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XI K.K. LUTHRA MEMORIAL MOOT COURT, 2015

Before

The Supreme Court of Tomorrowland

FERRERO WILLIAMS.....APPELLANT

v.

STATE OF TOMORROWLAND.....RESPONDENT 1

ULTRA HOUSE MAFIYA.....RESPONDENT 2

[MEMORIAL ON BEHALF OF APPELLANT]

TABLE OF CONTENTS

INDEX OF AUTHORITIES	I
JUDICIAL PRECEDENTS	I
BOOKS.....	III
ARTICLES	IV
STATEMENTS OF FACTS	V
STATEMENT OF ISSUES	VI
WRITTEN PLEADINGS.....	1
A. THE ORDER DATED 14TH FEBRUARY 2016 PASSED BY THE SUPREME COURT OF TOMORROWLAND IS VIOLATIVE OF ARTICLE 3 AND ARTICLE 6 OF THE CONSTITUTION ACT, 1930.....	1
1. Judiciary Being A Constitutional Body Acted Contrary To The Rights Guaranteed To The People.....	1
2. The Order Of The Supreme Court Violated Article 3 And 6 Of The Constitution Act, 1930	2
3. The Power Under Article 23 Exercised By The Supreme Court Of Tomorrowland is Inconsistent With The Statutory Provisions	4
B. THE ORDER OF BOOMTOWN CRIMINAL COURT MAKING FERRERO WILLIAMS AN ACCUSED IN THE OWG SCAM WAS INVALID	7
1. The Boomtown Criminal Court Acted Ultra Vires In Making Ferrero Williams An Additional Accused	7
2. Theory Of Alter Ego And Attribution Theory Is Not Applicable In The Present Case	10
3. Ferrero Williams Cannot Be Held Vicariously Liable For Company's Liability.	14
C. THE ULTRA HOUSE MAFIYA HAS NO <i>LOCUS STANDI</i> TO PARTICIPATE, MAKE SUBMISSIONS AND GIVE EVIDENCES IN THE CASE AGAINST FERRERO WILLIAMS	15
1. Locus Standi Is A Must For Litigation.....	15
2. Third Party Doesn't Possess Locus Standi In Criminal Cases	16
3. Ultra House Mafiya Doesn't Possess Material Evidence	17
PRAYER FOR RELIEF.....	18

INDEX OF AUTHORITIES

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<i>Amratlal Devadanbhai Soni v. Director of revenue intelligence, Ahmedabad</i> , 1998 CrLJ 705	8
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<i>Brock v. N. Carolina</i> , 344 US 424 (427) (1951)	3
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<i>Jeri Oat Estates (P) Ltd. v. U.T., Chandigarh</i> , (2004) 2 SCC 130	5
<i>Jitender Singh v. State Government of NCT of Delhi</i> , 2003 CrLJ 2388 (Del)	7
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<i>Kishore Singh v. State of Bihar</i> , (2006) 1 SCC (Cri) 275	9
<i>Klopfers v. N. Carolina</i> , 386 US 213 (1967)	4
<i>Krakowski v Eurolynx Properties Ltd</i> , (1995) 183 CLR 563	12
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<i>Loknath Singh v. State of Bihar</i> , 2003 CrLJ 1388 (1389)	8
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<i>Mansukhlal Vithaldas Chauhan v. State of Gujarat</i> , AIR 1997 SC 3400	4
<i>Michael Machado v. C.B.I.</i> , AIR 2000 SC 1127	10
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<i>Mohammed v. State of Hyderabad</i> , AIR 1954 SC 51	16
<i>Morelle v Wakeling</i> , [1955] 1 All ER 708	2
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<i>Prem Chandra Garg v. Excise Commissioner, U.P.</i> , AIR 1963 SC 996	4
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STATEMENTS OF FACTS

A. BACKGROUND

1. Mr. Ferrero Williams, a descendant of the founding fathers of nation, is the owner of 'Get Lucky Group', the biggest corporate entity of Tomorrowland, doing business in several sectors, including real estate, luxury tourism etc.
2. Ultra House Mafiya (*hereinafter* UHM) is a group of activist, headed by Mr. Chivas, who has been targeting Mr. Ferrero Williams and protesting against him since quite long. Neither Mr. Williams nor the Government paid much attention towards it.
3. In an interview, Mr. Williams was asked about the allegations made by UHM, to which he responded by calling it baseless and an act of conspiracy of his opponent RARA group.

B. ONE WORLD GAMES

4. Tomorrowland, due to the constant backing and lobbying by Mr. Ferrero Williams, received the hosting of One World Games. Mr. Williams used his extensive contacts with the international and renowned sport persons to ensure that Tomorrowland is the hosting nation.
5. For the first time in history of the continent Westeros, an event of such magnitude was being organized. Ministry of Sports of the Government of Tomorrowland sanctioned the building of the One World Games village to house athletes from all over the world and decided to form a five membered Overseeing Committee (*hereinafter* OC) headed by Mr. T. Lannister which would be responsible for construction of the entire village based on world class standards. This was done by an executive order. A contract was signed between GLG constructions and the OC for the construction of the village.
6. Mr. Janujaz, a reporter and supporter of UHM, reported that a mass protest took place against the death of labourers and there was large scale corruption in the construction of the village. It further reported that the construction was running behind the schedule. Tomorrowland was warned by the International Committee that that failing to accelerate the construction in two weeks will amount to shifting of the venue to some other country.

C. OWG SCAM

7. On December 20th, 2015, T. Lannister called Mr. Williams and asked him to meet the deadline at any cost. Mr. Williams was travelling abroad and therefore transferred the call to Mr. Peter Bailish, Vice-President, GLG Constructions. During the course of the call, Mr. Bailish presented his hardship and requirement of funds for the completion of the project before Mr. T. Lannister. He made demands of \$8 million to which Mr. T. Lannister agreed.

8. The Special Police of Tomorrowland had this call under surveillance. On the basis of this, Special Police filed an Information Report. The Special Police raided the office of GLG Constructions and arrested Mr. Bailish and Mr. Lannister, along with, \$7 million cash recovered in the raid. This was termed as the ‘OWG scam’ by the media. Following this, in another article, Mr. Janujaz again attacked Mr. Williams and alleged the involvement of Mr. Williams in the scam.

D. JUDICIAL PROCEEDINGS

9. Subsequently, on 10th January, 2016, a Conclusive Report was filed by the Special Police in the Boomtown Criminal Court, accusing Mr. Bailish and Mr. T. Lannister liable for the crime. Though no charges were pressed upon Mr. Williams on account of presence of no evidence.

