Corporate, Tax and Business Advisory Law Firm

# THE CRIME TIMES

## NEWSLETTER - NOVEMBER 2025 EDITION

### IN THIS ISSUE

# FROM THE EDITOR'S DESK

Dear Readers,

Welcome to the latest issue of "The Crime Times," dedicated to the intricate and ever-evolving landscape of criminal law in India. We are living in challenging times, marked by an aggressive approach from governmental agencies in initiating criminal prosecutions. There has been a noticeable surge in cases related to economic offenses, money laundering, cybercrimes, and corporate fraud, making it crucial for individuals and organizations alike to stay informed. Our goal is to empower you with knowledge, presenting complex legal information in the simplest way possible.

In this edition, we delve into several critical topics that touch upon the entire lifecycle of a criminal case. We start with the fundamentals, explaining the step-by-step process for registering an FIR and, conversely, the grounds laid down by the Supreme Court for quashing frivolous proceedings.

Recognizing the rise in white-collar crime investigations, we have included primers on two key areas:

- An overview of the Serious Fraud Investigation Office (SFIO), detailing its powers, the nature of offenses it investigates, and the typical sequence of a case.
- A landmark High Court ruling establishing that funds acquired through fraud cannot be treated as taxable income, affirming that the Prevention of Money Laundering Act (PMLA) prevails over the Income Tax Act in such matters.

We also analyze recent judgments that reinforce crucial safeguards for citizens, such as the High Court's clarification that the CBI cannot demand monetary deposits under Section 91 of the CrPC. Finally, in our increasingly digital world, we explore the legal framework governing the blocking of websites under the IT Act and the remedies available against such orders.

We trust you will find this issue both insightful and valuable. We welcome your feedback and suggestions to help us make this publication even better.

With Regards,

Vijay Pal Dalmia
Editor-in-Chief

Mobile: +91 9810081079
Email: vpdalmia@vaishlaw.com


## HOW TO REGISTER AN FIR?

The Hon'ble Supreme Court of India in the case titled ANURAG BHATNAGAR & ANR. VS. STATE (NCT OF DELHI) & ANR. (2025 INSC 895) has decided that the proper process for getting an FIR registered is as under:

By giving information to the police authorities in accordance with Section 154 CrPC whereupon if a cognizable offence is prima facie made out to the satisfaction of the police.

↓

If the information of a cognizable offence given to the officer-in- charge of the police station is not being recorded or is being refused to be recorded, the informant may send the substance of the said information to the Superintendent of Police concerned in writing and by post.

↓

Only when no action is taken even by the Superintendent of Police and the information of commission of a cognizable offence is not being recorded by the officer-in-charge of the police station or even by the Superintendent of Police, that the person aggrieved or the informant may move the court of the Magistrate concerned to get the FIR registered and lodged with the concerned police station.

A plain and simple reading of Section 154 CrPC as a whole makes it imperative upon the informant to first approach the officer-in-charge of the police station for the purposes of lodging an FIR in respect of a cognizable offence and where the Police refuses to record such information, the remedy is to approach the concerned Superintendent of Police. It is only when no action is taken even by the Superintendent of Police and the information of commission of a cognizable offence is not being recorded by the officer-in-charge of the police station or even by the Superintendent of Police, that the person aggrieved or the informant may move the court of the Magistrate concerned to get the FIR registered and lodged with the concerned police station.

Sub-section (3) of Section 156 CrPC simply empowers the Magistrate to order an investigation of a cognizable offence.

On a conspicuous reading of the provisions of Sections 154, 156 and 190 of the CrPC together, it is crystal clear that an informant who wants to report about a commission of a cognizable offence has to, in the first instance, approach the officer-in-charge of the police station for setting the criminal law into motion by lodging an FIR. However, if such an information is not accepted by the officer-in-charge of the police station and he refuses to record it, the remedy of the informant is to approach the Superintendent of Police concerned. It is only subsequent to availing the above opportunities if he is not successful, he may approach the Magistrate under Section 156(3).

## STEPS FOR QUASHING OF FIR

Recently, the Hon'ble Supreme Court of India in a **Criminal Appeal bearing no. 3831 of 2025** decided on 2nd September 2025, dealt with an order passed by the Hon'ble High Court of Judicature at Allahabad in application under Section 482 of Cr.P.C. bearing No. 12607 of 2016 by which the petition filed by the appellant seeking to quash the summoning order passed by the Ld. Additional Chief Judicial Magistrate, Allahabad was dismissed. In the said case titled **Pradeep Kumar Kesarwani vs. The State of Uttar Pradesh & Anr.** the Apex Court laid down the following steps which should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C./ Section 528 of BNSS:

### STEP 1

Whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

### STEP 2

Whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

### STEP 3

Whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

### STEP 4

Whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

The Hon'ble Supreme Court further held that if the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal – proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C.

