987 of the Swedish National Audit Bureau, certain facts contained in the report dated 22nd April 1988 of the Joint Parliamentary Committee (JPC) and the report dated 28th April 1988 of the Comptroller and Auditor General of India (CAG)". The FIR gives a detailed sequence of the events relating to the purchase of guns from M/s. A.B. Before, Sweden and the related agreements entered thereupon in violation of the Government's policy i.e. not to involve any agent and the existing law of this land. Various allegations are made mention of in the FIR regarding the payments of bribes/kickbacks and receipt of illegal gratification, the debates made in the Parliament, the correspondences among the parties and the various findings of the JPC. It is further averred in the First Information Report that even in the letter dated 3.10.86, sent to the Swedish National Bank, Before had referred to some of the payments to Svenska Inc. and the code name 'Mont Blanc' as "commission payments" and that the payment to M/s. Moresco/Moineao/SA/Pitco, Geneva was deposited by Before in three code name accounts, namely, "Lotus" in Suisse Bank Corporation, 2 Rue de la Confederation 1204, Geneva; "Tulip" in Manufacturers Hannover Trust Company, 84 Rue du Rhone, 1204, Geneva and "Mont Blane" in Credit Suisse, 2 Place Belle Air, 1204, Geneva and that

these payments to code name accounts are without mentioning or disclosing the payers' names. Ultimately, reference was also made in paragraph 112 of the FIR to the statement of Mr. Thulholm, Chairman of Noble Industries reading: As the report of JPC discloses, Shri Thulholm, Chairman of Noble Industries had stated that so far as he was aware, payments had been made to Indians or to an Indian company in connection with the contract. Shri Thulholm had also stated that he could not guarantee that bribes had not been paid. Before being a subsidiary of Noble Industries, these statements of Shri Thulholm are important. 24. The core of the allegations in the FIR is that the accused, named and unnamed, entered into a criminal conspiracy, obtained illegal gratification in the form of money from Before, a Swedish company through the agent/firms/companies/persons as motive or reward for such public servants who by corrupt or illegal means or by otherwise dishonestly using their official position as public servants caused pecuniary advantage to themselves, Before, the agents and others in awarding contracts to Before for the supply of guns to the Government of India and in the transaction committed the offences of criminal breach of trust, cheating, forgery and using of forged documents. It appears that the CBI has commenced its investigation during the course of which it has recorded statements of witnesses and took into its custody various documents and files relating to this Before deal. 25. While it was so, the CBI moved an application before the Special Judge, namely, Shri R.C. Jain requesting to issue a letter rogatory/request to Switzerland urgently for getting the necessary assistance so that the investigation can be conducted in Switzerland lest very important and relevant evidence would remain uncollected and the cause of justice would be frustrated. 26. Be it noted, the compelling reasons which necessitated the CBI to file that application have already been given in brief in our earlier order dated 27th August 1991 reported in [1991] 3 SCC 756. Therefore, we are not repeating those facts in this final judgment. The Special Judge after hearing the then Additional Solicitor General of India, Deputy Legal Advisor of CBI and Senior Public Prosecutor allowed that application by his order dated 5th February 1990. The relevant portion of which reads thus: In the result, the application of the CBI is allowed to the extent that a request to conduct the necessary investigation and to collect necessary evidence which can be collected in Switzerland and to the extent directed in this order shall be made to the Competent Judicial Authorities of the Confederation of Switzerland through the Ministry of External Affairs, Government of India subject to the filing of the requisite/paper undertaking required by the Swill Law and assurance for reciprocity. 27. The Special Judge also directed certain documents to be sent along with this letter of rogatory. Further, the learned Judge has put up a note reading thus: Needless to mention that no (sic - any) observation made in this order shall tantamount to expression of opinion at any subsequent stage of enquiry or trial. 28. It appears that the letter rogatory was sent back by the order of the Cantonal Court of Geneva for compliance of certain procedural formalities in that said order. It was at this relevant time that Shri Harinder Singh Chowdhary, an Advocate claiming to be the General Secretary of an Organisation named as Rashtriya Jan Parishad which according to him, is

devoted to uphold the "Rule of Law, fight against injustice in any field and abide by the Constitution and respect ideals and institutions" filed Criminal Miscellaneous Case No. 12 of 1990 before the Special Court under Article 51(A) of the Constitution of India seeking the following prayers: In the premises your petitioners humbly request that in order to maintain the dignity, prestige and the fair name of the country and the ideals enshrined in the Constitution no rogatory letter be issued on the formal request of the CBI unless the allegations against named persons are established to the satisfaction of this Hon'ble court: It is further requested that no request for rogatory or freezing bank account be made to Swiss Government unless the concerned persons are noticed and heard on the subject: It is further requested that the petitioner may be permitted to join during inquiry before this Hon'ble Court in the capacity of Public interest litigant: It is further requested that inquiry under Section 340 Cr. P.C. be held to determine the alleged offence committed by various persons and till then proceedings of rogatory be stopped. 29. The Special Judge, Shri V.S. Aggarwal dismissed that petition by his order dated 18th August 1990 observing thus: It goes without saying that Letter Rogatory had been issued by Shri R.C. Jain, then Special Judge, Delhi on recording his satisfaction that it should be issued. The petitioner has appended along with the application the copy of the order passed by the Cantonal Court, Geneva. It is accompanied by its English translation. It clearly recites that application for judicial assistance should be sent back after completing the procedural formalities mentioned in the order. It cannot, therefore, be said that the letter of request had been rejected. It further does not call for any fresh reconsideration in this regard pertaining to the order passed by my learned predecessor. 30. Coming to the question of locus standi of Shri Harinder Singh Chowdhary to file this petition requesting the prayers mentioned ibid, the learned Judge held thus: Examining the present case on the touch-stone of the above mentioned cases, it is clear that though petitioner is a member of the noble profession, but while the matter is still at investigating stage, he cannot be permitted to intervene and the doors of the Court will not be ajar for him. He has no direct interest in such investigation nor suffers any special loss. Therefore, at the threshold, one can safely conclude that he has no locus-standi to claim reliefs mentioned above. 31. Consequent upon the above findings, the Special Judge dismissed the petition stating, "This request of the learned Counsel cannot be accepted." Thereafter, the Special Judge issued (1) Note of Compliance and (2) Amended letter rogatory on August 22, 1990. 32. On being aggrieved by the order of the Special Judge dated August 18, 1990, Shri Harinder Singh Chowdhary filed a criminal revision before the High Court of Delhi under Sections 397/482 of the CrPC raising multiple questions of law challenging the legality and validity of not only the impugned order but also the very registration of the FIR and the investigation carried thereon by the CBI. The reliefs sought for in the criminal revision are as follows: (a) to quash the entire FIR No. RC 1(A)/90/ACU-IV dated January 22, 1990 and criminal proceedings covered by the same. (b) or remand the case to the Special Judge permitting the petitioner to argue his case before the lower court and also direct the court below to decide the petition on merits. (c) direct the court that no

request for rogatory letters be made to Swiss Government, till the petitioner is heard on his application. (d) the petitioner may be permitted to join during the inquiry to determine the question of dual criminality before the learned Special Judge in the capacity of public interest litigant, and also direct the learned Special Judge to decide the question of dual criminality before issuing the letter rogatory. (e) direct the learned Special Judge not to issue any rogatory letter on the formal request of the CBI unless the allegations against named persons is established to the satisfaction of the Special Judge by cogent evidence. 33. This revision petition has been registered as Criminal Miscellaneous (Mam) No. 1821 of 1990 on the file of the High Court of Delhi. During the hearing of this case, several applications seeking impalement/intervention were filed by various political parties and others of whom one was by Mr. Shanti Bhushan, an Advocate of this Bar and another by Mr. N. Ram and so on. 34. The above criminal case (Criminal Miscellaneous (Main) Case No. 1821 of 1990 was listed before Justice M.K. Chawla, the then Judge of the High Court of Delhi, Several applications were taken before him by the impending interveners seeking several prayers such as permitting them to implead themselves in the revision proceedings and affording them adequate opportunities to make their submissions before the Court opposing the revision petition. As the prayers of the interveners were not acceded to, the Janata Dal etc. filed a special leave petition (criminal) No. 2320 of 1990 before this Court which passed an order on 10th December 1990, the relevant portion of which is as follows: ... We are of the view that the learned Judge should dispose of these applications by a judicial order before the matter is reserved for judgment and in case the applications are not accepted, judgment should not be delivered for at least 2 days after such an order on these writ petitions (sic on the revision petition) is made to enable them to move this Court. 35. In compliance of the above direction of this Court, Mr. Justice Chawla heard Mr. Ram Jethmalani, Sr. counsel who appeared on behalf of Janata Dal and Mr. Prashant Bhushan. It appears Mr. Jethmalani was constrained to make a request to Mr. Justice Chawla to refuse himself from the case, which request, of course, was rejected by the learned Judge. Thereafter, a petition for recusation was filed which was also dismissed. Mr. Justice Chawla after hearing the learned Counsel for Mr. H.S. Chowdhary as well as the intervenes, passed his final impugned order on 19th December 1990, dismissing the revision petition, the relevant portion of the said order read thus: In my opinion, the case of the petitioner does not fall within the ambit and scope of the law laid by the Supreme Court in Bandhua Mukti Morcha v. Union of India [1986] Supp SCC 553. So, I hold that the petitioner has no locus standi to file the present revision petition and is thus not maintainable on his behalf. The same is hereby dismissed. As a consequence of the dismissal of the present petition, holding that the petitioner has no locus standi, the applicants have no right to be impleaded and their impalement/intervention applications are also rejected. This is not the end of the matter. There is yet another process by which the court can take judicial notice of any illegality being committed by any court, with a view to prevent the injury being caused to the known or unknown aggrieved party. XX XX XX 36. The learned Judge of the High Court, Mr. Justice M.K. Chawla

