

* **HIGH COURT OF DELHI AT NEW DELHI**
+ **Crl.M.C. 1826/2008 & Crl.M.A.6710/2008 (stay)**

Date of decision: 27.05.2008

PARVEEN GROVER & ORS. PETITIONERS

! Through : Mr. Sidharth Luthra, Sr. Adv.
Mr. Mike Desai, Advocate.
Petitioners in person.

Versus

\$ CENTRAL BUREAU OF INVESTIGATION
.....RESPONDENT

^ Through : Mr. Harish Gulati, Adv.
Mr. Anindya Malhotra, Adv.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

ARUNA SURESH, J. (Oral)

1. Petitioners have sought quashing of the order dated 8th May, 2008 passed by Shri Sanjeev Jain, learned ACMM, Karkardooma Courts, Delhi whereby the application of the Petitioners for amendment / alteration

of the charge framed against the Petitioners on 10th October, 1995 was dismissed.

2. Respondent/CBI registered two cases being RC 14(S) and 15 (S) of 1992 against one Shri K.B. Gupta, erstwhile Managing Director and Shri S.K. Gupta, erstwhile Director of M/s. Pankaj Finance & Leasing Limited (hereinafter referred to as 'PFLL) for allegedly cheating Punjab National Bank by submitting bogus documents amounting to Rs.55 lacs in the said two cases. During the investigation of the said two cases, a complaint was also lodged against Shri Balraj Sawhney, the then Managing Director of M/s. PFLL and the Petitioners, the then Directors. Another RC 17(S)/1994 was registered on 28.09.1994 against Shri Balraj Sawhney and the petitioners under Section 420/403/406/120-B of Indian Penal Code (IPC). The charge sheet of RC 17(S)/1994 was filed on 16.05.1995 in the court only against the present Petitioners and a separate charge sheet was filed against Shri Balraj Sawhney. Balraj Sawhney has already been acquitted by the trial court. Charge sheet as against the present petitioners was filed in the court of learned ACMM,

Karkardooma Courts, Delhi on 16.05.1995 itself. In view of the prima facie evidence against the present Petitioners, learned Metropolitan Magistrate was pleased to frame charges against them under Sections 406/420/120-B IPC on 10.10.1995.

3. After framing of charges respondent produced its evidence. The evidence was concluded by both the parties and it was at the stage of final arguments when the Petitioners moved an application on 23.2.2008 seeking amendment/alteration of the charges framed against them on 10.10.1995. This application was dismissed by the learned ACMM vide his detailed order dated 8.05.2008. Challenging the said order, present petition has been filed.

4. Learned ACMM vide its order dated 8.5.2008 did observe that some of the details have been mentioned in the charge but not in an elaborative manner. However, according to him, the same did not in any way prejudice the case of the accused persons. The court also observed that in the charge under Section 406 IPC, date, place and period has not been mentioned. But since charge

framed under Section 120-B IPC contained the period when the alleged conspiracy took place, it was sufficient to sustain the charge as framed. The learned trial court also did not find any irregularity in the charge where instead of word 'Agreement to do the Illegal Act', the word 'criminal conspiracy' has been used.

5. Perusal of the charge in the light of the charge sheet filed before the learned trial court clearly indicates that the charges framed do not contain material particulars i.e. the date, time and place of the occurrence, etc. as disclosed in the charge sheet. Therefore, the charges as framed by the learned trial court on 10.10.1995 are vague as they are not exhaustive and are required to be amended /altered to the extent that charges should contain the date, time and place of the occurrence of the facts indicating the incident connected with the commission of the alleged offences for which the petitioners have been charged.

6. Hence, petition is allowed. The order of the learned ACMM dated 8.05.2008 is hereby set aside. The learned ACMM is directed to amend the charges and

reframe them giving all the details as required in a charge to be mentioned from the facts as disclosed in the charge sheet. It is pertinent to mention here that the Petitioners have undertaken that they would not ask for re-summoning of any of the witnesses for examination or cross-examination as they have already completed their cross-examination of the witnesses on all respects. Since there was some difficulty in submitting final arguments in view of the charges as framed being vague and did not disclose the period during which the Petitioners had allegedly committed the offences charged with, they had to move an application for amendment of charges.

7. Parties shall appear before the trial court on 26th June, 2008. On that day learned ACMM shall frame charges as ordered and fix the case for final arguments. Attested copy of the order be sent to the learned trial court for compliance.

**ARUNA SURESH
(JUDGE)**

**May 27, 2008
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