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

+ **W.P.(CRL) 2964/2016**

MEENU DEVGUN

..... Petitioner

Through: Mr. Muneesh Malhotra, Vikram V
Minhas, Rituraj Shahi, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms. Richa Kapoor, ASC

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
06.10.2016

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Crl. M.A. No.15832/2016

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(CRL) 2964/2016

Issue notice. Notice is accepted on behalf of the State. Learned counsel for the petitioner as well as the State has been heard at some length. The petitioner has preferred this petition to seek the following directions:

- a) Direct the investigating agency for custodial interrogation of accused persons in terms of order dated 15.07.2016 in Bail Application No.910 of 2016.

- b) Issue the writ, direction or orders for transferring the criminal investigation in FIR No.0130/2013 u/s 420/406/34 IPC from the local police at P.S. Preet Vihar to the CBI/ EOW of Delhi Police;
- c) Direct a inquiry against I.O. Mr. R.S. Pandit or any officer for his malafide conduct and for non compliance of the orders dated 03.11.2015 and 15.07.2016 of this Hon'ble Court.

The submission of learned counsel for the petitioner is that the bail of the accused was rejected by this Court vide order dated 15.07.2016. Despite the same, there is no progress made in the matter. According to the petitioner, the petitioner was served with a notice under section 91 Cr PC and in response to the same, the petitioner had sent a reply to the IO, but the same has been returned back unserved. The sealed envelope was shown to the court and delivered to the IO, who is present in court.

Attention has been drawn to the report filed before the learned ACMM, Karkardooma Courts, Delhi dated 24.11.2014, wherein, firstly, it was observed that in view of SO No.173, the case/ complaint involving property value of Rs.2 crores could be investigated by the EOW Cell and hence there is no need to transfer investigation in this case to EOW. It was stated that the case was still being investigated at PS Preet Vihar. It was also stated "*However, as desired by learned court, the IO of the case has already been changed*".

The submission of learned counsel for the petitioner, firstly, is that the value of the property involved in the present case is in excess of Rs.2 crores, if one were to look at the allegations made in the FIR. Secondly, in any event, the said administrative order does not come in the way of the court

transferring the investigation to the EOW Cell in an appropriate case where the court considers it necessary for due and proper investigation. He further submits that even though the IO of the case was changed, the same IO has been again appointed to investigate the matter.

The IO is present with Ms. Kapoor and states that the matter is entrusted to him once again by the SHO. He, however, states that he has no personal interest in the matter and the court can pass appropriate directions in this regard.

Ms. Kapoor submits that the IO conducted the investigation diligently in the matter. It is pointed out that the anticipatory bail of the accused was rejected by the trial court and by this court on account of the IO pursuing the matter diligently. Moreover, the writ petition being W.P.(Crl.) No. 320/2015 preferred by the petitioner was withdrawn on 03.11.2015 on the statement made by the IO that the charge sheet in the subject FIR shall be filed within a period of four months from the said date.

I may at this stage observe that the charge sheet has not been filed till date. However, the reason given by the IO is that the petitioner has not provided with the requisite information. This is disputed by the petitioner, who states that the petitioner specifically came from Sweden and has appeared before the IO on several occasions to provide whatever information as has been asked for.

It is not in dispute that the allegations of cheating pertained to an amount beyond Rs.2 crores.

Without getting into the issue whether or not the present IO has carried out the investigation competently, considering the totality of the case, it is directed that the further investigation in the case be transferred to

the EOW Cell forthwith. The Joint Commissioner of Police concerned dealing with the EOW Cell shall ensure that a competent officer is nominated for the purpose of carrying out further investigation in the matter. The newly appointed IO shall carry out whatever remaining investigation is required to be done and expeditiously file the charge sheet/ final report, preferably within the next two months.

Learned counsel for the petitioner submits that the petitioner has already provided whatever information was available with her. In any event, if any further information/ clarification is required, the petitioner is willing to provide the same to the newly appointed IO.

In case the charge sheet/ final report is not filed within the period of two months, the petitioner shall be at liberty to approach this court for further directions.

Petition stands disposed of in the aforesaid terms. Dasti.

VIPIN SANGHI, J

OCTOBER 06, 2016

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