IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19745-2018 (O&M)
Date of Decision: 30.05.2018

Puneet Goel and others ...Petitioners

Versus

State of Haryana and others …Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. J.S. Bedi, Senior Advocate with
Mr. Sunil Sihag, Advocate, for the petitioners.
Mr. B.S. Virk, DAG, Haryana.
Mr. Jasdeep Singh Gill, Advocate and
Mr. Gaurav Kathuria, Advocate, for the complainant.

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Amol Rattan Singh, J. (Oral)

Pursuant to the order dated 15.05.2018, an affidavit of the Commissioner of Police, Faridabad, has been filed in Court by the learned State counsel, a copy of which has been given to the learned counsel for the petitioners.

It has been stated in the affidavit that the petitioners assured the complainant of good returns upon investing in their projects, with the complainant having invested Rs.45 crores in the projects started by the petitioners and their company/companies, Piyush Group.

An allegation against the petitioners, as per the affidavit, is also with regard to 'money laundering', with the petitioners having repaid some of the amount invested to the complainant by way of cheques and the remaining amount (as per the allegation) having been paid in cash to the petitioners by the complainant.

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As already noticed in an earlier order, the case of the complainant is that he also has two receipts of Rs.16 crores each, signed by petitioner no.1, Puneet Goel, on the letter head of the Piyush Group.

Further, it has been stated in the affidavit that Section 3 of the Haryana Protection of Interest of Depositors in Financial Establishment Act, 2013, has also been added to the list of offences alleged to have been committed by the petitioners.

It has been further stated that the petitioners and their family members have 100% share holding in Piyush Infrastructure India Limited, and “major transactions were done in this company”, with the petitioners and their family members having received huge amounts from the companies of the Piyush Group, as Directors or as employees, which further stood proved (again as per the allegation against the petitioners), from the financial statement dated 31.03.2015, submitted by “the Chartered Accountant in the office of the Registrar of Companies”.

Though some digital records pertaining to “secret accounts” maintained by the Piyush Group is stated to have been obtained by the investigating agency from a secret source and forwarded to the Director General, Investigation (of the Indian Revenue Service) in Chandigarh, on 11.04.2018, no reply has been received from that source; however, one Ashok Bansal, who is stated to be the Commercial Head of the Piyush Group was joined in the investigation with the said person having produced a pen drive containing the information regarding account details of the

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Group, “showing a credit of Rs.8 crores in the account of the complainant”, i.e. Madhur Gupta.

That information is also stated to have been shared with the Income Tax Department, with the Assistant Commissioner of Income Tax, Circle II, Faridabad, having informed the Commissioner of Police that before the amendment to Section 269SS of the Income Tax Act, 1961, i.e. before 01.06.2015, advances for purchase of property were not covered within the ambit of the said provision, and consequently there was no provision for imposing a penalty for making payment in cash, though the buyer of the property was required to provide the source of the cash and if he did not do so, it would be treated as his undisclosed income, liable to taxation. Thereafter, w.e.f. 01.06.2015, if a seller accepts any payment in cash for purchase of property above Rs.20,000/-, he is liable for penalty, with the buyer required to provide the source of cash, failing which it would again be treated as his undisclosed income.

Yet further, the affidavit states that the Director of M/s Piyush Infrastructure Pvt. Ltd. issued post dated cheques in the year 2016, pertaining to bank account no.06860200000678 of the Bank of Baroda, with the payments of several cheques having been stopped, and the amount in the said account was seen to be transferred to the accounts of other companies of the Piyush Group.

As per the Commissioner of Police, the petitioners had thus given an assurance of assured returns to the complainant, Madhur Gupta,

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(and other investors) and obtained Rs.45 crores from the complainant, his brother and known persons, with only two receipts of Rs.16 crores in cash issued in the name of the complainant and his brother.

Further, a sum of Rs.3.72 crores were seen by the investigating agency to have been transferred in the accounts of the company and in the personal account of petitioner no.1, Puneet Goel, from the accounts of the complainant and his family members, with a sum of Rs.1,72,50,000/- received back in that account, and thereby leaving almost an amount of Rs.2 crores still outstanding towards the petitioners-accused, as were paid by bank transfers/cheques, other than the amount alleged to have been paid in cash, for which investigation is being further done with the help of the Income Tax Department.

Statements of the complainant in the FIR in question, i.e. Madhur Gupta, and all 21 other investors, are also stated to have been recorded, with regard to the Piyush Group issuing 28 post dated cheques amounting to Rs.2,11,55,800/- to be encashed in the year 2019-20. The affidavit thereafter goes on to explain further details of investigation carried out, also giving details of 12 FIRs registered against the petitioners.

Thus, the Commissioner of Police further goes on to state that as per investigation conducted by the Economic Offences Wing, the petitioners cheated investors and misappropriated huge amounts, for which a thorough investigation is required by way of custodial interrogation of the petitioners, to find out the actual amount of embezzlement, as also

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involvement of other persons, other than for recovery of documents, equipment, computers etc.

Photocopies of 269 post dated cheques of above Rs.1 lac have also been annexed with the affidavit of the Commissioner of Police, a perusal of which shows that some are of the year 2017, with the others carrying various dates between 2018-2020.