after referring to Sections 119, 397, 401 and 482 of the CrPC concluded thus: In the light of the settled legal proposition, I have carefully examined the record placed before me, Prima facie, I am of the opinion that the following illegalities have been committed by the Trial Court: (1) That the FIR filed by the CBI in this case on the face of it does not disclose any offence. It is in violation of the provisions of Section 154, inasmuch as no investigation can be carried out for an offence alleged to have been committed outside India, and the court of the Special Judge should not have taken cognizance of the same. (2) That the C.B.I. should have exhausted their remedies before the J.P.C. before launching proceedings in the court of the Special Judge inasmuch as the same investigating agency cannot be allowed to override the findings of the JPC, and this aspect has not been taken into consideration by the trial court, (3) The court of the Special Judge who issued letter rogatory had no jurisdiction to entertain such a request or to pass any order on it. (4) The so-called memo of understanding relied upon by the trial court was contrary to the Municipal law of the land and is violative of Article 21 and 300-A of the Constitution of India. (5) That the CBI is not a legally constituted force which can be entrusted with the investigation; and (6) That the investigation on the face of it is biased and influenced by outside agencies. So, I sue motu take cognizance while exercising my powers under Sections 397 and 401 read with Section 482 of the Code, and direct the office to register the case under the title, court on its own motion vs. State and CBI. Consequently, I call upon the CBI and the State to show cause as to why the proceedings initiated on the filing of FIR No. RCI (A)/90/ACU-IV dated 22.1.90, pending in the court of Shri V.S. Aggarwal, Special Judge, Delhi, be not quashed. 37. Feeling aggrieved by the above order of Justice Chawla of Delhi High Court, all these criminal appeals and the Writ petition have been filed before this Court. This Court on 20th December 1990 in Criminal Appeal No. 304 of 1991 (arising out of SLP Criminal No. 2476 of 1990 filed by the Janata Dal) passed the following order granting interim stay: In the meantime, the reasons leading to registration of the suo motu proceedings would not be operative. There shall be interim stay of proceedings including hearing before the High Court. 38. We have given a gist of all those appeals as well as the Writ Petition in our Order dated 27th August 1991. Therefore, we feel it not necessary to reiterate the same. 39. After carefully considering all aspects of the case and examining the rival contentions of the parties we have recorded our conclusions in the earlier order as follows: 1. Mr. H.S. Chowdhary has no locus standi (a) to file the petition under Article 51-A as a public interest litigant praying that no letter rogatory/request be issued at the request of the CBI and he be permitted to join the inquiry before the Special Court which on February 5, 1990 directed issuance of letter rogatory/request to the Competent Judicial Authorities of the Confederation of Switzerland; (b) to invoke the revisional jurisdiction of the High Court under Sections 397 read with 401 of the CrPC challenging the correctness, legality or propriety of the order dated August 18, 1990 of the Special Judge and (c) to invoke the extraordinary jurisdiction of the High Court under Section 482 of the CrPC for quashing the first information report dated January 22, 1990 and all other proceedings arising therefrom on the

pleas of preventing the abuse of the process of the court. 2. In our considered opinion, the initiation of the present proceedings by Mr. H.S. Chowdhary under Article 51-A of the Constitution of India cannot come within the true meaning and scope of public interest litigation. 3. Consequent upon the above conclusions (1) and (2), the appellants namely, Janata Dal, Communist Party of India (Marxist) and Indian Congress (Socialist) who are before this Court equally have no right of seeking their impalement/intervention. For the same reasons, Dr. P. Nalla Thampy Thera also has no right to file the Writ Petition (Criminal) No. 114 of 1991 as public interest litigant. 4. Having regard to the facts and circumstances of the case, the suo motu action of Mr. Justice M.K. Chawla in taking cognizance in exercise of the powers under Sections 397 and 401 read with Section 482 of the Code based on the convoluted and strained reasoning and directing the office of the High Court of Delhi to register a case under the title Court on its motion v. State and CBI cannot be sustained. Consequent upon the above conclusions No. (4), we hold that the directions of Mr. Justice M.K. Chawla calling upon the CBI and the State to show cause as to why the proceedings initiated on the strength of the first information report dated January 22, 1990 be not quashed, cannot be sustained. In the result, we agree with the first part of the order dated December 19, 1990 of Mr. Justice M.K. Chawla holding that parties have no locus standi. We, however, set aside the second part of the impugned order whereby he has taken suo motu cognizance and issued show-cause notice to the State and CBI and accordingly the show-cause notice issued by him is quashed. In view of the above conclusions, all the proceedings initiated in pursuance of the first information report dated January 22, 1990 relating to Crime No. RC/(A)/90/ ACU-IV on the file of the Special Judge, Delhi including the issuance of the letter rogatory/request as they stand now, remain unaffected and they can be proceeded with in accordance with law. In Summation Criminal Appeal Nos. 304, 305, 306, 307, 308 and 309 of 1991 are dismissed. Criminal Appeal No. 310 of 1991 filed by the Union of India against the order dated September 5, 1990 of the High Court is dismissed in view of the fact that the said order does not survive for consideration on the passing of the final order dated December 19, 1990. The Writ Petition No. 114 of 1991 is also dismissed. Criminal Appeal No. 311 of 1991 filed by Union of India and CBI is allowed for the reasons stated above. 40. The sum and substance of the order of Mr. Justice Chawla in this regard, is that Harinder Singh Chowdhary has no locus standi to file the revision petition and resultantly his revision petition was not maintainable and consequently all the applicants (interveners) have no right to be impleaded and that the applications for impalement/intervention were liable to be rejected. 41. Mr. Anand Dev Giri, the learned Solicitor General (as he then was) and thereafter Mr. Altaf Ahmad, the present Additional Solicitor General appearing on behalf of the Union of India as well on behalf of CBI and Mr. Ram Jethmalani and Mr. Shanti Bhushan, learned senior counsel assisted by Mr. Prashant Bhushan appearing in Criminal Appeal Nos. 304, 305 and 307 of 1991 and Mr. K.G. Bhagat, the learned senior counsel appearing in Criminal Appeal Nos. 306 and 311 of 1991 on behalf of Mr. H.S. Chowdhary besides a battery of lawyers representing their respective parties advanced respective

arguments for a considerable length of time raising multiple questions of law with reference to the various legal aspects. Though, more often than not, there were some heated arguments - occasionally tinged with acrimony and tumult - all the learned Counsel made their erudite submissions and scholarly debate in forensic eloquence exhibiting their profound knowledge of law - particularly in the criminal field. 42. The resultant propositions deducible from the rhetorical submissions and the counter-submissions expostulated with reference to various provisions of the Constitution, CrPC (hereinafter referred to as 'the Code') and other cognate statutes can be summarised as follows: 1. The unrestricted and inherent powers of Subordinate Courts - both Civil and Criminal - apart from their ancillary and incidental powers, in the absence of any provision to the contrary could and should be exercised ex-debited rusticate for ends of justice, that is for taking steps as may be necessary to enable the Courts in discharge of the judicial functions to issue directions or pass appropriate orders without causing prejudice to either of the parties for administering substantial justice whenever legitimate occasion for doing so arises, 2. The discretionary power of the Special Judge in issuing Letter Rogatory on 5.2.1990 even before the introduction of Section 166-A of the CrPC (hereinafter referred to as "the Code") in exercise of his uninhibited inherent powers is supported by the Memorandum of Understanding (MOU) creating a contractual arrangement between the two countries, namely, India and Switzerland which arrangement amounts to bilateral international treaty having a binding force between the two contracting parties and also in substantial compliance of Section 285 of the Code. 3. Criminal Courts are not forbidden in participating in the course of investigation in the matter of collection of evidence; and in fact the Courts are invested with statutory power to take active role and aid the investigation in gathering evidence as contemplated under Sections 91, 93, 94, 105 (as amended by the Amending Act XXXII of 1988), 284, 285 etc. of the Code as well as under Sections 156(3), 157, 159, 167(2), 190, 202, 164, 306 etc. of the Code. 4. Neither an accused nor a public interest litigant has right to question the mode of collection of evidence of the investigating agency and interfere in the progress of the investigation. 5. The re-submission (after complying certain procedural formalities) of the Letter Rogatory on 22nd February 1990, subsequent to the introduction of Section 166-A of the Code by an Ordinance promulgated on 19th February 1990 and replaced by an Act coming into force with retrospective effect from 19.2.1990 is supported by sanction of law. 6. Whether the Memorandum of Understanding (MOU) is constitutionally invalid, being contrary to Articles 73 and 77 and in conflict with and opposed to Articles 21 and 300A of the Constitution? 7. Whether Courts can take judicial notice of the MOU without its being gazetted and ratified in compliance with the Vienna Convention on the Law of Treaties, 1969? 8. Whether the Central Bureau of Investigation (CBI) is a legally constituted body and empowered with powers of registering and investigating a cognizable offence? 9. Whether the contents of the First Information in the present case constitute a cognizable offence warranting the registration of a case under Section 154 of the Code? 10. What are the circumstances under which the Criminal Court can suo moto exercise its revisional jurisdiction? 11.

Is there any bar for the Courts to examine the report of the Joint Parliamentary Committee (JPC) constituted by the Parliament under the Rules of Procedure made under Article 118 of the Constitution or for a successor Government to question its findings in the absence of any negation or modification or change of the findings of the Report? 43. The learned Counsel for the parties while advancing their arguments on the above propositions posed several ancillary questions of law. Mr. Bhagat made a special reference to The Geneva Convention Act of 1960, The Extra Convention Act of 1962, The International Monetary Fund and Banking Act of 1945, The Diplomatic Privileges Act of 1964 etc. in support of his contention that the present MOU cannot partake of the force of law and that it cannot be invoked. A host of decisions were cited at the Bar in support of the above propositions. 44. It is not only appropriate but also has become necessary in this connection to point out that the grounds taken in the petition filed by Mr. H.S. Chowdhary before the Special Judge were only with reference to issue of Letter Rogatory and the authority of the CBI to register a case in the absence of any named public servant being brought as accused in the FIR and the power of CBI to investigate the case since the JPC had already rendered its findings on the subject-matter in issue. One other contention was that the registration of the case was on account of political rivalry entertained by the Janata Dal Government as against the outgoing Congress Government. 45. The Special Judge disposed of the petition holding, "Shri H.S. Chowdhary has no locus standi to claim the reliefs sought for in the petition." In the revision petition, Mr. H.S. Chowdhary took certain additional grounds stating that the First Information Report has not disclosed the commission of any cognizable offence and the CBI has gone wrong in registering the FIR in the absence of any additional evidence which were not available before the JPC and that the Letter Rogatory ought not have been issued without recording evidence. The High Court dismissed the revision petition as being not maintainable on the sole ground of locus standi and did not go to other questions of law raised by Mr. Chowdhary. Only for the first time before this Court, the parties are litigating on the above stated propositions of law which except for one or two have neither been raised before the Courts below nor agitated. Strictly speaking, as the present appeals are preferred challenging only the judgment of the High Court dated 19.12.90, this Court is called upon to examine the tenability of the reasons given by the High Court as regards the locus standi of Mr. H.S. Chowdhary and in addition, the invocation of the suo motu action of the High Court in exercise of its revisional jurisdiction. This Court while disposing of Criminal Appeal No. 306/91 filed by Mr. H.S. Chowdhary challenging the first part of the order of the High Court dismissing his revision petition on the ground that he has no locus standi, has confined its consideration only on that point. However, with regard to the various questions of law, we expressed our view in our earlier Order as follows; Even if there are million questions of law to be deeply gone into and examined in a criminal case of this nature registered against specified accused persons, it is for them and them alone to raise all such questions and challenge the proceedings initiated against them at the appropriate time before the proper forum and not for third parties under the garb