10. However, UHM filed an Objection Petition on the Report. UHM contested that Mr. Williams is also liable for the crime. In support of the allegation, UHM presented call details of Mr. T. Lannister which showed that after setting up the bribe with Mr. Bailish, he made a call to a private number, which they revealed to be of Mr. Williams. Boomtown Criminal Court, on January 30th, 2016, accepted the Objective Petition, despite noting the fact that UHM doesn’t hold *locus standi* and made Mr. Ferrero Williams a party in the crime, applying the doctrines of ‘alter ego’ and attribution.

11. On February 14th, 2016 the Supreme Court of Tomorrowland, considering the public outrage against the OWG scam, ordered that any prayer for relief, which may impede the trial, shall be heard by it.

12. Mr. Ferrero Williams has now petitioned before this Hon’ble Court against the order of Boomtown Criminal Court dated January 30th, 2016 and the order of Supreme Court of Tomorrowland dated February 14th, 2016. The matter is admitted and listed for hearing.

STATEMENT OF ISSUES

1. Whether the order dated 14th February 2016 passed by the Supreme Court of Tomorrowland is violative of Articles 3 and 6 of the Constitution Act of 1930?
2. Whether the order of the Boomtown Criminal Court making Ferrero Williams an accused in the OWG Scam was valid?
3. Whether UHM has any *locus standi* to participate, make submissions and give evidence in the case against Ferrero Williams?

WRITTEN PLEADINGS

**A. THE ORDER DATED 14TH FEBRUARY 2016 PASSED BY THE SUPREME COURT OF
TOMORROWLAND IS VIOLATIVE OF ARTICLE 3 AND ARTICLE 6 OF THE
CONSTITUTION ACT, 1930**

**1. Judiciary Being A Constitutional Body Acted Contrary To The Rights Guaranteed
To The People**

[¶1.] It is humbly submitted before this Hon’ble Court that the devise of guaranteeing fundamental rights by a Bill of Rights in a written Constitution was to protect the individual from state aggression and not from aggression by another individual.¹ It is contended before this Hon’ble Court that the rights which have been violated by the order of the Supreme Court of Tomorrowland, are fundamental rights in nature.

1.1 Act of the Supreme Court of Tomorrowland comes under the State Action

[¶2.] It is humbly submitted before this Hon’ble Court that the Fundamental Rights as well as Bill of Rights are available against the State action only.² Under Indian Constitution, Article 12 does not include Judiciary within the definition of ‘State’ however it does not exclude it either. In order to give adequate protection to the individual against all forms of arbitrary and unjust action of the State, the American Supreme Court has enlarged the concept of ‘State action’ and it has extended to include judicial action as well.³ The American Supreme Court has held that a State acts by its legislative, its executive, or its judicial authorities and it can act in no other way.⁴

[¶3.] The Indian Supreme Court has held that the writ could also lie to bodies which are under an obligation to act judicially or quasi judicially.⁵ Since such a writ lies, it follows that there are some fundamental rights which can be violated by a judge acting judicially in a court.⁶ The American precedent often provides that the judicial action is included within the scope of State action for the purpose of the 14th Amendment to the American Constitution.⁷

[¶4.] It is humbly submitted before this Hon’ble Court that the Indian Supreme Court has pointed out that the expression “other authorities” in Art. 12 of the Indian Constitution would

¹ Cf. *Civil Rights Cases*, 109 US 3 (1883).

² *U.S. v. Raines*, 362 US 17 (1960); See also *Carrigan v. Buchley*, 271 US 323 (1926).

³ *Norris v. Alabama*, 294 US 587 (1935); See also *Brinkerhoff Faris Trust & Savings Co. v. Hill*, 281 US 673 (1930).

⁴ *Ex Parte Virginia*, 100 US 339, 347 (1880).

⁵ *Ujjam Bai v. Union of India*, AIR 1962 SC 1621.

⁶ *Id.*

⁷ *Commonwealth of Virginia v. Rives*, 100 U.S. 313, 318 (1880).

include all constitutional and statutory authorities on whom powers are conferred by law.⁸ The Supreme Court and High Courts are the Constitutional Authority because they are established by the Constitution of India and derive their power from the Constitution.⁹ Justice Hidayatullah has stated that State includes Court because otherwise the court will be enabled to make rules which take away or abridge fundamental rights and a judicial decision based upon such a rule would also offend fundamental rights.¹⁰

[¶5.] In light of the common law precedent, it is humbly submitted before this Hon'ble Court that the Supreme Court of Tomorrowland is a constitutional authority and its action can be considered as State action. Hence it is submitted that the order passed by the Supreme Court of Tomorrowland can be challenged under Article 25 of the Constitution Act, 1930 of the Tomorrowland on the ground of violating of Article 3 and Article 6 of the Constitution Act, 1930.

2. The Order Of The Supreme Court Violated Article 3 And 6 Of The Constitution Act, 1930

[¶6.] The impugned order of the Supreme Court passed while exercising the inherent power has violated right to equality and right to life of the Appellant.

2.1 Right to equality of Appellant has been violated by the Supreme Court Order

[¶7.] It is humbly submitted before this Hon'ble Court that the order of the Supreme Court is *per incurium*. The Court of England has decided that ignorance or forgetfulness of statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found on that account to be demonstrably wrong or *per incuriam*.¹¹ The Indian Supreme Court has held that judicial orders based on exercise of judicial discretion may contravene Art. 14 of the Indian Constitution and thereby become invalid.¹²

[¶8.] The clause "equal protection" means the right to equal treatment in similar circumstances.¹³ The Hon'ble Supreme Court of India has stated that it is denial of rights under Article 14 of the Constitution of India by denying any person the equal protection of law by treating him separately, for a special procedure not provided for by law.¹⁴ The Supreme Court while exercising its discretionary jurisdiction and to do complete justice

⁸ *Rajasthan Electricity Board v. Mohan Lal*, AIR 1967 SC 1857.

⁹ *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602.

¹⁰ *Naresh Shridhar Mirajkar v. State of Maharashtra*, AIR 1967 SC 1.

¹¹ *Morelle v. Wakeling*, [1955] 1 All ER 708.

¹² *Budhan Choudhry and others v. The State of Bihar*, 1966 SCR (3) 744.

¹³ *Shrikrishan Singh v. State of Rajasthan*, 1955 (2) SCR 531.