Before laying down the above steps, the Apex Court discussed the duty of the court in cases where an accused seeks quashing of an FIR or proceedings on the ground that such proceedings are manifestly frivolous, or vexatious, or instituted with an ulterior motive for wreaking vengeance which was delineated by the Apex Court in the case of **Mohammad Wajid v. State of U.P., reported as 2023 SCC Online SC 951.** In the said case, it was observed that,

*"34. At this stage, we would like to observe something important. Whenever an accused*

comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged."
(Emphasis supplied)"

Resultantly, the Appeal came to be allowed, the impugned order was set aside, and the complaint was quashed.

Judgment can be accessed from the following link:
https://api.sci.gov.in/supremecourt/2019/36607/36607_2019_6_36_63887_Order_02-Sep-2025.pdf

## CBI/POLICE CANNOT ASK TO FURNISH A DEMAND DRAFT OR DEPOSIT MONEY UNDER SECTION 91 OF THE CRPC

In a significant ruling, the Hon'ble Delhi High Court in Exclusive Motors Pvt. Ltd. v. Central Bureau of Investigation & Ors., 2025:DHC:5662 , ruled that investigating agencies cannot compel private parties to deposit money under Section 91 of the Code of Criminal Procedure, 1973 (CrPC).

Exclusive Motors, an authorized dealer of Bentley vehicles in India, received Rs. 50 Lakhs as advance from a buyer for a Bentley Mulsanne.

The vehicle was imported from Bentley UK, but the buyer failed to pay the remaining amount and take delivery. As per the agreed terms, Exclusive Motors forfeited the advance and later sold the car at a loss.

Subsequently, the CBI initiated an investigation into the buyer's company for **alleged illegal** collection of public funds. During the probe, it was found that the Rs. 50 Lakhs paid to Exclusive Motors came from tainted funds and was "proceeds of crime."

The CBI then issued a notice under Section 91 CrPC directing Exclusive Motors to furnish a Demand Draft of Rs. 50 lakhs.

The Court held that Section 91 CrPC is limited to compelling the production of documents or tangible evidence which is in possession of the person and not for seeking monetary deposits Such a demand is beyond the scope of the provision and has no legal backing.

Takeaway: Police or CBI cannot seek recovery of money or issue monetary demands under Section 91 CrPC. Any suc action is liable to be challenged as unlawful and contrary to procedural safeguards under criminal law.

Judgment can be accessed from the following link: [https://delhihighcourt.nic.in/app/showFileJudgment/NBK15072025CRLW14132021_113840.pdf](https://delhihighcourt.nic.in/app/showFileJudgment/NBK15072025CRLW14132021_113840.pdf)


## DEFRAUDED FUNDS CANNOT BE CONSIDERED AS TAXABLE INCOME — PMLA PREVAILS OVER INCOME TAX ACT, 1961

In an interesting ruling, the Hon'ble Delhi High Court in the case of Asst. Commissioner of Income Tax v. State & Ors. [2025:DHC:8338] has held that funds obtained through fraud or deception cannot be treated as taxable income under the Income Tax Act, 1961, when proceedings under the Prevention of Money Laundering Act, 2002 (PMLA) are still pending. The decision came where the Court declined the Income Tax Department's plea to release over INR 34.69 crore in fixed deposits seized during a tax raid on Stockguru India, a firm accused of operating Ponzi schemes.

Stock guru allegedly collected nearly INR 494 crore from unsuspecting investors by promising absurd returns of up to 220% in six months. In 2011, the Income Tax Department conducted raids, seizing approximately INR 34.69 crore in cash, which was later converted into fixed deposit receipts (FDRs). The Department then sought to appropriate these funds towards a tax demand of INR 345 crore for the relevant assessment years. However, the Enforcement Directorate (ED), which had initiated a money laundering case against the company and its directors, opposed the move, stating that the seized funds constituted "proceeds of crime" under the PMLA and could not be treated as legitimate income.