of public interest litigants. 46. We have also given the reasons for not dealing with specific propositions raised by the respective counsel in our earlier Order observing thus: Therefore, under these circumstances one should not lose sight of the significant fact that in case this Court pronounces its final opinion or conclusions on the issues other than the general issues raised by the appellants as public interest litigants, without hearing the really affected person/persons, such opinion or conclusions may, in future, in case the investigation culminates in filing a final report become detrimental and prejudicial to the indicated accused persons who would be totally deprived of challenging such opinion or conclusions of this apex Court, even if they happen to come in possession of some valuable material to canvass the correctness of such opinion or conclusions and consequently their vested legal right to defend their case in their own way would be completely nullified by the verdict now sought to be obtained by these public interest litigants. 47. However, as we have expressed our view "that the question as to whether laws are so petrified as to be unable to respond to the challenges made will be dealt with in detail in our main judgment, we have to examine the law as regards the scope and ambit of public interest litigation and the power of the High Court in taking suo motu cognizance in exercise of its powers under Section 397 and 401 read with Section 482 of the Code which are the general issues as indicated by us in our earlier Order. 48. We hasten to add that we will not be justified to make disembodied pronouncements or any observation on seriously disputed questions of law and facts taking its cue from mere affidavits, that too not from the person aggrieved or affected and without the battle lines being properly drawn by the affected parties. 49. We shall now briefly deal with the scope and object of 'public interest litigation' (PIL), the horizon of which is widely extended and which at present constitutes a new chapter in justice delivery system acquiring a significant degree of importance in the modern legal jurisprudence practiced by Courts in many parts of the world, based on the principle,"Liberty and Justice for All". Public Interest Litigation - its origin and meaning 50. The question,"what 'PIL' means and is?" has been deeply surveyed, explored and explained not only by various judicial pronouncements in many countries, but also by eminent Judges, jurists, activist lawyers, outstanding scholars, journalists and social scientists etc. with a vast erudition. Basically the meaning of the words 'Public Interest' is defined in the Oxford English Dictionary, 2nd Edition, Vol. XII as "the common well being... also public welfare". 51. In Shrouds Judicial Dictionary, Vol. 4 (IV Edition), 'public interest' is defined thus: PUBLIC INTEREST (1) A matter of public or general interest "does not mean that which is interesting as gratifying curiosity or a love of information or amusement' but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected." (per Cambell C.J., R. v. Bedfordshire 24 L.J.Q.B. 84). 52. In Black's Law Dictionary (Sixth Edition), 'public interest' is defined as follow: Public Interest - Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in

question. Interest shared by citizens generally in affairs of local, state or national government.... 53. The expression 'litigation' means a legal action including all proceedings therein, initiated in a Court of Law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression 'PIL' means a legal action initiated in a Court of Law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected. There is a host of decisions explaining the expression 'PIL' in its wider connotation in the present-day context in modern society, a few of which we will refer to in the appropriate part of this judgment. 54. It would be quite appropriate in the case on hand to analyze both the basic features and the evolution and profound transformation of the developing and growing PIL in modern society. Suffice it to say that the challenges facing this ameliorable litigation are examined in the light of their social, economic, political and ideological causes; and that the solutions to be adopted by the legal system to meet those challenges are explored, since there is still an ocean of unmet needs. These challenges are : (1) The expanded role of Courts in the modern 'social' state and the new demands for judicial responsibility; (2) the rise and growth of varied systems of judicial review and the legitimacy of such development; (3) the emergence of the notion of 'access to justice' as a judicial answer to egalitarian ideals and demands for effectiveness, and the development of PIL, and (4) the role of courts in promoting the legal system in the arena of PIL. The relentless efforts taken by courts in meeting all those challenges, in fact, strive for a optimally in which the interest of the least advantaged is given an overriding priority. During the last three decades, judicial activism has opened up new dimension for the judicial process and has given a new hope to the justice-starved millions. On the question of legitimacy of the PIL and the significant importance of its various aspects in the context of the present-day felt needs, stimulated by the emergence of a variety of new social movements and societal exigencies, this Court has laid down a long line of decisions, outlining the evolution of PIL, its vital issues and problems relating to the focus, choice of relief methods, the means and the administrative strategy for litigation and the demand for distributive justice for resolving the complicity of social problems and creating genuine initiatives so that this new activism may be more meaningful social justice. Thus the concept of PIL which has been and is being fostered by judicial activism has become an increasingly important one setting up valuable and respectable records, especially in the arena of constitutional and legal treatment for 'the unrepresented and under-represented'. 55. The period of 1960s in United States of America was the important period of social embroilment during which not only manifold changes to many institutions took place; but also significant reforms of which public interest litigation was one were proposed and tried. The concept of PIL though had its origin in U.S.A., over the march of years it has passed through various changes and modifications in their common law based systems. It is not necessary to examine all those modifications and changes in the structure of the public law of that country and the manner in which the legal services have been redistributed in American society except saying that the strict re-

quirement of legal interest has been diluted and attenuated in the country of its origin. Similarly, the common law based systems in other parts of the common wealth countries have also undergone various changes. Legal aid programmes in Australia and Canada have been restructured to serve divergent aspects of the public interest. Some of the countries have gone to the extent of broadening its scope even beyond litigation and including many varieties of negotiations and even non-litigating approaches. Thus the definition of PIL emerged from historical context in which the commonality of the various forms of legal representation involving the basic and fundamental rights of a significant segment of the public demanding vindication of its rights has been recognised in various parts of the world. 56. The emergence of the concept of PIL, in the Indian legal system has been succinctly explained by P.N. Bhagwati, J. (as he then was) in one of his articles contributed under the caption 'Social Action Litigation: The Indian Experience' thus: The judiciary has to play a vital and important role not only in preventing and remedying abuse the misuse of power but also in eliminating exploitation and injustice. For this purpose it is necessary to make procedural innovations in order to meet the challenges posed by this new role of an active and committed judiciary. The summit judiciary in India, keenly alive to its social responsibility and accountably to the people of the country, has liberated itself from the shackles of Western thought, made innovative use of the power of judicial review, forged new tools, devised new methods and fashioned new strategies for the purpose of bringing justice for socially and economically disadvantaged groups.... ... During the last four or five years however, judicial activism has opened up a new dimension for the judicial process and has given new hope to the justice-starved millions of india. (Vide 'Role of the Judiciary in Plural Societies' published in 1987.) 57. Indian law has historically been strongly identified - both in theory and practice - with a tradition which has been concerned with the rights and duties of individuals. Yet in recent years it has been recognized that this tradition is inadequate to cope with a wide range of problems arising out of inequality of means, opportunities and entitlements in society. This conflict has generated increasing discussion of PIL, and also the development of a whole new corpus of law for effective and purposeful implementation of PIL and institutions explicitly concerned with the manner and techniques by which the public interest is, and can be, safeguarded by the legal system. 58. The seed of the concept of PIL were initially sown in India by Krishna Iyer, J. in 1976 (without assigning the terminology) in Mumbai Kamgar Sabha v. Abdulbhai , he while disposing an industrial dispute in regard to the payment of bnous, has observed: Our adjectival branch of jurisprudence, by and large, deals not with sophisticated litigants but the rural poor, the urban lay and the weaker societal segments for whom law will be an added terror if technical mis-descriptions and deficiencies in drafting pleadings and setting out the cause-title create a secret weapon to non-suit a part. Where foul play is absent, and fairness is not faulted, latitude is a grace of processual justice. Test litigations, representative actions, pro bono publico and like broadened forms of legal proceedings are in keeping with the current accent on justice to the common man and a necessary disincentive to those who wish to bypass the real

issues on the merits by suspect reliance on peripheral procedural short comings. Even Article 226, viewed on wider perspective, may be amenable to ventilation of collective or common grievances, as distinguished from assertion of individual rights, although the traditional view, backed by precedents has opted for the narrower alternative. Public interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualisation of the right to invoke the higher courts where the remedy is shared by a considerable number, particularly when they are weaker. Less litigation, consistent with fair process, is the aim of adjectival law. 59. After the germination of the seeds of the concept of PIL in the soil of our judicial system, this rule of PIL was nourished, nurtured and developed by the Apex Court of this land by a series of outstanding decisions. 60. In Fertilizer Co-option Kamgar Union v. Union of India the terminology "public interest litigation" was used. In that decision, Krishna Iyer, J. delivering his opinion for Bhagwati, J. (as the learned Chief Justice then was) and himself used the expression 'epistolary' jurisdiction. However, this rule on gaining momentum day by day, burgeoned more and more expanding its branches in the cosmos of PIL and took its root firmly in the Indian Judiciary and fully blossomed with fragrant smell in S.P. Gupta v. Union of India . Locus Standi 61. Though it is imperative to lay down clear guidelines and propositions; and outline the correct parameters for entertaining a Public Interest Litigation - particularly on the issue of locus standi yet no hard and fast rules have yet been formulated and no comprehensive guidelines have been evolved. There is also one view that such adumbration is not possible and it would not be expedient to lay down any general rule which would govern all cases under all circumstances. 62. Be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold. 63. The traditional syntax of law in regard to locus standi for a specific judicial redress, sought by an individual person or determinate class or identifiable group of persons, is available only to that person or class or group of persons who has or have suffered a legal injury by reasons of violation of his or their legal right or a right legally protected, the invasion of which gives rise to action ability within the categories of law. In a private action, the litigation is bipolar; two opposed parties are locked in a confrontational controversy which pertains to the determination of the legal consequences of past events unlike in public action. The character of such litigation is essentially that of vindicating private rights, proceedings being brought by the persons in whom the right personally inhere on their legally constituted representatives who are thus obviously most competent to commence the litigation. 64. In contrast, the strict rule of locus standi applicable to private litigation is relaxed and a broad rule is evolved which gives the right of locus standi to any member of the public acting bona fide and having sufficient interest in instituting an action for redressal of public wrong or public injury, but who is not a mere busy body or a meddlesome interloper; since the dominant object of PIL is to ensure observance of the pro-