¹⁴ *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602.

between the parties in terms of Article 142 of the Constitution of India, must consider all relevant aspects of the matter, including its own decision.¹⁵ Under Indian Constitution, Article 14 is bulwark against any arbitrary or discriminatory state action.¹⁶ The discrimination does not fit under the concept of equality.¹⁷

[¶9.] It is humbly submitted before this Hon'ble Court that the Order of Supreme Court has removed a forum of appeal which could only be done by the legislature on the basis of reasonable classification.¹⁸ It is contended that that the Supreme Court of Tomorrowland in its order, has intentionally caused the appellant the denial of rights under Article 6 of the Tomorrowland Constitution by singling him out for a special procedure not provided by law. The order of Supreme Court provides only single forum for getting any relief which is against the usual course practice in Tomorrowland. The appellant has been treated unequally by the Court and hence the appellant is denied right to equality under law and equal protection of law.

2.2 The act of Supreme Court violated right to life and liberty of the Appellant

[¶10.] It is humbly submitted before this Hon'ble Court that Article 3 of the Tomorrowland Constitution provides right to life and liberty and such right can be taken back only by due process of law. There is well understood standard which determines due process of law and this standard has been understood as the fundamental principles of liberty and justice, the essential of a fair trial¹⁹ or fundamental fairness.²⁰ The American Supreme Court has stated that if any judicial proceeding which forfeits the life or liberty of a person, however guilty he may be, without complying with the procedural requirements of the due process, must be held to be invalid.²¹

[¶11.] The Indian Supreme Court has held that the procedure adopted by the state must be just fair and reasonable.²² Hence on this ground the relevance of procedure established by law in India has same relevance as Due process of law has in America.²³ The Indian Supreme Court has recognised Right to approach to the court as a part of right to life and personal

¹⁵ 1 D.D. BASU, SHORTER CONSTITUTION OF INDIA, 1057 (14h ed. 2011).

¹⁶ *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555.

¹⁷ *Id.*

¹⁸ *Dayaram v. Sudhir Batham & Others*, (2012) 1 SCC 333.

¹⁹ *Gideon v. Wainwright*, 372 US 335 (1963).

²⁰ *Gault, In re*, 387 US 1 (1967).

²¹ *Brock v. N. Carolina*, 344 US 424 (427) (1951).

²² *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

²³ *Id.*

liberty.²⁴ It has been held that the guarantee of Due process requires that the trial of the accused that is presumed to be innocent should be as speedy as the circumstances permit otherwise the trial cannot be said to be fair.²⁵

[¶12.] It is humbly submitted before this Hon'ble Court that the Indian Supreme Court has established the proposition that the right to speedy trial is a fundamental right implicit in the Right to life under Article 21 of the Indian Constitution.²⁶ Speedy trial means trial with due course of justice with due relief.²⁷ It is contended before this Hon'ble Court that right to fair trial is part of right to life and liberty and the impugned order of the Supreme Court of Tomorrowland has the effect of negating those rights by shutting out all remedies and reliefs available to the Appellant under Article 55 of the Constitution of Tomorrowland and Section 126 of the Tomorrowland Criminal Justice Code. The order of the Supreme Court is violating right to approach to the court and denial of such right leads to denial of right of speedy trial. Therefore it is finally right to life and liberty of the appellant which is being violated by the impugned order of the Supreme Court.

3. The Power Under Article 23 Exercised By The Supreme Court Of Tomorrowland is Inconsistent With The Statutory Provisions

[¶13.] The inherent power of Supreme Court can be used for the purpose of complete justice but such complete justice should not entail the loss of Fundamental Rights or other statutory provisions notwithstanding the subjective nature of the complete justice.²⁸

3.1 Judicial Order cannot remove a forum of appeal

[¶14.] It is humbly submitted before this Hon'ble Court that the appellant has vested right to appeal to the federal Court from the date of the institution of case. It is contended by the appellant that the Right to approach the court includes right to appeal as well. The Indian Courts have stated that right to appeal is not a mere matter of procedure but is a substantive right.²⁹ The Privy Council by majority held that the right to appeal to the Court can only be

²⁴ *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities and Exchange Board of India & Anr.*, C.A. No. 9813 of 2011 and C.A. No. 9833 of 2011.

²⁵ *Klopper v. N. Carolina*, 386 US 213 (1967).

²⁶ *Mansukhlal Vithaldas Chauhan v. State of Gujarat*, AIR 1997 SC 3400.

²⁷ *Pollard v. U.S.*, 352 US 354 (1957).

²⁸ *Prem Chandra Garg v. Excise Commissioner, U.P.*, AIR 1963 SC 996.

²⁹ *Transmission Corporation of A.P. v. Ch. Prabhakar and Ors.*, (2004) 5 SCC 551; See also *Sawaldas Madhavdas v. Arati Cotton Mills Ltd.*, AIR 1955 Bom 332.

taken by subsequent enactment rather expressly or by necessary intendment.³⁰ The Indian Supreme Court has also followed this precedent.³¹

[¶15.] It is humbly submitted that the Indian Supreme Court has pronounced that if a remedy by way of appeal is provided expressly by a statute, then it cannot be taken away by an executive fiat or by a judicial order.³² The power to create or enlarge jurisdiction is legislative in character, so also the power to confer a right of appeal or to take away a right of appeal.³³ Parliament alone can do it by law and no Court, whether superior or inferior or both combined can enlarge the jurisdiction of a Court or divest a person of his rights of revision and appeal.³⁴

[¶16.] It is humbly contended before this Court that in the Indian Constitution, Article 142 provides inherent power to the Supreme Court and the court is not intended to exercise such power, when such an exercise directly conflicts with the express provisions of a statute.³⁵ The remedies available under Article 55 of the Tomorrowland Constitution Act, 1930 and Section 126 have wider scope compare to the Article 25 of the Constitution of Tomorrowland. Hence it is contended that such wider scope of remedies cannot be taken away by the Hon'ble Supreme Court by passing a judicial order by virtue of exercising inherent power under Article 23 of the Tomorrowland Constitution Act, 1930.

3.2 Supreme Court cannot exercise its inherent power in violation of rights granted under Article 3 and 6 of the Constitution Act, 1930

[¶17.] As the protector of the Fundamental Rights by virtue of Article 25 of the Tomorrowland Constitution Act, the Supreme Court of Tomorrowland cannot act in such manner which will be prejudicial to one's Fundamental Rights.

3.2.1 Scope of inherent power of Supreme Court is limited

[¶18.] It is humbly submitted before this Hon'ble Court that the power under Article 23 of the Constitution Act, 1930 of Tomorrowland is *in same line* with the Article 142 of the Constitution of India. The Indian Supreme Court ordinarily would not pass an order which would be in contravention of statutory provisions.³⁶ The meaning of 'Complete Justice' can be borrowed from one of the Indian Supreme Court Precedents which defines that complete

³⁰ *Colonial Sugar Refining Co. Ltd. v. Irving*, (1905) A.C. 369.

