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

+ CRL.M.C. 5286/2013

BODO HERBERT GARBE

..... Petitioner

Represented by: Mr. Percival Billimoria,
Mr. Sharan Thakur, Mr. Siddhartha Barua,
Mr. Vikram Singh and Mr. Juvraj Singh Bindra,
Advs.

versus

C B I & ANR

..... Respondents

Represented by: Mr. Narender Mann, Standing
Counsel for CBI with Mr. Devendra Dedha, Adv.
for respondent / CBI.

Mr. Vikas Mahajan, CGSC with Mr. S.S. Rai and
Mr. Rohan Gupta, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

ORDER

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11.02.2016

+ **CRL.M.C. 5286/2013**

1. By way of the present petition, filed under Section 482 Cr.P.C. petitioner seeks directions thereby setting aside the orders dated 27.07.2013 and 23.08.2013 passed by Id. Additional Sessions Judge, Special Judge (PC Act), CBI-2, New Delhi District, Patiala House Court, New Delhi.

2. Vide order dated 27.07.2013, the Id. Trial Court recorded that as per the chargesheet, there had been meetings of the petitioner with accused Abhishek Verma and Gerhard Hoy and he had participated in various meetings and also visited India on several occasions. The petitioner was the

CEO of M/s. Rheinmetall Air Defence, which was being blacklisted and was in full knowledge of what was going on. Accordingly, the Id. Trial Court opined that there are sufficient grounds to proceed against the petitioner and issued summons against him.

3. Ld. Counsel for the petitioner submits that the name of the petitioner was neither mentioned in the FIR nor in the chargesheet filed by the CBI and was not even in column no. 12 of the chargesheet. In such a situation, after going through the chargesheet, if the Trial Court smelt that the investigating agency has not investigated the case properly, then the Court was duty bound to direct the CBI to investigate the matter further and if any material is found against the petitioner, they may file the chargesheet. He lastly submits that taking cognizance and summoning the petitioner vide the impugned order dated 27.07.2013 is bad in law as no case is made out against the petitioner.

4. On the other hand, Id. Standing Counsel appearing on behalf of the CBI submits that the Trial Court is not bound to direct the investigating agency to investigate the matter further, however, it can issue summons against the accused if any material against the petitioner is available in the chargesheet.

5. The fact remains that neither any material was placed in the chargesheet nor even iota of allegations is against the petitioner and the name of the petitioner was not even mentioned in Column no. 12 of the chargesheet. Moreover, perusal of impugned order dated 27.07.2013 reveals that Id. Trial Court nowhere mentioned that there is any material

against the petitioner except that the petitioner had various meetings with co-accused Abhishek Verma. Therefore, I do not find any substance in the impugned order.

6. In view of above facts recorded above, impugned orders dated 27.07.2013 and 23.08.2013 are hereby set aside. However, the CBI is at liberty to investigate the matter further and if any material is found against the petitioner, they may file the chargesheet against him.

7. Accordingly, the petition is allowed.

8. *Dasti.*

Crl. M.A. 19096/2013

Dismissed as infructuous.

SURESH KAIT, J

FEBRUARY 11, 2016

jg