visions of the Constitution or the law which can be best achieved to advance the cause of community or disadvantaged groups and individuals or public interest by permitting any person, having no personal gain or private motivation or any other oblique consideration but acting bona fide and having sufficient interest in maintaining an action for judicial redress for public injury to put the judicial machinery in motion like actio popularize of Roman Law whereby any citizen could bring such an action in respect of a public delict. 65. It will be befitting to recall the observation of this Court in People's Union for Democratic Rights and Ors. v. Union of India and Ors. which reads thus: But the traditional rule of standing which confines access to the judicial process only to those to whom legal injury is caused or legal wrong is done has now been jettisoned by this Court and the narrow confines within which the rule of standing was imprisoned for long years as a result of inheritance of the Anglo-Saxon System of jurisprudence have been broken and a new dimension has been given to the doctrine of locus standi which has revolutionised the whole concept of access to justice in a way not known before to the western system of jurisprudence... it is therefore necessary to evolve a new strategy by relaxing this traditional rule of standing in order that justice may become easily available to the lowly and the lost. 66. R.S. Pathak, J. (as the learned Chief Justice then was) while agreeing with the directions proposed by Bhagwati, J. (as the learned Chief Justice then was) in Bandhua Mukti Morcha v. Union of India and Ors. [1984] 2 SCR 65 at 159 expressed his view stating, "in public interest litigation, the role held by Court is more assertive than in traditional actions." 67. M.N. Venkatacbaliah, J. speaking for the Bench in Sheela Bane v. Union of India and Ors. has brought out the distinction between private litigation and public interest litigation in the following words: In a public interest litigation, unlike traditional dispute resolution mechanism, there is no determination or adjudication of individual rights. While in the ordinary conventional adjudications the party structure is merely bi-polar and the controversy pertains to the determination of the legal consequences of past events and the remedy is essentially linked to and limited by the logic of the array of the parties, in a public interest action the proceedings cut across and transcend these traditional forms and inhibitions. The compulsion for the judicial innovation of the technique of public interest action is the constitutional promise of a social and economic transformation to usher in an egalitarian social order and a welfare State.... The dispute is not comparable to one between private parties with the result there is no recognition of the status of a dominus litis for any individual or group of individuals to determine the course or destination of the proceedings, except to the extent recognised and permitted by the Court. The "rights" of those who bring the action on behalf of the others must necessarily be subordinate to the "interests" of those for whose benefit the action is brought. The grievance in a public interest action, generally speaking, is about the content and conduct of government action in relation to the consitutional or statutory rights of segments of society and in certain circumstances the conduct of government policies. Necessarily, both the party structure and the matters in controversy are sprawling and amorphous, to be defined and adjusted or readjusted as the case may be, ad hoc, according

as the exigencies of the emerging situations. The proceedings do not partake of predetermined private law litigation models but are exogenously determined by variations of the theme. 68. Though we have, in our country, recognised a departure from the strict rule of locus standi as applicable to a person in private action and broadened and liberalised the rule of standing and thereby permitted a member of the public, having no personal gain or oblique motive to approach the court for enforcement of the constitutional or legal rights of socially or economically disadvantaged persons who on account of their poverty or total ignorance of their fundamental rights are unable to enter the portals of the courts for judicial redress, yet no precise and inflexible working definition has been evolved in respect of locus standi of an individual seeking judicial remedy and various activities in the field of PIL. Probably, some reservation and diversity of approach to the philosophy of PIL among some of the Judges of this Court as reflected from the various decisions of this Court, is one of the reasons for this Court finding it difficult to evolve a consistent jurisprudence in the field of PIL. True, in defining the rule of locus standi no 'rigid litmus test' can be applied since the broad contours of PIL are still developing apace seemingly with divergent views on several aspects of the concept of this newly developed law and discovered jurisdiction leading to a rapid transformation of judicial activism with a far reaching change both in the nature and form of the judicial process. 69. In this context, it would be quite relevant to recite the observations made by Bhagwati, J. (as the learned Chief Justice then was) in S.P. Gupta v. Union of India [1981] Supp. SCC 87 at page 210 reading thus: Today a vast revolution is taking place in the judicial process; the theatre of law is fast changing and the problems of the poor are coming to the forefront. The Court has to innovate new methods and devise new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights and to whom freedom and liberty have no meaning. The only way in which this can be done is by entertaining writ petitions and even letters from public-spirited individuals seeking judicial redress for the benefit of persons who have suffered a legal wrong or a legal injury or whose constitutional or legal rights has been violated but who by reason of their poverty or socially or economically disadvantaged position are unable to approach the court for relief. (emphasis supplied) 70. As briefly pointed out in S.P. Gupta's case (cited supra), there are certain exceptions carved out of the strict rule of standing, to be made applicable to PIL cases. By way of illustration, it may be stated that under Order XXXII of the CPC, any person acting as the next friend of a minor may bring an action in his name for judicial redress. So. also any other person other than the person under detention may file an application for issue of a writ of habeas corpus challenging the legality of the detention of the detenu. Similarly, the Judicial Committee of the Privy Council approved the exception to the strict rule of standing in Durayappah v. Fernando [1967] 2 All ER 152 (PC) : [1967] 2 AC 337. In United States of America also, though the exception has been recognised and the strict rule of standing has been liberalised in the interest of justice, it has been attenuated later on in some of the cases vide (1) Data Processing Service v. Camp 367 US 150 : 25 L Ed. 2d

184; (2) Flast v. Cotton 392 US 83 : 20 L Ed. 2d 947 (1968); (3) Office of Communication of the United Church of Christ v. FCC US App DC 328; (4) U.S. v. Richardson 418 US 166; and (5) Worth v. Seldin 422 US 490. 71. In the United Kingdom, there have been remarkable developments on account of the dynamic activism of Lord Denning. 72. In Attorney General (on the relation of Mc Whirter v. Independent Broadcasting Authority 1973 (1) All ER 689 Lord Denning, MR while dealing with the case of a realtors action observed as follows: In the light of all this I am of the opinion that, in the last resort, if the Attorney General refuses leave in a proper case, or improperly or unreasonably delays in giving leave or his machinery works too slowly, then a member of the public, who has a sufficient interest, can himself apply to the court itself. He can apply for a declaration and, in a proper case, for an injunction, joining the Attorney General if need be, as defendant. In these days when government departments and public authorities have such great powers and influence, this is a most important safeguard for the ordinary citizens of this country; so that they can see that those great powers and influence are exercised in accordance with law. I would not restrict the circumstances in which an individual may be held to have a sufficient interest.... I have said so much because I regard it as a matter of high constitutional principle that if there is good ground for supposing that a government department or a public authority is transgressing the law, or is about to transgress it, in a way which offends or injures thousands of Her Majesty's subjects, then in the last resort any one of those offended or injured can draw it to the attention of the courts of law and seek to have the law enforced. But this, I would emphasise, is only in the last resort when there is no other remedy reasonably available to secure that the law is obeyed. 73. In R v. Greater London Council [1976] 3 All ER 184 one Albert Raymond Blackburn and Tessa Marion Blackburn applied for an order of prohibition to issue against the Greater London Council (the 'GLC') to prevent them from exercising their censorship powers over the public exhibition of cinematograph films in accordance with a test of obscenity which was bad in law. The Divisional Court of Queen's Bench Division refused the order and dismissed the application. Challenging that order Raymond Blackburn came before the Court of Appeal. The appeal was opposed on the ground of locus standi contending that Blackburn had no sufficient interest to bring those proceedings against the GLC. Lord Denning, MR rejected that contention relating to locus standi concluding thus: In my opinion, therefore, Mr. Blackburn has made out his case. He has shown that the GLC have been exercising their censorship powers in a manner which is unlawful; because they have been applying a test which is bad in law. If they continue with their present wrong test and in consequence given their consent to films which are grossly indecent, they may be said to be aiding and abetting a criminal offence. In these circumstances, this Court can and should issue an order of prohibition to stop them. 74. Subsequently in Gouriet v. Union of Post Office Workers and Ors. (1977) 3 All ER 70, the House of Lord while dealing with the case of a realtors action in which the appellant, John Prendergast Gouriet after having failed to obtain the consent of the Attorney General to bring an action at the relation of the plaintiff against

the Union of Post Office Workers ('the UPW) for an injunction restraining the UPW from soliciting or endeavouring to procure any person wilfully to detain or delay any postal packet in the course of transmission between England and Wales and the Republic of South Africa, issued a writ in his own name against the UPW seeking the same relief, held that it was a fundamental principle of English law that public rights could only be asserted in a civil action by the Attorney General as an Officer of the Crown representing the public and that a private person was not entitled to bring an action in his own name for the purpose of preventing public wrongs and, therefore, the Court had no jurisdiction to grant relief, whether interlocutory or final or whether by way of an injunction or declaration, in such an action. 75. This decision evoked serious debate and was subjected to severe criticism by the jurists in England and elsewhere. 76. So far as the newly invented concept of PIL in Indian legal system is concerned, we can be proud of saying that there is a tremendous development and dynamic progress in the cosmos of PIL in spite of multiple criticism levelled against the various aspects of PIL. The melioration of the philosophy of PIL is demonstrably radiated by the long line of decisions, a few of which we will presently refer to. 77. This Court in Sunil Batra (II) v. Delhi Administration has accepted a letter written to the Supreme Court by one Sunil Batra, a prisoner from Tihar Jail, Delhi complaining that the Jail Warder had subjected another prisoner serving life term in the same jail to inhuman torture. This Court treated that latter as a writ petition and by an elaborate judgment allowed the petition and issued certain directions inclusive of one for taking suitable action against the erring official to the Ministry of Home Affairs and all State Governments on the ground that Prison Justice has pervasive relevance, thereby enlarging the scope of habeas corpus by making it available to a prisoner not only for seeking his liberty but also for the enforcement of a constitutional right to which he was entitled to even while in confinement. 78. This Court in Dr. Upendra Baxi v. State of U.P. entertained a letter sent by the two Professors of Delhi University seeking enforcement of the constitutional right of the inmates in a Protective Home at Agra who were living in inhuman and degrading conditions in blatant violation of Article 21 of the Constitution. The said letter was treated as a writ petition and the two Professors were permitted to maintain an action for an appropriate writ. 79. Again in Miss Veena Sethi v. State of Bihar and Ors. this Court treated a letter addressed to a Judge of this Court by the Free Legal Aid Committee at Hazaribagh, Bihar as a writ petition. 80. In People's Union for Democratic Rights v. Union of India (supra), letter addressed by the petitioner-Organization seeking a direction against the respondents for ensuring observance of the provision of various labour laws in relation to workmen employed in the construction work of projects connected with the Asian Games, was entertained by relaxing the traditional rule of standing. 81. Treating a letter sent by an organisation demanding the release of bonded labourers as a Writ Petition this Court in Bandhua Mukti Morcha v. Union of India and Ors. issued several directions to the Central Government and State of Haryana not only for the release of the bonded labourers but also for their future improvement and betterment. Though R.S. Pathak (the Chief Justice as he then was)