³¹ *Garikapati v. N. Subbiah Choudhary*, (1957) S.C.R. 488; See also 3 H.M. SEERVAI, CONSTITUTIONAL LAW OF INDIA, 2646 (4th ed. 2010).

³² *Dayaram v. Sudhir Batham & Others*, (2012) 1 SCC 333.

³³ *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602.

³⁴ *Id.*

³⁵ *Dayaram v. Sudhir Batham & Others*, (2012) 1 SCC 333.

³⁶ *Jeri Oat Estates (P) Ltd. v. U.T., Chandigarh*, (2004) 2 SCC 130.

justice would be justice according to the law and though it would be open to the Supreme Court to mould relief, the Supreme Court would not grant a relief which would amount to perpetuating an illegality.³⁷ While exercising the Inherent power jurisdiction the Supreme Court cannot pass an order which could cause injustice to others in particular to those who are before it.³⁸ The Supreme Court would not pass an order which will put a person in a position more disadvantageous than in what it would have been.³⁹

[¶19.] It is humbly contended before this Hon'ble Court that in the present case the order of the Tomorrowland Supreme Court has contravened Article 55 of the Tomorrowland Constitution and Section 126 of the Tomorrowland Criminal Justice code. Due to such order, the Appellant has become incapable to approach the Boomtown Criminal Court as well as High Court of Boomtown and he has been placed in a disadvantageous position.

3.2.2 *The Supreme Court can recall its order*

[¶20.] It is humbly submitted before this Hon'ble Court that the Supreme Court can recall its order passed under the inherent power jurisdiction, when it finds that the due procedure has not been followed by pronouncing the order.⁴⁰ The India Supreme Court has held that the court can recall its order in the interest of justice if it thinks that the order or directions would result in violation of the Fundamental Rights.⁴¹ Article 23 of the Constitution of Tomorrowland uses the expression 'May' which signifies that such power is discretionary power. Similarly Article 142 of the Indian Constitution is as well a discretionary power vests with Supreme Court of India and that can be exercised in appropriate circumstances to deliver 'complete justice' in a given case.⁴²

[¶21.] It is humbly contended before this Hon'ble Court that order passed by Supreme Court of Tomorrowland by virtue of Article 23 of the Constitution Act, 1930 does not hold good in eyes of law. Such order contravenes with the Fundamental rights, basic structure and other statutory provisions which provide certain rights to a person. Hence by following the common law precedent, the Supreme Court of Tomorrowland can recall the order passed under inherent power of Supreme Court in the interests of justice.

³⁷ *Secretary, State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1.

³⁸ *A. Jithendernath v. Jublee Hills Coop. Building Society*, (2006) 10 SCC 96.

³⁹ *Government of Orissa v. Ashok Transport Agency*, (2005) 1 SCC 536; See also 1 D.D. BASU, SHORTER CONSTITUTION OF INDIA, 1057 (14h ed. 2011).

⁴⁰ *M.S. Ahlawat v. State of Haryana*, (2000) 1 SCC 278.

⁴¹ *A.R. Antulay v. R.S. Nayak*, (1988) 2 SCC 602.

⁴² *Delhi Development Authority v. Skipper Construction Co. (P) Ltd.*, (1996) 4 SCC 622; See also 5 DURGA DAS BASU, COMMENTARY ON THE CONSTITUTION OF INDIA, 5991 (8h ed. 2009).

**B. THE ORDER OF BOOMTOWN CRIMINAL COURT MAKING FERRERO WILLIAMS AN
ACCUSED IN THE OWG SCAM WAS INVALID**

**1. The Boomtown Criminal Court Acted Ultra Vires In Making Ferrero Williams An
Additional Accused**

[¶22.] It is humbly submitted before this Hon'ble Supreme Court that the order of Boomtown Criminal Court to make Ferrero Williams an additional accused in the 'OWG Scandal', is impugned and liable to be set aside.

1.1 Section 199 of Tomorrowland Criminal Justice Code cannot be invoked in present case

[¶23.] The counsel for the appellant submits that Section 199 of the Tomorrowland Criminal Justice Code (Hereinafter referred as 'Code') cannot be invoked in the present case, as the constituents of the provisions, which are mandatorily required to be complied with are not satisfied. Section 199 of the Code provides discretionary power to the Court to proceed against any person if it appears from the evidences that such person is also involved in the crime. The discretionary power to make any person an additional accused has to be exercised with great care and perspicacity.⁴³

1.1.1 Section 199 has been invoked at wrong stage

[¶24.] It is humbly submitted before this Hon'ble Court that the stage of taking cognizance and stage of making a person additional accused are different in India.⁴⁴ The Indian Supreme Court has stated that after taking cognizance under Section 190 of the Criminal Procedure Code 1973, if the Court is in view that some other persons have also committed the offence besides the person who had been sent by the police it has power and jurisdiction to proceed against those persons also.⁴⁵ However, Section 319 of the Indian Criminal Procedure Code 1973 serves difference purpose and it can only be exercised when any evidence comes before the Court during enquiry or trial and not at the time of taking cognizance.⁴⁶ In this context, it has to be noted that Section 319 (1) of the Indian Criminal Procedure Code 1973 is *pari materia* with Section 199 (1) of the Tomorrowland Criminal Justice Code.

[¶25.] It is humbly contended by the Appellant that in the present case the special police has filed conclusive report for the purpose that the court could take cognizance of the report.⁴⁷ And it is also mentioned that the court decided to have common hearing for Objection

⁴³ *Hardeep Singh and others v. State of Punjab*, (2014) 3 SCC 92.

⁴⁴ *Vimla Devi v. State of Rajasthan*, 1988 (1) Crimes 560.

⁴⁵ *Raghuans Dubey v. State of Bihar*, 1967 CrLJ 1081 (SC).

⁴⁶ *Jitender Singh v. State Government of NCT of Delhi*, 2003 CrLJ 2388 (Del).

⁴⁷ The Statement of Facts, P. 4.

petition and *Consideration of the conclusive report*. Therefore the Court while considering the report would mean that the court is taking cognizance of the offence. Therefore during this stage, the court cannot invoke Section 199 of the Tomorrowland Criminal Justice Code.