Upholding the trial court's rejection of the IT Department's application, the High Court observed that the seized funds represented money fraudulently collected from innocent investors and could not, therefore, fall within the definition of taxable income. The Court noted that such amounts appeared, prima facie, to have been generated through fraudulent investment schemes and could not be characterised as income earned from any lawful trade or business. It further noted that treating these amounts as income before the conclusion of the PMLA trial would prejudice the rights of the victims and compromise the objectives of the money laundering law.

Importantly, the Court reaffirmed that the PMLA, being a subsequent special legislation with an overriding clause, prevails over the Income Tax Act in matters involving proceeds of crime. It clarified that unless it is established that the funds constitute legitimate income, no tax liability can arise, and the question of recovery under the Income Tax Act does not even begin. The primary objective of the PMLA is to trace, attach, and eventually restore proceeds of crime to rightful claimants and the same takes precedence over revenue collection.

The judgment serves as an important reminder that when the legality of funds is under criminal scrutiny, revenue authorities cannot prematurely treat such amounts as taxable income.

Judgment can be accessed from the following link: https://delhihighcourt.nic.in/app/showFileJudgment/NBK18092025CRLMM21982018_152939.pdf


## THE LAW RELATING TO SFIO (SERIOUS FRAUD INVESTIGATION OFFICE)

**Statutory Provisions relating to SFIO under the Companies Act, 2013**

| Provision | About SFIO | Key take-aways |
|---|---|---|
| **Section 211 of the Companies Act, 2013** | Constitutes the *Serious Fraud Investigation Office (SFIO)* as a multidisciplinary agency under the Ministry of Corporate Affairs. | SFIO is a statutory body; no separate law exists. CA2013 |
| **Section 212 of the Companies Act, 2013** | Central Govt. may assign an investigation to SFIO; confers search-and-seizure, summons and arrest powers (Sec. 212 (8) to (10)). | Once a case is handed to SFIO, CrPC is overridden by the special regime in Sec. 212. CA2013 |

**Nature of the SFIO offences Under the Companies Act, 2013**

- Cognizable. Sec. 212 (6)(i) declares "every offence under this Act which is the subject-matter of SFIO investigation shall be cognizable."

- Presumptively non-bailable. Bail can be granted only if the court: (a) gives the Public Prosecutor an opportunity to oppose, and (b) records "reasonable grounds" to believe the accused is not guilty and will not re-offend (the so-called "twin conditions" in Sec. 212 (6)(ii)). The Supreme Court recently reaffirmed that these conditions are mandatory for Sec. 447 fraud cases.

**Punishment matrix for the offences most commonly invoked in an SFIO prosecution under the Companies Act, 2013**

| **Section & offence** | **Punishment/Imprisonment** | **Fine** |
|---|---|---|
| **Sec. 447 – Fraud** | From 6 months to 10 years (≥ 3 yrs if "public interest" is involved) | ≥ amount involved, up to 3× of the amount. CA2013 |
| **Sec. 448 – False statement** | Punishment **under Sec. 447.** CA2013 | |
| **Sec. 449 – False evidence on oath** | Up to ₹10 lakh. CA2013 Up to 3–7 yrs (minimum 3 years) | Up to ₹10 lakh. CA2013 |
| **Sec. 450, 452, etc.** | Default fines for continuing contraventions, or imprisonment of up to 2 years, depending on the section. | |

*Because punishment for violation of Sec. 448 is given in Sec. 447, most serious SFIO cases ultimately invoke the robust penalties under* ***Sec.*** *447.*

**Jurisdiction of Courts under the Companies Act, 2013**

**Jurisdiction of Courts under the Companies Act, 2013**

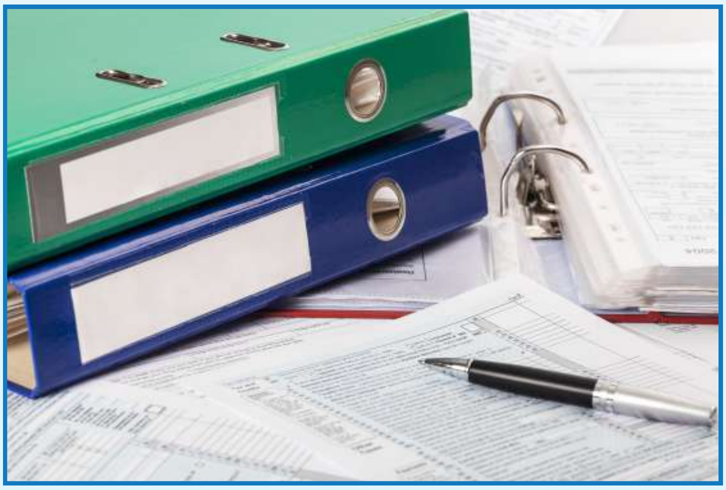
| Stage | Court/forum |
|---|---|
| **First production after arrest** | Within 24 hrs. the accused must be taken either to (a) the Special Court notified for Companies Act,2013 offences, or (b) if no Special Court sits locally on that day, then he accused is taken to the nearest Judicial/Metropolitan Magistrate for transit remand. The Magistrate can authorise custody only until the accused is produced before the Special Court. CA2013 |
| **Trial** | Special Court constituted u/s 435 (a single judge who is Sessions or Addl. Sessions Judge). If the charged offence carries < 2 yrs imprisonment, the case is triable by a Judicial Magistrate 1st Class/Metropolitan Magistrate, as expressly provided in the proviso to s 435(1). CA2013 |