and A.N. Sen, J. have delivered separate Judgments, in general they agreed with the directions issued by Bhagwati, J. in his separate leading judgment. 82. A number of Writ Petitions were filed by two journalists along with the Peoples Union for Civil Liberties Committee for the Protection of Democratic Rights and two other pavement dwellers under Article 32 of the Constitution of India challenging the correctness and legality of the decision of the Bombay Municipal Corporation to demolish the dwellings of the slum hutments on several grounds, one of which being violation of Article 21 of the Constitution. These Writ Petitions were heard by a Constitution Bench of this Court in Olga Tellis v. Bombay Municipal Corporation . The respondent challenged the very maintainability of the Writ Petitions. Chandrachud, CJ. speaking for the Constitution Bench rejecting the challenge of the respondent therein entertained those petitions and held that the right to life conferred by Article 21 is of wide sweep and far reaching and one of the facets of such right is the right to livelihood. 83. In Ramsharan Autyanuprasi v. Union of India [1989] Supp. 1 SCC 251 a writ petition was registered under Article 32 of the Constitution on the basis of a petition addressed by the writ petitioners to one of the learned Judges of this Court as a Public Interest Litigation but Mukherji, J. (the learned CJ. as he then was) speaking for the Bench dismissed the Writ Petition holding: ... the allegations are too vague, too indirect and too tenuous to threaten the quality of life of people at large or any section of the people. The acts complained of resulting in the threats alleged are too remote and, in our opinion, to be amenable under Article 32 of the Constitution. The petitioners further assert that there has been violation of Article 51-A(f) of the Constitution as a duty has been cast on every citizen to value and preserve the rich heritage of our composite culture. Indeed, it is our duty but the enforcement of that duty by means of a writ under Article 32 of the Constitution.... 84. Krishna Iyer, J. speaking for the Bench in Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association etc. v. Union of India over-ruling the plea that a Writ Petition filed by an unrecognised association cannot be sustained observed that "we have no hesitation in holding that the narrow concept of 'cause of action' and 'person aggrieved' and individual litigation is becoming obsolescent in some jurisdictions. 85. In Fertilizer Corporation Union v. Union of India (supra), Chandrachud, CJ. speaking for himself and on behalf of Fazal Ali and Kaushal, JJ. observed that the violation of a fundamental right is the sine qua non of the exercise of the right conferred by Article 32 and dismissed the writ petition as not maintainable having regard to the facts of the case. Krishna Iyer, J. speaking for himself and Bhagwati, J. (as he then was) in a separate judgment though concurred with the conclusion of the majority held that if a person belonging to an organisation which has special interest in the subject-matter has some concern deeper than that of a busy body, he cannot be told off at the gates, although whether the issue raised by him is justiciable may still remain to be considered and pointed out: Public interest litigation is part of the process of participate justice and 'standing' in civil litigation of that pattern must have liberal reception at the judicial doorsteps. 86. He further added: We have no doubt that in a competition between courts

and streets as dispenser of justice, the rule of law must win the aggrieved person for the law court and wean him from the lawless street. In simple terms, locus standi must be liberalised to meet the challenges of the times. Ubi just ibi remedium must be enlarged to embrace all interest of public-minded citizens or organisations with serious concern for conservation of public resources and the direction and correction of public power so as to promote justice in its triune facets.... 87. In National Textile Workers' Union etc. v. P.R. Ramakrishnan and Ors. Bhagwati, J. (as he then was) speaking for the majority expressed his view that the workers of a company are entitled to appear at the hearing of the winding up petition whether to support or to oppose it and they have a locus standi to appear and he heard both before the petition is admitted and an order for advertisement is made as also after the admission and advertisement of the petition until an order is made for winding up the company. A.N. Sen, J dissented from the above view. 88. In passing, it may be stated that in A.R. Antulay v. Ramdas Sriniwas Nayak this Court observed the"Locus standi of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision. Reference also may be made to: (1) D.S. Nakara v. Union of India (decision of a Constitution Bench): (2) P. Nalla Thampy Thera v. Union of India ; (3) Rural Litigation and entitlement Kendra, Dehradun and Ors. v. State of U.P. and Ors. and (4) Kurukshetra University and Anr. v. State of Haryana . 89. From the above pronouncements, it emerges that this summit Court has widely enlarged the scope of PIL by relaxing and liberalising the rule of standing by treating letters or petitions sent by any person or association complaining violation of any fundamental rights and also entertaining Writ Petitions filed under Article 32 of the Constitution by public spirited and policy oriented activist persons or journalists or of any organisation rejecting serious challenges made with regard to the maintainability of such petitions rendered many virtuos pronouncements and issued manifold directions to the Central and the State Governments, all local and other authorities within the territory of India or under the control of the Government of India for the betterment of the public at large in many fields in conformity with constitutional prescriptions of what constitutes the good life in a socially just democracy. The newly invented proposition of law laid down by many learned Judges of this Court in the arena of PIL irrefutably and manifestly establish that our dynamic activism in the field of PIL is by no means less than those of other activist judicial systems in other part of the world. 90. It may not be out of place of mention here that there may be numerous circumstances justifying the entertaining of Public Interest Litigation but we cannot obviously enumerate an exhaustive list of all such situations. 91. Bhagwati, J in S.P. Gupta's case (popularly known as Judges' Appointment and Transfer case) which was heard by a Bench of seven learned Judges, has clearly defined 'what PIL means and is' and expressed his views in meticulous detail in the following terms: It may therefore now be taken as well established that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional

or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate directions, order or writ in the High Court under Article 226 and in case of breach of any fundamental light of such person or determinate class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons.... This Court will readily respond even to a letter addressed by such individual acting pro bona publico. It is true that there are rules made by this Court prescribing the procedure for moving this Court for relief under Article 32 and they require various formalities to be gone through by a person seeking to approach this Court. But it must not be forgotten that procedure is but a handmaiden of justice and the cause of justice can never be allowed to be thwarted by any procedural technicalities. The court would therefore unhesitatingly and without the slightest qualms of conscience cast aside the technical rules of procedure in the exercise of its dispensing power and treat the letter of public-minded individual as a writ petition and act upon it.... But we must hasten to make it clear that the individual who moves the court for judicial redress in cases of this kind must be acting bona fide with a view to vindicating the cause of justice and if he is acting for personal gain or private profit or out of political motivation or other oblique consideration, the court should not allow itself to be activised at the instance of such person and must reject his application at the threshold, whether it be in the form of a letter addressed to the court or even in the form of a regular writ petition filed in court. We may also point out that as a matter of prudence and not as a rule of law, the court may confine this strategic exercise of jurisdiction to cases where legal wrong or legal injury is caused to a determinate class or group of persons or the contitutional or legal right of such determinate class or group of persons is violated and as far as possible, not entertain cases of individual wrong or injury at the instance of a third party, where there is an effective legal-aid organisation which can take care of such cases. 92. After having elaborately explained the concept of PIL, the learned Judges held that: ...any member of the public having sufficient Interest can maintain an action for judicial redress for public injury arising from breach of public duty or from violation of some provision of the Constitution or the law and seek enforcement of such public duty and observance of such constitutional or legal provision. This is absolutely essential for maintaining the rule of law, furthering the cause of justice and accelerating the pace of realisation of the constitutional objectives. 93. However, the learned Judge has sounded a note of caution to the Courts to be observed while entertaining a Public Interest Litigation as follows: But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate adminis-

trative action or to gain a political objective. 94. The other learned Judges - namely, Gupta, Tulzapurkar, Fazal Ali, Desai and Pathak, JJ - who were parties to the above judgment have all agreed in general with the view expressed by Bhagwati, J. on the question of locus standi. However, Desai, J. added a note saying "that the contention about locus standi is now of academic interest and I do not propose to deal with it. However, I am in full agreement with learned Bhagwati, J. 95. However, Venkataramiah, J. (as the learned Chief Justice then was) in his separate judgment with regard to the question of locus standi of lawyers in filing petitions in respect of matters concerning judges, courts and administration of justice has registered his opinion thus: It has, however, to be made clear that it cannot be said that lawyers only because they have a right to practise in a court have 'locus standi' to file petitions in respect of every matter concerning judges, courts and administration of justice. There are many such matters in which have no 'locus standi' to ask for relief. By way of illustration, lawyers cannot question the establishment of a new court on the ground that their professional prospects would be affected thereby. Even in these cases on the question of non-appointment of Mr. S.N. Kumar and on the question of transfer of Mr. K.B.N. Singh, the lawyer-petitioners may have no voice. But for the active participation of these tow persons, the petitions regarding reliefs concerning them individually would have probably become liable to be dismissed on the ground that the lawyers have no 'locus standi' to make these prayers. But, since as already stated, Mr. S.N. Kumar and Mr. K.B.N. Singh have requested the Court to consider and if thought fit to grant relief in their favour and the learned Attorney- General has fairly stated that he would not raise the objection that the petitioners have no locus standi in view of the importance of the questions debated in these cases, we hold that the petitions cannot be rejected merely on the ground that the petitioners who are lawyers have no locus standi to file these petitions. Before leaving this topic, it has to be observed that other question of locus standi in the field of administrative law is still in a fluid state and it is not possible to lay down in any one case the principles which can govern all situations. 96. On an assiduous analysis and scrupulous study of the major landmark decision of Gupta's case which serves as a charter of PIL, we unreservedly hold that the said decision describes the broad definition of the expression 'PIL', explores the conceptual problems, outlines the evolution of legal strategies, discusses the institutionalisation of the PIL movement and concludes with innovative methods and devices for increasing citizens' participation to promote reforms of the legal system in order to ensure real access to the justice delivery system, and to encourage the continuation and expansion of public interest representation. Above all, it has opened wide the doors of the Court to millions of the poor, ignorant and socially or economically disadvantaged to articulate their grievances and seek justice which otherwise would have been denied to them. 97. In short, the decision in Gupta's case is a golden master key which has provided access to the Courts for the poor and down-trodden. Vexatious and frivolous litigations 98. While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to

sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration. 99. In Gupta's case (supra) Bhagwati, J emphatically pointed out that the relaxation of the rule of locus standi in the field of PIL does not give any right to a busybody or meddlesome interloper to approach the court under the guise of a public interest litigant. He has also left the following note of caution; But we must be careful to see that the member of the public, who approaches the court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective.... 100. In State of H.P. v. Parent of a Student it has been said that public interest litigation is a weapon which has to be used with great care and circumspection. 101. Khalid, J. in his separate supplementing judgment in Sachidanand Pandey v. State of West Bengal [1987] SCC 295 and 331 said: Today public spirited litigants rush to courts to file cases in profusion under this attractive name. They must inspire confidence in courts and among the public. They must be above suspicion.... Public interest litigation has now come to stay. But one is led to think that it poses a threat to courts and public alike. Such cases are now filed without any rhyme or reason. It is, therefore, necessary to lay down clear guidelines and to outline the correct parameters for entertainment of such petitions. If courts do not restrict the free flow of such cases in the name of public interest litigations, the traditional litigation will suffer and the courts of law, instead of dispensing justice, will have to taken upon themselves administrative and executive functions.... I will be second to none in extending held when such help is required. But this does not mean that the doors of this Court are always open for anyone to walk in. It is necessary to have some self-imposed restraint on public interest litigants. 102. Sabyasachi Mukharji, J. (as he then was) speaking for the Bench in Ramsharan Autyanuprasi v. Union of India (supra) was in full agreement with the view expressed by Khalid, J. in Sachidanand Pandey's case and added that 'public interest litigation' is an instrument of the administration of justice to be used properly in proper cases. 103. See also separate judgment by Pathak, J. (as he then was) in Bandhua Mukti Morcha v. Union of India (supra), 104. Sarkaria, J. in Jasbhai Desai v. Roshan Kumar [1976] 30 SCR 58 expressed his view that the application of the busybody should be rejected at the threshold in the followed terms: It will be seen that in the context of locus standi to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) 'person aggrieved'; (ii) 'stranger'; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect. They indulge in the pastime of meddling with the judicial process either by force of habit or from improper motives. Often, they

are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spooking the wheels of adminstration. The High Court should do well to reject the applications of such busybodies at the threshold. 105. Krishna Iyer, J in Fertilizer Corporation v. Union of India (supra) in stronger term stated: If a citizen is no more than a wayfarer or officious intervener without any interest or concern beyond what belongs to any one of the 660 million people of this country, the door of the court will not be ajar for him. 106. In Chhetriya Pardushan Mukti Sangharsh Samiti v. State of U.P. Sabyasachi Mukharji, C.J. observed: While it is the duty of this Court to enforce fundamental rights, it is also the duty of this Court to ensure that this weapon under Article 32 should not be misused or per milled to be misused creating a bottleneck in the Superior Court preventing other genuine violation of fundamental rights being considered by the Court. 107. In a recent decision of this Court in Union Carbide Corporation and Ors. v. Union of India and Ors. Ranganath Mishra, C.J, in his separate judgment while concurring with the conclusions of the majority judgment has said thus: I am prepared to assume, nay, concede, that public activists should also be permitted to espouse the cause of the poor citizens but there must be a limit set to such activity and nothing perhaps should be done which would affect the dignity of the Court and bring down the serviceability of the institution to the people at large. Those who are acquainted with jurisprudence and enjoy social privilege as men educated in law owe an obligation to the community of educating it properly and allowing the judicial process to continue unsoiled. 108. K.N. Singh, J. speaking for the Bench in Subhash Kumar v. State of Bihar and Ors. has ex-pressed his opinion in the following words: Public interest litigation cannot be invoked by a person or body of persons to satisfy his or its personal grudge and enmity. If such petitions under Article 32, are entertained it would amount to abuse of process of the Court, preventing speedy remedy to other genuine petitioners from this Court. Personal interest cannot be enforced through the process of this Court under Article 32 of the Constitution in the garb of a public interest litigation. Public interest litigation contemplates legal proceedings for vindication or enforcement of fundamental rights of a group of persons or community which are not able to enforce their fundamental rights on account of their incapacity, poverty or ignorance of law. A person invoking the jurisdiction of this Court under Article 32 must approach this Court for the vindication of the fundamental rights of affected persons and not for the purpose of vindication of his personal grudge or enmity. It is duty of this Court to discourage such petitions and to ensure that the course of justice is not obstructed or polluted by unscrupulous litigants by invoking the extraordinary jurisdiction of this Court for personal matters under the garb of the public interest litigation. 109. It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the Court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly, a vexatious petition under the colour of PIL brought before the court for vindicating any

personal grievance, deserves rejection at the threshold. 110. It is depressing to note that on account of such trumpery proceedings initiated before the Courts, innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorised collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. - are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of Courts and as result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they loose faith in the administration of our judicial system. 111. In the words of Bhagwati, J. (as he then was)"the Courts must be careful in entertaining public interest litigations" or in the words of Sarkaria, J. "the application of busy bodies should be rejected at the threshold itself and as Krishna Iyer, J. has pointed out,"the doors of the Courts should not be ajar for such vexatious litigants". 112. Further, we would like to make it clear that it should not be misunderstood that by the expression of our above view, there is any question of retreating or recoiling from the earlier views expressed by this Court about the philosophy of public interest litigation in many outstanding judgments which we have already referred to; on the other hand we look back to the vantage point from which we started our journey and proceed on our onward journey in the field of PIL. 113. Keeping in mind the recent development of the doctrine of PIL and the judicial exposition of the rule governing locus standi, we shall now revert to the facts of the instant case and carefully examine the questions; (1) Whether H.S. Chowdhary has locus standi to file this litigation and (2) Whether this litigation will fall within the ambit and scope of PIL seeking declaratory as well as injunctive reliefs. Before the Special Judge, he filed the petition under Article 51-A of the Constitution proclaiming that he being the General Secretary of an Organisation, calling itself as Rashtriya Jan Parishad which is devoted to uphold the Rule of Law and fight against injustice, has got a fundamental duty to inform the court"regarding the

activation of the complainant (CBI) in the aforesaid case which has tarnished the image, credibility of the nation and has also lowered the national prestige". According to him, the prosecution has been malevolently launched with rancour, stimulated by political vendetta after Shri V.P. Singh became the Prime Minister, who with his colleagues have attributed mendacious charges publicly, that there was payment of kickbacks and receipt of price from Before. 114. The sum and substance of the inculpation as gathered from the averments made in the petition and the submissions made by Mr. Bhagat on behalf of H.S. Chowdhary, in short, are that those who were at the helm of affairs in the then Government during January 1990 in their attempt to lock horns with those who were in power of the then outgoing Government with mala fide intention of vindicating their electoral rivalry have been instrumental in registration of the FIR containing the unveracious and vile charges by using every possible trick and ruse at their command and disposal and making vociferous verbal attack with their long power to settle their personal scores with their political opponents. The further attack against the author of the FIR and the investigating agency is that the CBI under"pressure of its political masters in conspiracy with them have been giving recklessly the names of various leaders of this country to tarnish their image without any basis"; and the on-set of the investigation is biased, unfair and unethical and the procedure adopted is in utter violation of the provisions of the Constitution and the procedural law. 115. Mr. Jethmalani expostulating the objectives of PIL urged with vehemence and persistence that H.S. Chowdhary does not have any locus standi to initiate this litigation and as such his petition is liable to be rejected even at the threshold. According to him, the true Public Interest Litigation is one in which a selfless citizen having no personal motive of any kind except either compassion for the weak and disabled or deep concern for stopping serious public injury approaches the Court either for (1) Enforcement of fundamental rights of those who genuinely do not have adequate means of access to the judicial system or denied benefit of the statutory provisions incorporating the directive principles of State Policy for amelioration of their condition and (2) preventing or annulling executive acts and omissions violative of Constitution or law resulting in substantial injury to public interest. 116. According to him, the present litigation brought by Mr. Chowdhary does not satisfy the definition of PIL even remotely. With strong intensity of conviction, he states that the appellant does not stand in a better footing than that of a busybody or a rank meddlesome interloper or wayfarer or officious intervener having no concern except for some private motivation and oblige consideration. He continues to acrimoniously urge that Mr. Chowdhary is acting as a proxy under the mask of public interest litigant for the benefit of all the real accused, in the discovery of whose identity of whole nation is interested and that Mr. Chowdhary on being inspired by some other extraneous consideration is attempting to keep all the named and unnamed accused behind a smoke screen so that the identity of those recipients of the kickbacks and bribes should not be discovered and go unpunished and the bribe money deposited in Swiss Banks should not be frozen. He also says the very purpose of filing this petition by Mr. Chowdhary for quashing the proceedings is only to stultify and

frustrate the proceedings against the accused. He further states that when the scandal of Before' affairs involving clandestine payoffs at the highest level which has come to light and surfaced by the Swedish Radio Broadcast, has assumed mammoth proportion, Mr. Chowdhary pretentiously claiming to be a crusader for justice in the name of propone publico has filed this benami litigation at the instance of the holders of foreign bank accounts and is attempting to thwart and stall the proceedings by masquerading the accused persons as paragons of virtue. 117. Mr. Anand Dev Giri, the learned Solicitor General stating that Public Interest Litigation is not in the nature of adversarial litigation and it is intended to promote and vindicate public interest which demands that violation of constitutional or legal rights of large number of people who are poor, ignorant or in a socially or economically disadvantaged position, should not go unnoticed and unredressed. According to him, the very litigation itself is not within the definition of Public Interest Litigation and more so H.S. Chowdhary absolutely has no locus standi to approach the Court by filing the petition under Sections 397 and 482 of the CrPC by way of a revision of the order of the Special Judge and also quashing the criminal case filed against some known and unknown persons, involved in a series of criminal offences of conspiracy, criminal breach of trust, cheating and bribery. It is the submission of the learned Solicitor General that Mr. Chowdhary, wearing the insignia of a public interest litigant has preferred the quashing petition before the High Court for the glare of publicity. According to him, the petition by Mr. Chowdhary has been drafted in an ingenious way without mentioning as to who all are respondents besides the Union of India and it is an ignoble and unscrupulous action and, therefore, both the Special Judge and the learned Judge of the High Court were justified in rejecting this petition holding that Mr. Chowdhary docs not even have the semblance of public interest litigant and as such he has no locus standi. 118. Mr. K.G. Bhagat, learned senior counsel appearing on behalf of Mr. Chowdhary after stating that the propone parties must have real, tangible and perceptible interest, urged that in the present case, Mr. Chowdhary has espoused only real public interest and, therefore, his right of locus standi cannot be questioned. He asserts that the very registration of the case smacks of political vendetta. 119. After deeply and carefully considering the submissions of all the parties, we see much force in the submissions made by the learned Solicitor General, Mr. A.D. Giri and Mr. Jethamalani, senior counsel. A perusal of the petitions filed by H.S. Chowdhary before the Special Judge and the High Court dearly unfolds that Mr. Chowdhary appears to be very much concerned with the personal and private interest of the accused in the criminal case and there is absolutely no involvement of public interest. Can it be said that this litigation is in the nature of PIL to vindicate and effectuate the public interest? The emphatic answer would be 'Not even a single ray of the characteristic of public interest litigation is visibly see'. 120. Indeed, we are surprised to note that in the petition filed before the High Court, Mr. Chowdhary has stated that it is his duty to see that 'individuals' get justice from the Indian Courts. From whichever angle we survey and audit the contentions in both the petitions before the Courts below and the petition Bled before this Court, there can be no escape except