1.1.2 The evidences available against Mr. Ferrero Williams are insufficient and do not make prima facie case

[¶26.] It is humbly submitted before this Hon'ble Court that Section 319(1) of Indian Criminal Procedure Code 1973 gives power to the court to add any person, not an accused before it, as an accused and direct him to be tried along with the other accused provided the evidence on record is sufficient to make out a *prima facie* case against such person.⁴⁸ When there is material on record and *prima facie* case is not made out, a person cannot be summoned under Section 319 of Indian Criminal Procedure Code, 1973 to face trial.⁴⁹

[¶27.] The court of Indian jurisdiction has held that where there is no *prima facie* evidence showing the involvement of the petitioners, initially named in the complaint, but no evidence was found against them during the investigation and they were not charge-sheeted, the order summoning the petitioners for offence was set aside.⁵⁰ The term 'evidence' employed in Section 319 of the Indian Criminal Procedure code does not necessarily be such evidence which constitutes legal and admissible evidence at the trial. It includes evidence collected during investigation also.⁵¹ To apply Section 319 of Indian Criminal Procedure Code, 1973 it is essential that need to proceed against a person other than accused, appearing to be guilty of offence, arises, only where evidence is recorded in the course of any enquiry or trial.⁵² Where no such evidence has been recorded nor the Investigation Officer has collected any material against such person during investigation, he would not be summoned under Section 319 of CrPC.⁵³

[¶28.] In the present facts and circumstances, the conclusive report which has been prepared by the Special Police after the investigation does not show that Mr. Ferrero Williams is involved in the OWG Scandal. The Special Police has not mentioned Mr. Ferrero Williams as an accused in the conclusive report. Along with that, the evidences such as Call records, are not genuine and do not effectively disclose that it was Mr. Ferrero Williams who had conversation with Mr. Peter Bailish.

⁴⁸ *Duli Chand v. State*, 1993 CrLJ 827 (Raj).

⁴⁹ *Id.*

⁵⁰ *S. Gopal v. State of Karnataka*, 2007 CrLJ 484 (485).

⁵¹ *Amratlal Devadanbhai Soni v. Director of revenue intelligence, Ahmedabad*, 1998 CrLJ 705.

⁵² *Loknath Singh v. State of Bihar*, 2003 CrLJ 1388 (1389).

⁵³ *Id.*

[¶29.] Also, the facts of the case states that the Boomtown criminal court has considered television pronouncement given by Mr. Ferrero Williams before the Commission of crime, to make him an accused. The court has not recorded any reason relating to the application of doctrine of alter ego and there was no evidence on record either presented by the UHM or Special police which mentioned in any manner that Mr. Ferrero Williams was presenting directing mind and will of the GLG Constructions. The Counsel submits that the court has relied on such evidences which do not make a *prima facie* case against Mr. Ferrero Williams to make him an accused.

1.1.3 Genuineness of the evidence is uncertain

[¶30.] It is humbly submitted before this Hon'ble Court that the key words in Section 199 of the Tomorrowland Criminal Justice Code are "it appears from the evidence", "any person", "has committed any offence". It is not, therefore, that merely because some witnesses have mentioned the name of such person or that there is some material against that person, the discretion under Section 199 would be used by the Court.⁵⁴ It should appear from the available evidence that any other person is also involved in the commission of offence. In the common law jurisdiction such evidence should be genuine, reliable and material.⁵⁵

[¶31.] In the present facts and circumstances, the Court has relied upon the evidence which is not material and reliable. By allowing the objection petition, the court has considered the call records presented by UHM as valid evidence. However the call records which are different from call transcripts do not conclusively show that there was conversation between Mr. Peter Bailish and Mr. Ferrero Williams. The Court has also relied upon the Television pronouncement which is not admissible and reliable in the eyes of law.⁵⁶ The Boomtown Criminal Court has ignored the essential constituents of the Section 199 and did not exercise the discretionary power judiciously, and hence, the order making Ferrero Williams an additional accused should be quashed.

1.2 The Circumstantial evidences available against Ferrero Williams do not make a case where he can be impleaded as an accused

1.2.1 The chain of Circumstantial evidences is not complete

[¶32.] It is humbly submitted before this Hon'ble Court that if there is any missing link in the chain of events to prove the circumstances relating to the commission of an offence, then

⁵⁴ *Kailash v. State of Rajasthan*, AIR 2008 SC 1564.

⁵⁵ *Kishore Singh v. State of Bihar*, (2006) 1 SCC (Cri) 275.

⁵⁶ *Sharad Yadav and Ors. v. Union of India and Anr.*, 82 (1999) DLT 13.

such evidences cannot be considered as material circumstantial evidence.⁵⁷ The circumstances taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability, such person was involved in the commission of offence.⁵⁸

[¶33.] The Court should have reasonable satisfaction from the evidence already collected regarding two aspects; first, that the other person has committed an offence and second, that for such offence that other person could be tried along with the already arraigned person.⁵⁹ The material should disclose the complicity of the person in the commission of the offence which has to be the material that appears from the evidence during the course of any inquiry into or trial of offence.⁶⁰

[¶34.] The circumstantial evidence must be complete and incapable of explanation of any other hypothesis than that of the commission of crime and person involved in such crime.⁶¹ In the instant case, the available evidences are independent and not complete. In the present facts and circumstances the available circumstantial evidences are call records presented by UHM, television pronouncement and the meetings between Ferrero Williams and T Lannister (five in total). Along with that when the call was made to Mr. Ferrero Williams by T Lannister, he was travelling outside Tomorrowland and hence he transferred the call to Mr. Peter Bailish. The very link breaks when it is not clear from the call records that it was Mr. Ferrero Williams who received the call and had conversation with Mr. Peter Bailish. The television pronouncement was made prior to the alleged commission of crime and the purpose of meetings between Ferrero Williams and T Lannister do not disclose any intention as well as involvement of the Ferrero Williams to commit the crime.

[¶35.] Hence all these situations do not connect or form a chain which can make a *prima facie* case against Ferrero Williams to make him an additional accused under Section 199 of the Tomorrowland Criminal Justice Code.

2. Theory Of Alter Ego And Attribution Theory Is Not Applicable In The Present Case

[¶36.] The alter-ego rule embodies that where a corporation is used by an individual in conducting personal business, the court may impose liability on the individual by piercing the corporate veil when fraud has been perpetrated on someone dealing with the corporation.⁶²

⁵⁷ *State of Manipur v. Okram Jitan Singh*, 2005 CrLJ 1646.

⁵⁸ *Padala Veera reddy v. State of A.P.*, AIR 1990 SC 79.

⁵⁹ *Michael Machado v. C.B.I.*, AIR 2000 SC 1127.

⁶⁰ *Hardeep Singh and others v. State of Punjab*, (2014) 3 SCC 92.

⁶¹ JOHN HENRY WIGMORE, EVIDENCE IN TRIALS AT COMMON LAW, 400-01 (3d ed. 1940); See also *Padala Veera reddy v. State of A.P.*, AIR 1990 SC 79.

⁶² BRYAN A GARNER, BLACK'S LAW DICTIONARY, 91 (9h ed. 2009).

