

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 21st November, 2014
Date of Decision: 9th February, 2015

+ CRL. M.C. 3276/2013

RAJESHWAR KUMAR GUPTA Petitioner
Through: Mr. Medhanshu Tripathi &
Mr. Harsh Sharma, Advocate.

versus

STATE THR CBIRespondent
Through: Mr. Narender Mann, Spl.P.P. with
Mr. Manoj Pant, Advocate.

CORAM:
HON'BLE MR. JUSTICE VED PRAKASH VAISH

JUDGMENT

1. The petitioner has filed the present petition for the quashing of FIR No. RC-DAI-2003-A-0050 dated 10.09.2003 under Section 420/467/468/471/120-B of the Indian Penal Code (hereinafter referred to as 'IPC') read with Section 13(1)(d) and Section 13(2) of the Prevention of Corruption Act (hereinafter referred to as 'PC Act') or in the alternative under Section 109 read with Section 420 of I.P.C. registered at P.S. CBI/ACB/New Delhi.

2. The brief case of the prosecution is that on 01.09.1997, one Mr. Vijay Kumar Manchanda (accused No.1 in the charge sheet) and his wife Ms. Shashi Manchanda (accused No.4 in the charge sheet) both

being directors of M/s. Raj Raxine Pvt. Ltd., applied for various cash credit facilities with the Central Bank of India (hereinafter referred to as the 'complainant bank') and submitted various documents in support of their application. On 08.10.1997, Mr. Ravinder Kapoor (accused No.2 in the charge sheet) Senior Manager of the bank instructed the petitioner to carry out legal search and submit the reports in respect of two properties bearing Nos:-

- (a) Shop No. 46 to 50 situated at Plot No. C-1, admeasuring 480 sq. ft., situated at Suchita Complex at Ambedkar, Ghaziabad, UP (hereinafter referred to as 'Ghaziabad Property No.1')
- (b) North side roof of Suchita Complex, Area admeasuring 5225 sq. ft., Ambedkar Road, Ghaziabad, UP (hereinafter referred to as 'Ghaziabad Property No.2')

The said application of accused No.1 and accused No. 4 was processed by Mr. Ravinder Kapoor (accused No.2) and the cash credit facility was sanctioned by Mr. D.N. Upadhyay (accused No.3 in the charge sheet) on 08.10.1997. Even though M/s Raj Raxine Pvt. Ltd. (hereinafter referred to as the 'company') did not fulfill the terms and conditions stipulated by the sanctioning authority, yet accused No. 2 and 3 released the credit facilities in favour of the company. The petitioner submitted his legal report on 18.10.1997. The cash credit account of the company became overdrawn w.e.f. 30.06.1998 and there was no credit in the company's account during July and August 1998.

3. On 02.07.1999 the accounts of accused No.1's company were declared as Non-Performing Asset (NPA). Consequently, a complaint dated 04.09.2003 was filed by Mr. H.K. Verma, the then AGM, Central Bank of India, regarding cheating by one Desh Raj Manchanda (since deceased) and his son accused No.1, directors of borrowers companies. The complaint was turned into an FIR vide FIR No. RC/DAI-2003-A-0050 on 10.09.2003.

4. After completion of investigation charge sheet was filed by the investigating agency on 28.04.2006 wherein the petitioner was impleaded as accused No.8. Vide order dated 31.03.2009 the learned trial court found a prima facie case for framing of charges and accordingly charges under Sections 120B/420/467/471 IPC and Section 13(2) read with Section 13(1) (b) of Prevention of Corruption act or in the alternative charges under Section 109 r/w 420 IPC were framed on 08.04.2009.

5. At the outset it would be pertinent to observe that the only relief sought by the petitioner in the present petition is the quashing of the FIR No. RC-DAI-2003-A-0050 dated 10.09.2003. However, a perusal of the said FIR shows that the petitioner has not been named as an accused therein. This fact is also admitted by the petitioner in his petition. In fact, it was only after the completion of investigation, when a charge sheet was filed by the investigating agency on 28.04.2006 that the petitioner was impleaded as accused No.8 therein. Clearly, the relief sought is beyond the scope of the present petition.

6. Accordingly, the petition deserves to be dismissed and the same is hereby dismissed with liberty to the petitioner to take appropriate steps.

Crl. M.A. No.12122/2013

The application is dismissed as infructuous.

**(VED PRAKASH VAISH)
JUDGE**

FEBRUARY 9th, 2015
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