to come to the conclusion that Mr. Chowdhary has no locus standi at all to file these petitions, as found by the Courts below. 121. In this connection, we would like to add a few words about the dismissal of the applications of the interveners. 122. The High Court rejected the applications of the interveners as having no right to be impleaded as a consequence of the dismissal of the petition of H.S. Chowdhary on the ground that he has no locus standi. We too in our earlier Order having held that H.S. Chowdhary has no locus standi to file the petition or to invoke the revisional or extraordinary inherent jurisdiction of the High Court under Sections 397 and 482 of the CrPC respectively and that the petition under Article 51-A of the Constitution cannot come within the true meaning and scope of public interest litigation, dismissed the applications of the interveners holding thus: Consequent upon the above conclusions (1) and (2), the appellants namely, Janata Dal, Communist Party of India (Marxist) and Indian Congress (Socialist) who are before this Court equally have no right of seeking their impalement/intervention. For the same reasons, Or. P. Nalla Thampy Thera also has no right to file the Writ Petition (Crl.) No. 114 of 1991 as a public interest litigant. 123. The above paragraph is self-explanatory and the intervention petitions were rejected only consequent upon our conclusions (1) and (2) recorded in our earlier order. 124. It is significant to note that Mr. Prashant Bhushan in his written submissions has stated,"the Janata Dal never claimed any locus to intervene in the matter; and that in fact its stand is that Mr. Chowdhary has no locus to interfere in the investigation and that the Janta Dal intervened in the matter only after the High Court began to seriously entertain the petition of Mr. Chowdhary without even deciding the question of his locus and that the Janata Dai's intervention was only to prevent sabotage of the investigation. Revisional and Inherent Powers of the High Court 125. The next question of law that comes for our consideration is the suo moto power of the High Court in exercise of its powers under Sections 190 (dealing with powers of the Magistrate to take cognizance of the offence), 397 (empowering the High Court or any Session Judge to exercise powers of revision), 401 (dealing with the High Court's powers of revision) and 482 (dealing with the inherent powers of the High Court) of the CrPC. Justice M.K. Chawla, learned Judge of the High Court relying on the decisions, namely (1) Rattan Singh v. State of Maharashtra 1977 Crl. L.J. 673, (2) Mohammad v. State of Kerala 1982 Crl. LJ. 1120 and Range Forest officer Sirsa and Ors. v. Anand Venkataraman Hegde 1978 Crl. LJ. 1374 has held in his order, impugned herein thus: "A bare perusal of these provisions leave no doubt in my mind that this Court by itself can call for the record of the lower court if it comes to or is brought to its knowledge that any illegality is being committed at the instance of the State or by the Investigating Agency in the garb of discharging their duties under any provision of law." Justice M.K. Chawla on his own stating that there are 'six prima facie illegalities' which, according to him, warranted suo moto cognizance in exercise of the powers under Section 397, 401 and 482 of the Code directed the office to register the case under the title, "Court on its own motion v. State and CBI".... 126. We are pained to note that Justice M.K. Chawla has taken an extreme view that "the Court can take judicial

notice of any illegality being committed by any court with a view to prevent the injury being caused to the known or unknown aggrieved party", even when the investigation is at its threshold. The very sentence which we have quoted above is indicative of the fact that the learned Judge in order to protect any possible injury that might be caused either during the investigation or on the culmination of the criminal proceedings to the known or unknown aggrieved party has determined to take suo moto cognizance and proceed with the matter, by virtually stepping into the shoes of the accused parties both present and prospective. 127. Now let us briefly cogitate over the legal issue relating to the revisional and inherent jurisdiction of the High Court to call for the records and examine the records of any proceeding before any inferior criminal court within its jurisdiction for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed and to quash criminal proceeding, deliberate on the legality and correctness of the later part of his order of Justice M.K. Chawla in and by which he has assumed the jurisdiction to initiate suo moto proceedings, particularly for quashing the First Information Report and all other connected and allied proceedings arising during the course of the investigation. 128. Sections 397, 401 and 482 of the new Code are analogous to Section 435, 439 and 561(A) of the old code of 1898 except for certain substitutions, omissions and modifications. Under Section 397, the High Court possesses the general power of superintendence over the actions of Courts subordinate to it which the discretionary power when administered on administration side, is known as the power of superintendence and on the judicial side as the power of revision. In exercise of the discretionary powers conferred on the High Court under the provisions of this Section, the High Court can, at any stage, on its own motion, if it so desires and certainly when illegalities and irregularities resulting in injustice are brought to its notice, call for the records and examine them. The words in Section 435 are, however, very general and they empower the High Court to call for the record of a case not only when it intends to satisfy itself about the correctness of any finding, sentence or order but also as to the regularity of any proceeding of any subordinate Court. 129. By virtue of the power under Section 401, the High Court can examine the proceedings of inferior Courts if the necessity for doing so is brought to its notice in any manner, namely, (1) when the records have been called for by itself, or (2) when the proceedings otherwise comes to its knowledge. 130. The object of the revisional jurisdiction under Section 401 is to confer power upon superior criminal Courts - a kind of paternal or supervisory jurisdiction - in order to correct miscarriage of justice arising from misconception of law, irregularity of procedure, neglect of proper precaution or apparent harshness of treatment which has resulted on the one hand, or on the other hand in some underserved hardship to individuals. The controlling power of the High Court is discretionary and it must be exercised in the interest of justice with regard to all facts and circumstances of each particular case, anxious attention being given to the said facts and circumstances which vary greatly from case to case. 131. Section 482 which corresponds to Section 561A of the old Code and to Section 151 of the Civil Procedure Code proceeds on the same principle and deals

with the inherent powers of the High Court. The rule of inherent powers has its source in the maxim "Quadolex a liquid alicia concedit, conceder videtur id sine quo ipso, ess uon protest" which means that when the law gives anything to anyone, it gives also all those things without which the thing itself could not exist. 132. The criminal Courts are clothed with inherent power to make such orders as may be necessary for the ends of justice. Such power though unrestricted and undefined should not be capriciously or arbitrarily exercised, but should be exercised in appropriate cases, ex debito justitiae to do real and substantial justice for the administration of which alone the Courts exist. The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Courts must be careful to see that its decision in exercise of this power is based on sound principles. 133. The Judicial Committee in (1) Emperor v. Nazir Ahmad and (2) Lala Jai Ram Das v. Emperor has taken the view that Section 561-A of the old Code gave no new powers but only provided that those which the Court already inherently possessed should be preserved. This view holds the field till date. 134. This Court in Dr. Raghubir Sharon v. The State of Bihar had an occasion to examine the extent of inherent power of the High Court and its jurisdiction when to be exercised. Mudholkar, J speaking for himself and Raghubar Dayal, J after referring a series of decisions of the Privy Council and of the various High Courts held thus: ...every High Court as the highest court exercising criminal jurisdiction in a State has inherent power to make any order for the purpose of securing the ends of justice.... Being an extraordinary power it will, however, not be pressed in aid except for remedying a flagrant abuse by a subordinate Court to is powers.... 135. See Talab Hazi Hussain v. Madhukar Purshottam Mondkar and Anr. [1958] SCR 1226 and Pampapathy v. State of Mysore [1966] (Supp.) SCR 477. 136. Thus, the inherent power under this Section can be exercised by the High Court (1) to give effect to any order passed under the Code; or (2) to prevent abuse of the process of any Court; or (3) otherwise to secure the ends of justice. In relation to exercise of inherent powers of the High Court, it has been observed in Madhu Limaye v. State of Maharashtra that the power in not to be resorted to if there is a specific provision in the Code for the redress of grievance of the aggrieved party and that it should be exercised very sparingly to prevent abuse of process of any Court or otherwise to secure the ends of justice and that it should not be exercised as against the express bar of law engrafted in any other provision of the Code. Vide (1) Talab Hazi Hussain v. Madhukar Purshottam ; (2) Khushi Ram v. Hashim and Ors. AIR 1959 SC 542; and (3) State of Orissa v. Ram Chander Agarwala . 137. This inherent power conferred by Section 482 of the Code should not be exercised to stifle a legitimate prosecution. The High Court being the highest Court of a State should normally retrain from giving a premature decision in a case wherein the entire facts are extremely incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved whether factual or legal are of great magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard and fast rule can be laid down in regard to the cases in which the High Court

will exercise its extraordinary jurisdiction to quashing the proceedings at any stage. This Court in State of Haryana and Ors. v. Ch. Bhajan Lal and Ors. [1990] 3 Supp. SCR 256 to which both of us were parties have dealt with this question at length and enunciated the law listing out the circumstances under which the High Court can exercise its jurisdiction in quashing proceedings. We do not, therefore, think it necessary in the present case to extensively deal with the import and intendment of the powers under Sections 397, 401 and 482 of the Code. 138. The question that arises for our consideration is whether Mr. Justice M.K. Chawla in exercise of this inherent power is justified in directing the office of the High Court to register a case so that he could exercise his discretionary revisional and inherent powers. The text and tenor of the impugned Order spells out that the initiation of the suo moto proceedings is to quash the FIR and the proceedings connected therewith as clearly borne out from the learned Judge's statement reading "that the FIR filed by the CBI in this case on the face of it does not disclose any offence. 139. The three decisions cited and relied upon by Mr. Justice M.K. Chawla in his Order cannot be of any assistance for initiating a suo moto proceeding when the matter is under serious investigation. 140. In Rattan Singh's case (supra), the High Court of Madhya Pradesh finding certain illegalities in the prosecution relating to setting aside the conviction of two accused persons in an appeal preferred by them, extended the benefit to a non-appealing accused by exercising its suo moto revisional jurisdiction. 141. In Mohammad's case (supra), the observation of the Kerala High Court that"if a clear illegality or injustice comes to the notice of the High Court by whatsoever means it might be, the mo moto jurisdiction of the High Court is available to correct such mistake." This observation was made having regard to the facts of that case wherein the appellant instead of filing an appeal, filed a revision which was dismissed. Thereupon, realising the mistake the appellant filed an appeal before the appellate Court with an application for condonation of delay which was dismissed as barred by limitation. Then the appellant filed a revision before the High Court which allowed the petition holding that it would advance the ends of justice. It was only in those circumstances the observation about the suo moto exercise of the power was made. 142. In the third case relied on by Justice M.K. Chawla, namely, Range Forest Officer's case, a vehicle belonging to the respondent was confiscated. The respondent unsuccessfully preferred an appeal against the order of confiscation before the Sessions Judge. Thereafter, the respondent filed a revision before the High Court under Section 397 of the new Code which was allowed and the confiscation was set aside. The appellant in this case filed an application under Article 134 (IC) of the Constitution for a certificate of fitness for appeal to the Supreme Court. Presumably, the jurisdiction under Section 401 of the Code was not invoked. Therefore, the High Court observed that even if the respondent had no right to file the revision nevertheless, the High Court could exercise its power of revision suo moto. 143. On carefully going through all the three decisions, we unhesitatingly hold that none of the decisions would be of any help to the facts of the present case. 144. The inherent power of a High Court to stay proceedings has been repeatedly debated in many English Court and a majority of the judgments has stressed