[¶37.] The principles laid down in *International Financial Services Corp. v. Chromas Technologies Canada Inc.* states that, a party seeking to disregard corporate entity on the foundation of dominating personality to be an alter ego of a corporation, it has to be shown that: *i)* there is such a unity of interest and ownership that the separate personalities of the corporation and the individual no longer exist; *ii)* circumstances are such that adhering to the fiction of a separate corporate existence would promote injustice or inequity.”⁶³

2.1 Ferrero Williams was not presenting the directing mind and will

[¶38.] It has been held by the Lord Denning in his judgement that the directors and managers are the directing mind and will of the company, and the state of mind of these personnel is the state of mind of the company and is treated by law as such.⁶⁴ However, it is also required to be shown that the controlling mind was used to commit a wrong, fraud, or breach of a legal duty, or a dishonest and unjust act in contravention of legal rights of a person which caused the injury complained of.⁶⁵

[¶39.] In the present facts and circumstances, Ferrero Williams being the Chairman cum Managing Director might apparently be the directing mind and will of the company, but the act of the Company and of Mr. Peter Bailish cannot be imputed to him as he was not the controlling mind for the offence committed.

2.1.1 Ferrero Williams had no controlling interest over the GLG construction

[¶40.] It is humbly submitted before the Hon’ble Court that unity of control exists when a parent corporation or individual exercises substantially total control over the management and activities” of the entity.⁶⁶ The control should not be mere majority or complete stock control, but it must be complete domination, not only of finances, but of policy, managerial and business practices in respect to the transaction attacked so that the corporate entity as to this transaction has at the time no separate mind, will or existence of its own.⁶⁷

[¶41.] The individual’s alleged control over the corporation must not be only potential but must actually have been exercised in a manner either causing the plaintiff to enter the transaction with the corporation or causing the corporation’s default on the transaction or a

⁶³ *International Financial Services Corp. v. Chromas Technologies Canada Inc.*, 356 F 3d 731 (7th Cir 2004); See also KAREN VANDEKERCHKOVE, *PIERCING THE CORPORATE VEIL*, 48-49 (2001).

⁶⁴ *H.L.Bolton (Engineering) Company Ltd. v. T.J. Graham and sons Ltd.*, (1956) 3 All E.R. 624; See also Peter Burns, *Feature of Corporate Criminal Liability or Why the Brains of the Corporation are not necessarily its intimate friends*, 2 CAN. BUS. L. J. 475 (1977-78).

⁶⁵ *Freeman v. Complex Computing Co., Inc.*, 119 F 3d 1044 (2d Cir 1997); See also RICHARD S. GRUNNER, *CORPORATE CRIMINAL LIABILITY AND PREVENTION*, 1-8 (2004).

⁶⁶ *Gatecliff v. Great Republic Life Ins. Co.*, 170 Ariz. 34, 37, 821 P.2d 725, 728 (1991).

⁶⁷ *Strategic Outsourcing, Inc. v. Stacks*, 625 SE 2d 800 (NC Ct App 2006); See also *Iridium India Telecom Limited v. Motorola Inc.*, (2011) 1 SCC 74.

resulting obligation.⁶⁸ Also, in the case of *Tesco Supermarkets* the court held that a person did not qualify as a controlling officer merely by having the authority to exercise managerial discretion.⁶⁹ In the present case, Mr. Ferrero Williams in his capacity as a Managing Director cum Chairman was exercising managerial discretion but this cannot give him the controlling interest over GLG Constructions.

2.1.2 Injustice and inequity will not be promoted

[¶42.] For the application of theory of alter ego, it is required to prove that there would be injustice and inequity if the act in question is considered as those of corporation alone. The alter ego doctrine does not depend upon the presence of actual fraud, but is designed to prevent what would be fraud or an injustice.⁷⁰

[¶43.] It is submitted that no injustice or inequity would be promoted if the Corporation and Mr. Ferrero Williams have separate corporate existence. The man behind the illegal Act, Mr. Peter Bailish, and the Corporation are found accused of the crime *prima facie*. They will be held liable for the crime if proved at the stage of trial and justice will perpetuate.

2.1.3 Mr. Peter Bailish was directing mind and will of GLG Constructions:

[¶44.] It is submitted before this Hon'ble Court that it is necessary to identify the natural person or persons having management and control in relation to the act or omission in point.⁷¹ The directing mind and will must be determined by the functions of the people of a company and not on the basis of name mentioned on the paper.⁷² The Australian Court has propounded the principle that that a corporation is responsible based on the knowledge of corporate officers who are responsible in their respective division of functions for different aspects of a transaction.⁷³

[¶45.] In the instant situation, although Mr. Ferrero Williams is formally appointed as Chairman cum Managing Director of GLG Construction, but the actual business of the company management was left to Mr. Peter Bailish. Furthermore it was Mr Peter Bailish and not Ferrero Williams, who was directly involved in the negotiations with Mr. T. Lannister. As the facts suggest, Mr Peter Bailish took all the necessary steps, from the point of Blackmailing Organising Committee to demand the money (US \$8 Million) and termed it

⁶⁸ D.S. CHOPRA & NISHANT ARORA, COMPANY LAW: PIERCING THE CORPORATE VEIL, 177 (2013).

⁶⁹ *Tesco Supermarkets Ltd v. Nattrass*, [1972] AC 153; See also James Gobert, *Corporate Criminality: Foru Models of Fault*, 14 LEGAL STUDIES 400-01 (1994).

⁷⁰ *Talbot v. Fresno-Pacific Corp.*, 181 Cal. App. 2d 425, 431.

⁷¹ *El Ajou v Dollar Land Holdings*, [1993] 3 All ER 717.

⁷² AMANDA PINTO, CORPORATE CRIMINAL LIABILITY, 11 (2d ed. 2008).

⁷³ *Krakowski v Eurolynx Properties Ltd*, (1995) 183 CLR 563.

“speed money”, to the stage of exchange of money. Since, Mr. Peter Bailish has acted without the authority of a resolution of the Board of GLG Constructions and at the same time he was Vice-president of GLG Constructions, he has the *de facto* management and control over the functions. Thus the directing mind and will of GLG construction at the relevant time was Mr. Peter Bailish and not Mr. Ferrero Williams.

2.2 The Act of Mr. Peter Bailish and GLG Construction cannot be imputed and attributed to Mr. Ferrero Williams

2.2.1 Act of corporation cannot be attributed to an individual

[¶46.] The House of Lords held that applying the test of the “directing mind”, only the wrongful acts of a limited number of key senior officers can be imputed to the company.⁷⁴ Also, the company is directly liable for the individual’s wrongful acts on the basis that its acts or omissions are also the acts and omissions of the company.⁷⁵

[¶47.] It is humbly submitted before this Hon’ble Court that in offences requiring *mens rea*, the directing mind and will of an individual is imputed to the corporation.⁷⁶ The imputation is meant to impose liability on the Company for an act of individual. However there exists no common law precedent or principle which imposes or attributes liability of a corporation on an individual. Therefore, in the present case, the knowledge and *mens rea* of GLG Constructions cannot be imputed to Mr. Ferrero Williams.