Mr. Gill and Mr. Kathuria, learned counsel for the complainant, submit that in fact the post dated cheques as had become due have been presented, with most of them having bounced; and therefore the culpability of the petitioners (as contended by the complainant) is established, inasmuch as if the amount had not been invested with the petitioners/their companies, there was no need for issuance of such post dated cheques, which have subsequently bounced either on account of stoppage of payment, or lack of funds in the accounts concerned.

Mr. Bedi, learned Senior Counsel appearing for the petitioners, firstly submits that as regards the FIR in question, though the petitioners went to join investigation, they were not so joined by the investigating officer, on the ground that an affidavit of the Commissioner of Police was to be filed before this Court today, and therefore there was no occasion for them to join investigation and consequently, the stand taken by the learned State counsel (on instructions) that the petitioners have not joined investigation, is wholly unfounded, especially as the petitioners admittedly joined investigation in connection with two other FIRs registered against

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them, with the room where the investigating officer in the present case was required to question them, also being located in the same premises. He submits that actually petitioner no.1 was arrested when he went to join investigation, pursuant to non-bailable warrants issued by the trial court in one of the proceedings pending against him for the commission of an offence punishable under Section 138 of the Negotiable Instruments Act, and thereafter petitioner no.1 was admitted to interim bail by the trial court in that case on 28.05.2018, i.e. the day before yesterday, after which he again went to join investigation, but allegedly was not joined in the investigation.

Learned Senior Counsel further submits that with the pen drive allegedly recovered at the instance of Ashok Bansal, Commercial Head of the Piyush Group, already being with the investigating agency along with other material which they have forwarded to the Income Tax Department, the custodial interrogation of the petitioners is not required, with no further information having been received from the Income Tax Department other than information with regard to the legal provisions before and after the amendment of Section 269SS of the Income Tax Act.

Mr. Gill, learned counsel for the complainant, counters by pointing to paragraph 18 of the affidavit of the Commissioner of Police, which reads as follows:-

> "18. That the petitioners had launched a housing society project under the name and style of "Piyush Epitome" over a land measuring 14 acres, situated in Sector -8, Palwal, where no development

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> work has been done till today. The petitioners entered into Buyers Agreements of the flats in the said project. However, the petitioners thereafter, had stood surety for an amount of Rs.140 crores raised by the SRS Group from LIC Housing Pvt. Ltd. against the above said 14 acres land of the Piyush Epitome Project, Palwal."

He further submits that the petitioners (though it does not form part of the affidavit of the Commissioner of Police), have entered into an agreement with one SRS Group and in collaboration with that group have mortgaged the 14 acres of land on which the project in question in which the complainant and his family had invested, to the LIC Housing Pvt. Ltd., for a loan taken by them, which learned Senior counsel appearing for the petitioners objects to on the ground that as regards the said 14 acres as have been mortgaged, the complainant and his family members had not invested any money, the said 14 acres being allocated by the petitioners, admittedly, for a project known as Piyush Epitome,with in fact the said project not mentioned in the FIR got registered at the instance of Madhur Gupta.

Mr. Gill has further submitted that though a copy of Form 32 annexed with the petition shows that Puneet Goel and the other petitioners are no longer Directors of M/s Piyush Infrastructure Pvt. Ltd. since the year 2012, however, as per information received under the RTI Act, by the complainant, the company even filed income tax returns dated March 31, 2015, showing the petitioners to be its Directors.

Mr. Gill further submits that as to where the money invested has been actually used, for further investment by the petitioners and their family members, would also need to be determined, for which their

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custodial interrogation is required.

Mr. Virk, learned State counsel, submits that the petitioners having been investigated and found to be involved in a huge scam involving crores of rupees, where 1000-1500 people have invested money in the projects (as alleged), with money not having been returned to them, their custodial interrogation is absolutely necessary for the reasons already given in the affidavit of the Commissioner of Police, to the effect that the entire amount of embezzlement and involvement of other co-accused needs to be determined.

Having considered all the above submissions on both sides, though otherwise Mr. Bedi, learned Senior Counsel appearing for the petitioners, may have had a point with regard to there being no need for custodial interrogation of the petitioners on account of the material already admitted to have been recovered by the investigating agency, however, in view of the extensive nature of what appears prima facie at least to this Court to be a scam going into 'multicrore' rupees, in my opinion, the custodial interrogation of the petitioners would be necessary, if the investigating agency so requires, as is stated in detail in the affidavit of the Commissioner of Police.

Consequently, without making any comment on the actual culpability or otherwise of the petitioners at this stage, which is to be investigated by the investigating agency, and would be looked at by the competent court at the appropriate stage on the basis of the evidence led,

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this petition is dismissed with the interim order vacated.

The Department of Income Tax and the Directorate of Enforcement would go into the source of money allegedly paid by the complainant to the petitioners/their companies, and wherever any money laundering or such unlawful activity is discovered, naturally appropriate action would be taken by the Department of Income Tax, as also by the Directorate of Enforcement, as the case may be against all persons found to be indulging in such activities.

The Commissioner of Police, Faridabad, would forward the findings of the investigation to the Chief Commissioner Income Tax, as also the Director of Enforcement, specifically highlighting all "high cash transactions" found to have been undertaken by the complainant(s) & accused.

(AMOL RATTAN SINGH)
JUDGE

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Whether reasoned/speaking: Yes
Whether reportable: Yes

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