*Therefore, an SFIO charge under Sec. 447 (≥ 2 yrs) will be tried by Sessions-level Special Court, and not by a regular Magistrate.*

**Nature of the SFIO offences Under the Companies Act, 2013**

| Parameter | Result |
|---|---|
| **Cognizable?** | **Yes** – police/SFIO can arrest without a warrant. |
| **Bailable?** | **No** – court may grant bail only after complying with the twin conditions prescribed in Sec. 212 (6). |
| **Anticipatory bail?** | Effectively barred unless the Special Court itself is satisfied about twin conditions. |

**Practical sequence in an SFIO case under the Companies Act, 2013**



- ***Central Government order*** *(Sec. 212 (1)) → SFIO takes up investigation.*
- ***Search/seizure & summons*** *by SFIO officers.*
- ***Arrest*** *(only Director/Additional/Asst Director can sign the arrest order, Sec. 212 (8)).*
- ***First production*** *before Special Court/Magistrate within 24 hrs. (Sec. 212 (10)).*
- ***SFIO report*** *filed = charge-sheet.*
- ***Trial*** *in Special Court; offences ≥ 2 yrs imprisonment tried by Sessions-level judge.*
- ***Appeal*** *lies to the jurisdictional High Court (s 439 CrPC read with s 436 Companies Act).*

## POWER OF BLOCKING OF WEBSITES AND AVAILABLE RECOURSE IN INDIA

Section 69A of the Information Technology, Act 2000 (“**IT Act**”) empowers the Central Government and its authorised officers to issue directions to the intermediaries/ internet service providers for blocking access to any website in India, if the authorised officer is satisfied that it is necessary or expedient to do so in the interest of:

- Sovereignty and integrity of India
- Defense of India
- Security of the State
- Friendly relations with foreign states or public order
- For preventing incitement to the commission of any cognizable offence relating to above

As per Section 69A of the IT Act, the authorised officer issuing such order/ direction for blocking of website is required to record reasons in writing for passing such orders. Further, it has been prescribed that any intermediary who fails to comply with the direction issued shall be punished with imprisonment for a term which may extend to seven years and also be liable to fine which in a way made it mandatory for the intermediaries to comply with such blocking orders without having any discretion to refuse such orders in order to avoid penal consequences.

Under Section 69A (2) of the IT Act, the Government of India has notified Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 **(‘IT Blocking Rules”)** which deal with the procedure and manner for blocking access of the websites.

Under the IT Blocking Rules, two mechanisms have been provided to deal with the requests received for blocking access of the websites:

- Examination of Request under Rule 8 of the IT Blocking Rules
- Blocking of Information in case of emergency under Rule 9 of the IT Blocking Rules

**Practical sequence in an SFIO case under the Companies Act, 2013**

EXAMINATION OF REQUEST AND BLOCKING OF ACCESS

Under Rule 8 of the IT Blocking Rules, the officer appointed by the Central Government as Designated Officer, on receiving of request for blocking of access by any Ministry or Departments of the Government of India, or State Government, shall

**To a Person/ entity based in India**

- Issue a notice to such person or intermediary in control of such website **And**
- Direct them to appear and submit their reply and clarifications at a specified date and time.

**To a Person/ entity based out of India**

- Issue a notice to such person or intermediary in control of such website **And**
- Direct them to respond to the notice within the stipulated time.

After following the above steps, the committee (appointed under Rule 7 of the IT Blocking Rules) shall examine the said request and consider whether

- the request is covered within the scope of sub-section (1) of section 69A of the IT Act and
- that it is justifiable to block such information or part thereof and
- shall give specific recommendation to the Secretary in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India ("**Secretary, Department of IT**").