2.2.2 Ferrero Williams had no knowledge about the act of Peter Bailish

[¶48.] It is submitted before this Hon’ble Court that the common law recognizes imputation of director’s act to the corporation, while the director can be held individually liable for a criminal act, where he commits the crime directly or aids or abets his agent in the criminal act.⁷⁷ It is also well settled that the directing mind and will of an individual cannot be imputed on other directors/individual unless he is an accomplice to the crime.⁷⁸ It is further submitted that the fact that a corporate officer held a particular position of authority, alone, was not

⁷⁴ *Tesco Supermarkets Ltd v. Nattrass*, [1972] AC 153.

⁷⁵ *Lennard’s Carrying Co. Ltd. v. Asiatic Petroleum Company Ltd.*, [1915] AC 705; See also Michael W. Caroline, *Corporate Criminality and the Courts: Where are they going*, 27 CRIM. L. Q. 242 (1984).

⁷⁶ *R v. Andrews Weatherfoil*, 56 C App R 31 CA; See also *Standard Chartered Bank v. Directorate of Enforcement*, (2005) 4 SCC 405.

⁷⁷ Dan K. Webb, Steven F. Molo and James F. Hurst, *Understanding and Avoiding Corporate and Executive Criminal Liability*, 49(2) BUS. LAW. 617, 627 (February 1994).

⁷⁸ WILLIAM E. KNEPPER AND DAN A. BAILEY, *LIABILITY OF CORPORATE OFFICERS AND DIRECTORS*, 232-34 (4th ed. 1988).

enough to show actual knowledge of the wrongdoing.⁷⁹ However, the corporate officer's position could provide circumstantial evidence of knowledge.⁸⁰

[¶49.] In the present case a bare theoretical possibility that the directors may have met at some time or the other and unofficially talked over the matter would only amount to a speculation and not an inference.⁸¹ No logical inference could be drawn that Mr. Ferrero Williams and Mr. Peter Bailish had participated in a common design to demand bribe from T Lannister.

3. Ferrero Williams Cannot Be Held Vicariously Liable For Company's Liability.

3.1 Vicarious liability is not applicable in the offences which require mens rea

[¶50.] It is humbly submitted before this Hon'ble Court that where the offence is one of strict liability, then the corporate liability would be determined vicariously.⁸² However when the offence requires *mens rea* then the court will employ the theory of identification and not theory of vicarious liability.⁸³ Canadian courts have rejected vicarious liability as the basis for assigning corporate criminal liability for *mens rea* offences⁸⁴, since, by analogy, the criminal law makes an individual responsible only for crimes in which he or she is the primary actor. The equating of vicarious liability for corporations in the criminal sphere with civil liability in the tort context is also seen as violating the precepts of criminal law.⁸⁵

3.2 No provision for vicarious liability of a company to an individual is provided under the Tomorrowland Criminal Justice Code or Corrupt Activities Act

[¶51.] It is humbly submitted before this Hon'ble Court that Indian Law under Indian Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company.⁸⁶ Therefore, in order to hold the directors responsible, it must be shown that they are personally responsible for the offence in question.⁸⁷ Also, the vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute

⁷⁹ *United States v. MacDonald & Watson Waste Oil Co.*, 163 L. Ed. 2d 250 (2005); See also *United States v. Hangar One, Inc.*, 406 F. Supp. 60 (1975); See also L.H. Leigh, *The Criminal Liability of Corporations and other groups: A Comparative view*, 80 MICH. L. REV. 1516 (1982).

⁸⁰ *United States v. White*, 766 F. Supp. 873 (E.D. Wash. 1991).

⁸¹ *Mulki Suryanarayanrao Rau and another v. Gurushant Gangadhar Kamble and others*, 1987 (89) BOMLR 178.

⁸² *Lennard's Carrying Co. Ltd. v. Asiatic Petroleum Company Ltd.*, [1915] AC 705.

⁸³ *Id.*; See also V.S. Khanna, *Corporate Criminal Liability: What purpose does it serve*, 109 HARV. L. REV. 1482 (1996).

⁸⁴ *Min. of Employment and Immigration v. Bhatnager*, [1990] 2 S.C.R. 217.

⁸⁵ BRIAN R CHEFFINS, *COMPANY LAW: THEORY, STRUCTURE AND OPERATION*, 23 (1997).

⁸⁶ *Maksud Saiyed v. State of Gujarat and Ors.*, (2008) 5 SCC 668.

⁸⁷ 7 HALSBURY'S LAWS OF ENGLAND, *COMPANY AND PARTNERSHIP- INSOLVENCY*, ¶232 (4h ed., 2004).

and the statute must indisputably contain provision fixing such vicarious liabilities.⁸⁸ One leading text states that vicarious liability will not be imposed unless there are, in the statute creating the offence, very clear words imposing responsibility upon a defendant for the acts of its servant or agent.⁸⁹

[¶52.] In the present facts and circumstances of the case neither the Tomorrowland Criminal Justice Code nor the Corrupt Activities (Prevention and Punishment) Act contains any provision which impose vicarious liability on an individual for the act of the Company. Therefore Mr. Ferrero Williams cannot be made vicariously liable for the acts of GLG Constructions.

C. THE ULTRA HOUSE MAFIYA HAS NO *LOCUS STANDI* TO PARTICIPATE, MAKE SUBMISSIONS AND GIVE EVIDENCES IN THE CASE AGAINST FERRERO WILLIAMS

[¶53.] In criminal cases there is no need for a third party to seek to intervene to uphold the rule of law.⁹⁰ The fundamental idea is that, although victims, their families, Members of Parliament, and members of the public may all have an 'interest' in the way that offenders are dealt with, that interest should not be the basis for any legal challenge to the courts' handling of offenders.⁹¹

[¶54.] It is a settled position in law that third parties have no *locus standi* for intervening in criminal trial.⁹² If one peruses the scheme of the Code of Criminal Procedure, it will be abundantly clear that third parties do not have any right to intervene either in the trial or at appellate stage in the High Court. So far as the Apex Court is concerned, the Apex Court has the jurisdiction and the authority under Article 142 of the Constitution of India.⁹³ However, this Court or Trial Court do not have benefit of any such constitutional provision and, as such, third parties do not have any right whatsoever to intervene in these proceedings.⁹⁴

1. Locus Standi Is A Must For Litigation

[¶55.] One of the important methods by which courts saved themselves from spurious or vicarious litigation was by determining whether the person who petitioned the Court had *locus standi* to do so.⁹⁵ Litigants must show that they are adversely affected by the impugned

⁸⁸ *Id.*

⁸⁹ A P SIMESTER & W J BROOKBANKS, PRINCIPLES OF CRIMINAL LAW, 187 (1998).

