IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM No.M-12188 of 2014 (O&M)
Date of Decision: December 12, 2016

Punjab and Sind Bank and others

...Petitioners

VERSUS

Union Territory, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rakesh Chopra, Advocate
for the petitioner.

Mr.J.S.Toor, Addl. Public Prosecutor
for the respondent-U.T. Chandigarh.

Mr.Krishan M. Vohra, Advocate
Mr.Sumeet Goel, Standing counsel
for respondent-CBI.

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INDERJIT SINGH, J.

Petitioners have filed this petition under Section 482 Cr.P.C. against Union Territory, Chandigarh and other respondents, for transferring/handing over the investigation of the case FIR No.444 dated 15.11.2012 under Sections 420, 467, 468, 471 and 120-B IPC registered at Police Station Sector-11, Chandigarh, regarding fraud to the tune of ₹23 crores 81 lakhs and 6 thousand, to the Central Bureau of Investigation in view of circular/notification No.RBI-2013-14/88 DBS. FRMC. BC. No. 1/23.04.001/2013-14.

Notice of motion was issued and learned Addl. Public

Prosecutor for U.T. Chandigarh as well as learned counsel for respondent-CBI appeared and contested the petition.

At the time of arguments, it was brought to the notice of this Court that investigation is already complete in this case. Seven persons have already been challaned by the police in this FIR.

Learned counsel for the petitioners argued that some of the accused have not been challaned and have been left by the police. He further argued that no properties of the accused have been attached and nothing has been recovered during investigation. He next argued that matter be handed over to CBI as public funds are involved and many accused have been left.

On the other hand, learned APP for the U.T. Chandigarh argued that investigation has been conducted and during investigation, the accused, who have been found guilty, have been challaned and if any evidence would come on the record against any other person/accused, he can also be summoned under Section 319 Cr.P.C. He further argued that if properties were not attached, the complainants have the appropriate remedy to avail under the law. He next argued that the police is to investigate the case and main duty of the police is to investigate the matter and to bring the accused before the Court, who during investigation, were found guilty. The police is not supposed to recover the amount from the accused by selling their properties. The orders can be obtained by the petitioners from the Court.

Learned counsel for the CBI also opposed this petition by stating that it is not a fit case which is to be investigated by the CBI, though public funds have been embezzled by the accused. He also argued that CBI is already over-burdened with so many important cases. He next argued that this is not a case of such a serious nature that it be investigated by the CBI nor in this case, causes of occurrence occurred in different States.

After hearing learned counsel for the petitioners as well as learned AAP for U.T. Chandigarh and learned counsel for respondent-CBI and after going through the record, I find that, firstly, the investigation has been completed by the police authorities and challan has already been presented against seven accused by the police. After the investigation, the police presented the challan against the accused persons, who were fouind guilty and it is not mandatory for the police to present the challan against the persons named in the FIR or in the enquiry etc. It is for the Investigating Officer firstly to collect the evidence and to find guilt of the persons and also innocence, if any, of some person, if they are involved and not committed the offence. Even otherwise, if during trial, any evidence comes against other accused or persons, they can be summoned by the Court under Section 319 Cr.P.C.

As regarding attaching the property of the accused etc., the petitioners have the remedy to give the list of properties etc. and can file the appropriate application before the competent authority or can take action as per law. The fraud has been committed by Manager in connivance with some persons in a bank branch, therefore, this case, in no way, can be held of such a serious nature that it should be investigated by the Central Bureau of Investigation, which is already over-burdened, as argued.

As regarding the letter/notification issued by the Reserve Bank of India to the Chairmen and Chief Executive Officers of all Scheduled Commercial Banks, I find that these are only directions by the RBI. It is nowhere mandatory that such type of FIRs must be investigated by the CBI.

Furthermore, as per this notification, the guidelines were given to the Financial Institutions that Public Sector Banks should report fraud cases involving 300 lakhs and above to CBI, which means that it is for the Banks to report the matter to the CBI. Now, in this case, FIR has been got registered by the complainant with the police and investigation has been conducted by the police, therefore, only on the basis of this notification, there is no ground to transfer the investigation to the CBI now as the investigation is already complete. The perusal of the FIR also shows that FIR was got recorded on the basis of application sent to Deputy Superintendent of Police (Central), Sector-17, Chandigarh, where a request was made for registration of the FIR, which means that the guidelines are not complied with, if at all, by the Bank Officer.

In view of the above discussion, I find that there is no necessity to get the matter investigated from the Central Bureau of Investigation. Therefore, finding no merit in the present petition, the same is dismissed.

December 12, 2016 **(INDERJIT SINGH)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **No**