that the power of staving proceedings should be reserved only for exceptional cases. We are not inclined to refer all those English decisions except a few. 145. In Connelly v. D.P.P. 1964 A.C. 1254, Lord Ried at page 1296 expressed his view "there must always be a residual discretion to prevent anything which savours of abuse of process" with which view all the members of the House of Lords agreed but differed as to whether this entitled a Court to stay a lawful prosecution. 146. The inherent power of a Court to stay proceedings was again the subject of debate in D.P.P. v. Humphreys 1977 A.C. 1. 147. Most of the decisions of the English cases laid down the dictum that only in cases where there is substantial amount of delay or potential abuse of process or vexatious prosecution or the proceedings tainted with malice etc. alone the Court can step in by exercise of the inherent power. 148. The Privy Council in Emperor v. Khwaja Nazir Ahmad examined the question of the inherent power of the High Court in interfering with the statutory investigation of the police and laid down the following dictum: Just as it is essential that every one accused of a crime should have free access to a Court of justice so that he may be duly acquitted if found not guilty of the offence with which he is charged, so it is of the utmost importance that the judiciary should not interfere with the police in matters which are within their province and into which the law imposes upon them the duty of enquiry. In India as has been shown there is a statutory right on the part of the police to investigate the circumstances of an alleged cognizable crime without requiring any authority from the judicial authorities, and it would, as their Lordships think, be an unfortunate result if it should be held possible to interfere with those statutory rights by an exercise of the inherent jurisdiction of the Court. The functions of the judiciary and the police are complementary not overlapping and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Court to intervene in an appropriate case when moved under Section 491, Criminal P.C., to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it and not until then. It has sometimes been though that Section 561-A has given increased powers to the Court which it did not possess before that Section was enacted. But this is not so. The section gives no new powers, it only provides that those which the Court already inherently possess shall be preserved and is inserted, as their Lordships think, lest it should be considered that the only powers possessed by the Court are those expressly conferred by the Criminal Procedure Code, and that no inherent power had survived the passing of that Act. No doubt, if no cognizable offence is disclosed, and still more if no offence of any kind is disclosed, the police would have no authority to undertake an investigation. 149. Lord Denning in R. v. Metropolitan Police Commissioner (1968) 1 All E.R. 763 at 769 has observed thus: Although the Chief Officers of police are answerable to the law, there are many fields in which they have a discretion with which the law will not interfere. For instance, it is for the Commissioner of Police or the Chief Constable as the case may be, to decide in any particular case whether enquiries should be pursued, or whether an arrest should be made

or a prosecution brought. It must be for him to decide on the disposition of his force and the concentration of his resources on any particular crime or area. No court can or should give him direction on such a matter. 150. This Court in Jehan Singh v. Delhi Administration held that when the First Information Report discloses the commission of a cognizable offence, the statutory power of the Police to investigate the cognizable offence cannot be interfered with in exercise of the inherent power of the Court. 151. Chandrachud, J. (as he then was) in Kurukshetra University and Anr. v. State of Haryana pointed out thus: Inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. That statutory power has to be exercised sparingly, with circumspection and in the rarest of rare cases. Thus, the High Court in exercise of inherent powers under Section 482, Criminal P.C. cannot quash a first information report more so when a police had not even commenced the investigation and no proceeding at all is pending in any Court in pursuance of the said F.I.R. 152. Desai, J. articulating for the Bench in State of Bihar and Anr. v. J.A.C. Saldanha and Ors. has clearly well demarcated the sphere of activity in the field of crime detection in the following words: Investigation of an offence is the field exclusively reserved for the executive through the police department the superintendence over which vests in the State Government. 153. In Eastern Spinning Milts Shri Virendra Kumar Sharda and Anr. v. Shri Rajiv Poddar and Ors. this Court has observed thus: We consider it absolutely unnecessary to make reference to the decision of this Court and they are legion which have laid down that save in exceptional case where noninterference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation. 154. In State of Haryana v. Ch. Bhajan Lal [1990] 3 Supp. SCR 259, we had an occasion to examine the scope of the inherent power of the High Court in interfering with the investigation of an offence by the police and laid down the following rule: The sum and substance of the above deliberation results to a conclusion that the investigation of an offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Court are not justified in obliterating the track of investigation when the investigating agencies are well within their legal bounds as aforementioned. Indeed, a noticeable feature of the scheme under Chapter XIV of the Code is a Magistrate is kept in the picture at all stages of the police investigation but he is not authorised to interfere with the actual investigation or to direct the police how that investigation is to be conducted. But if a police officer transgresses the circumscribed limits and improperly and illegally exercises his investigatory powers in breach of any statutory provision causing serious prejudice to the personal liberty and also property of a citizen, then the Court on being approached by the person aggrieved for the redress of any grievance, has to consider the nature and extent of the breach and pass appropriate orders as may be called for without leaving the citizens to the mercy of police echelons since human dignity is a dear value of our Constitution. 155. See also Jasbhai Motibhai Desai v. Roshan Kumar ; Amar Nath v. State of

Haryana and State of Bihar v. V.P. Shama [1991] 1 Scale 539. 156. Sawant, J. in his submission note in Kekoo J. Maneckji v. Union of India 1980 (86) Cr, L.J, 258 has has expressed bis opinion thus: This is admittedly a stage where the prosecuting agency is still investigation the offences and collecting evidence against the accused. The petitioner, who is the accused, has therefore, no locus standi at this stage to question the manner in which the evidence should be collected. The law of this country does not give any right to the accused to control, or interfere with the collection of evidence. 157. The Seven-Judges Full Bench of the Allahabad High Court went into the matter very exhaustively in Ram Lal Yadav v. State of U.P. 1989 (95) Crl. LJ. 1013 and held that "the power of the police to investigate into a report which discloses the commission of a cognizable offence is unfettered and cannot be interfered with by the High Court in exercise of its inherent powers under Section 482 Cr. P.C." This decision has over-ruled two earlier decisions of that Court in Prashant Gaur v. State of U.P. 1988 All WC 828 and Puttan Singh v. State of U.P. 1987 All LJ 599. 158. After the proposition of law enunciated by this Court in a series of decisions relating to exercise of the extraordinary power under Article 226 of the Constitution or the inherent powers under Section 482 of the Code in Bhajan Lai's case, we have given certain category of cases by way of illustrations wherein the power of quashing could be exercised either for preventing abuse of process of any Court or otherwise to secure the ends of justice stating that it may not be possible to lay down any precise, clearly defined and sufficient channellised infrangible guidelines and rigid formula to give an exhaustive list of various kinds of cases wherein such power should be exercised. We do not like to prolong the discussion on this point any more. However, it has become necessary atleast to deal with the first alleged illegality. We are constrained to do so because of the assertion of the High Court; that being that the First Information Report on the face of it does not disclose any offence. 159. According to Mr. Ram Jethmalani, the conclusion, arrived at by Mr. Justice M.K. Chawla is absolutely unjustified and perverse since the First Information Report in paragraph Nos. 8, 16, 67, 68, 73 clearly alleges that the payments made by Before are illegal gratification paid to Indian public servants either to influence them or as a reward for the contract given to Before. We have carefully and scrupulously gone through the First Information Report and we are unable to share this view of Mr. Justice Chawla, quite apart from the other grounds on which the accused may like to attack the First Information Report. None of the named accused came before Mr. Justice Chawla raising this question of lack of allegations and particulars in the FIR so as to constitute any offence, muchless a cognizable offence 160. The then Minister of Defence, Shri K.C. Pant had stated that "if any evidence is produced involving violations of the law, the matter will be thoroughly investigated and the guilty, whoever they may be punished", and thereafter the then Prime Minster on 20th April 1987 declared that "if any evidence proving the involvement of middlemen or payoffs or of bribes or commissions are brought, the Government will not hesitate to take action and will not allow anybody, however, high-up to go free" which statement was subsequently re-asserted by the Minister of Defence. The excerpts of both the statements in the Parliament,

have been cited in the earlier part of this judgment. 161. While so, it shocks our judicial conscience that Mr. Justice M.K. Chawla before whom no aggrieved or affected party had come challenging the FIR, has taken suo moto action and recorded such a categorical assertion that 'no offence' thereby meaning muchless a cognizable offence is made out in the FIR. 162. As pointed out in Nirmaljit Singh Hoon v. State of West Bengal that once an investigation by the police is ordered by a Magistrate under Section 156(3) of the Code, the Magistrate cannot place any limitations or direct the officer conducting it as to how to conduct the investigation. When that is the position of law, Mr. Justice M.K. Chawla, in our considered view, has overstepped his jurisdiction and made the statement which is unwarranted and uncalled for. As we feel that any further deliberation on this matter may affect the merits of the case at any later point of time, we refrain from making any more observation on this aspect as the matter is at the threshold of the investigation. 163. Therefore, we are constrained to set aside that statement, holding that the opinion of Justice Chawla in this regard has no legal effect or consequence. So far as the rest of the alleged illegalities are concerned, we straightaway say that those grounds are not available for suo moto exercise of power in the light of the well settled legal principles enunciated by this Court for the exercise of such powers. 164. In the result, we reiterate our earlier conclusion that we agree with the first part of the order dated 19.12.1990 of Mr. Justice M.K. Chawla but quash the later part of the impugned order taking suo moto congnizance under Sections 397, 401 read with 482 of the Code issuing show-cause notice to the CBI and the State. We make it clear that we do not express any opinion on the merits of the case including the legal tenability of the illegalities opined by Mr. Justice M.K. Chawla in bis impugned order.