⁹⁰ *R v. The Secretary of State for the Home Department*, [2001] 3 All ER 449.

⁹¹ Jeremy Holder, *Third Party Challenges to the Courts' Treatment of Offenders*, 28 LEGAL STUD. 356, 357 (2008).

⁹² *Rajubhai Dhamirbhai Baria v. State of Gujarat*, 2012 (114) Bom LR 3549.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ S.P. Sathe, *Judicial Activism: The Indian Experience*, 6 WASH. U. J. L. & POL'Y 29, 70 (2001).

action or that their rights have been violated.⁹⁶ Further, the issue raised must be a justiciable issue; an issue capable of resolution through the judicial process.⁹⁷ This rule of private law adjudication is also applicable to public law adjudication.⁹⁸

[¶56.] The rule of *Locus Standi* has only relaxed in Public Interest Litigations and Writ of *Habeas Corpus*. Such relaxation is not provided in any other petition.

2. Third Party Doesn't Possess Locus Standi In Criminal Cases

[¶57.] The Supreme Court of India, very categorically, came to the conclusion that the third parties have no *locus standi* in a criminal trial.⁹⁹ *Locus standi* means 'right to sue'.¹⁰⁰ If a person does not possess the right to sue, then constructively, the person shall not be allowed to intervene in or initiate legal proceedings.

[¶58.] Third party has no *locus standi* to canvass the legality or correctness of the action.¹⁰¹ A person, not a party to the proceeding or associated with the offence, doesn't have any right to appear before the court.¹⁰²

[¶59.] In a case which has proceeded on a police report, a private party has really no *locus standi*.¹⁰³ There is no 'public interest', the State being the 'Master of the litigation'.¹⁰⁴ Therefore there is no right of a third party.¹⁰⁵ Public interest litigant is an alien figure on the landscape of criminal justice system.¹⁰⁶ The Supreme Court had never recognised *locus standi* in third parties in criminal law.¹⁰⁷ Allowing third parties to enter the arena of criminal justice would be to destroy institutional perspectives that have been built over the years.¹⁰⁸ State is now recognised as the Guardian of Criminal Justice.¹⁰⁹ It is a State preserve.¹¹⁰ If these institutional perspectives are overturned, and criminal law was to be privatised, it will revert to the pristine rule of an 'eye for an eye'.¹¹¹ No civilised system can permit this.¹¹²

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Janata Dal v. H.S. Chowdhary*, AIR 1993 SC 892.

¹⁰⁰ *Kusumbala Tarun Das v. Union of India*, (2011) 6 GLR 536.

¹⁰¹ *R.K. Jain v. Union of India*, (1993) 4 SCC 119.

¹⁰² *Sunita Devi v. State of Jharkhand*, W.P.(Cr.) No. 245 of 2013.

¹⁰³ *Thakkur Ram v. State of Bihar*, AIR 1966 SC 911.

¹⁰⁴ *Sheonandan Paswan v. State of Bihar*, AIR 1987 SC 877.

¹⁰⁵ *State of Punjab v. Surjit Singh*, AIR 1967 SC 1214.

¹⁰⁶ *State of Kerala v. R. Balakrishna Pillai*, [1993] 2 Kerala Series 752.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Seneviralne v. R.*, 1936 (3) A.E.R. 36.

¹¹⁰ *Ballison v. Caffory*, 1965 (1) Q.B. 348.

¹¹¹ *Mohammed v. State of Hyderabad*, AIR 1954 SC 51.

¹¹² *Id.*

3. Ultra House Mafiya Doesn't Possess Material Evidence

[¶60.] The criminal law's cardinal principle is to prove beyond reasonable doubt. It is submitted that the evidence produced by UHM is not enough to even imply any kind of role of Ferrero Williams in the scam. The perils of the "no harm done" approach have surfaced and been rather thoroughly discussed in the contexts of the exclusionary sanction for illegally obtained evidence and the fruits thereof and the suppression or nondisclosure of material evidence by the prosecution in criminal cases.¹¹³

[¶61.] As proved earlier that the call records merely show that a call was made by Mr. T. Lannister to a private number. What was the call details and conversation, it is never made out. Another important aspect is possession of such evidence. Therefore, it is submitted that such evidence doesn't imply anything and hence no reliance shall be placed upon it.

[¶62.] It is humbly submitted before the Hon'ble Court that the order of Boomtown Criminal Court of allowing Ultra House Mafiya to participate in the trial is erroneous in law. The Court itself acknowledged the fact that Ultra House Mafiya is not having requisite *locus standi* to appear before the court, despite the fact the Court overlooked the lacuna. Although, anyone can initiate the criminal machinery but not everyone can participate in it.¹¹⁴ Therefore, Ultra House Mafiya shall not be allowed to participate or adduce evidences during the trial.

¹¹³ W. LAFAVE & J. ISRAEL, CRIMINAL PROCEDURE, §§9.3, 19.5 (1985).

¹¹⁴ *Janata Dal v. H.S. Chowdhary*, AIR 1993 SC 892.

PRAYER FOR RELIEF

IT IS HUMBLY SUBMITTED BEFORE THE HON'BLE SUPREME COURT OF TOMORROWLAND THAT IN LIGHTS OF THE ABOVE ARGUMENTS, CASES AND AUTHORITIES CITED, THE APPELLANT HUMBLY PRAYS BEFORE THE HON'BLE COURT:

1. To admit the current petition;
2. To hold that the order of the Supreme Court of Tomorrowland dated February 14th, 2016 is violative of Articles 3 and 6 of the Constitution Act, 1930;
3. To hold that the order of Boomtown Criminal Court dated January 30th, 2016 is erroneous in law;
4. To hold that Ferrero Williams is not an accuse in the OWG Scam case;
5. To hold that UHM is not having *locus standi* to participate, make submissions and give evidences in the trial of OWG scam Case.

AND PASS ANY OTHER ORDER, DIRECTION, OR RELIEF THAT IT MAY DEEM FIT IN THE INTERESTS OF JUSTICE, FAIRNESS, EQUITY AND GOOD CONSCIENCE.

FOR THIS ACT OF KINDNESS, THE APPELLANT SHALL DUTY BOUND FOREVER PRAYS.

PLACE:

SD/-

DATE: -

COUNSELS FOR THE APPELLANT