On approval of the request by the Secretary, Department of IT, the Designated Officer shall direct any agency of the Government or the intermediary to block the access of such website.


BLOCKING OF INFORMATION IN CASE OF EMERGENCY

Under Rule 9 of the IT Blocking Rules, in any case of emergency nature, for which no delay is acceptable, the Designated Officer shall examine the request and consider whether the request is within the scope of sub-section (1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof, should submit such request with specific recommendations to Secretary, Department of IT.

If the Secretary, Department of IT is satisfied that it is necessary or expedient and justifiable to block public access of any website, then he shall

- record reasons in writing, and
- issue directions of blocking, as an interim measure, without giving an opportunity of hearing.

That within forty-eight hours of issue of interim direction, the request for blocking should be considered by the committee.

On receipt of recommendations of committee, Secretary, Department of IT, shall pass the final order as regard to approval of such request for blocking or revoking of interim directions.

The words "emergency nature" have not been defined under the IT Blocking Rules or IT Act and is left at the subjective discretion of the Designated Officer and Secretary, Department of IT.

## REMEDIES AVAILABLE AGAINST BLOCKING ORDERS

In most of the cases of the blocking of website, the person who is owning the website is not given notice as envisaged under Rule 8 of the IT Blocking Rules. The aggrieved owners of such websites are not even aware about the blocking of website or reasons of such blocking and are in a fix.
In such a scenario, the aggrieved person should follow the following actions:

- Filing of RTI Applications with the relevant department to ascertain whether there is any blocking order or not.
- Filing of representation before the relevant department.

Even though filing of the representation before the concerned department is a futile exercise as the government in most cases fail to even acknowledge or respond to such representation, still it is advisable to file such representation.

If the above actions do not yield any positive result, the only recourse left with the aggrieved person is to invoke the writ jurisdiction of the Courts assailing the said blocking orders. The order passed for blocking of website is an executive/ quasi-judicial actions and the same is open to judicial review.

In the case of **Karti P. Chidambaram vs Bureau Of Immigration,** 2018(3)RCR(Criminal)874, the Hon'ble Madras High Court has held that any decision, be it executive or quasi-judicial, is amenable to the power of judicial review of the writ Court under Article 226 of the Constitution of India.

n the writ, the aggrieved person can request the Court to direct the government to furnish the reasons for blocking of the website and for setting aside such blocking orders on merits as well as for non-adherence of natural justice. During the pendency of the writ petition, in some cases, the government agrees to withdraw such blocking orders in order to avoid judicial scrutiny.

As per the prevailing trend, the government also agrees to give a post-decisional hearing to the aggrieved person, including an opportunity to take corrective measures, if found necessary, though no such mechanism has been provided under the IT Blocking Rules. Reference in this egard may be made to the orders passed in the cases of Tanul Thakur vs. Union of India & Ors., W.P.(C) 13037/2019 (Judgment can be accessed from the following link: https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=mmh/2022/1669727751905_9807_2022.pdf) Raqib Hameed vs. Union of India represented by the Secretary Ministry of Electronics and Information Technology & Anr., W.P.(C) 5820/2024 (Judgment can be accessed from the following link: https://dhcappl.nic.in/dhcorderportal/GetOrder.do?ID=smp/2024/724909941714372150536_96365_58202024.pdf), by the Hon’ble Delhi High Court.

# CONNECT WITH US

VAISH ASSOCIATES ADVOCATES
ESTD. 1971
Corporate, Tax and Business Advisory Law Firm

**Editor in Chief**: Vijay Pal Dalmia, Senior Partner ( vpdalmia@vaishlaw.com )

**Editorial Team:** Rajat Jain, Associate Partner, Aditya Dhar, Associate Partner
Ankush Mangal, Associate



**DELHI**

1st,9th & 11th Floor,
Mohan Dev Building,
13, Tolstoy Marg,
New Delhi - 110001, India,
Tel: +91 11 42492525,
delhi@vaishlaw.com

**MUMBAI**

106, Peninsula Centre,
Dr. S. S. Rao Road, Parel,
Mumbai - 400012, India,
Tel: +91 22 42134101,
mumbai@vaishlaw.com

**BENGALURU**

Bhive Premium
Ramanashree
(MG Road) No. 2/1, Brunton Road,
Off MG Road Opposite
Old Passport Office
Bengaluru - 560001, India
Tel: +91 80409 03588/ 89
bangalore@vaishlaw.com