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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 9th July, 2018

\+ CRL.M.C. 4339/2016 and Crl.M.A.18120/2016, 6782/2017

GAYTRI VAIDYANATHAN ..... Petitioner
Through: Mr. Roopansh Puhorit, Advocate

versus

STATE & ANR ..... Respondents
Through: Mr. Arun K. Sharma, APP for the State with Insp. Anil Yadav
Mr. Gandharv Anand, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The present petition invokes the extraordinary jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) seeking quashing of first information report (FIR) No.191/2014 of Police Station Nangloi involving offences punishable under Sections 420/120-B/34 of the Indian Penal Code, 1860 (IPC) mainly on the ground that the allegations made therein are false and motivated.

2. The petition has been resisted both by the State (first respondent) and also by the complainant (the second respondent) through status report and formal reply.

3. Arguments have been heard and the record has been perused.

4. It appears that the petitioner is one of the Directors of a company incorporated in India in the name and style of M/s. Rapid Nutrition Private Limited (RNPL); it having been formed as a subsidiary company of M/s. Rapid Nutrition Pty, a company

incorporated in Australia. It is alleged that the parent company of the aforementioned company incorporated in India had issued a corporate bank guarantee for its debts to the extent of INR 100 million. It is stated that pursuant to a criminal conspiracy, the second respondent, M/s. Sanyog Enterprises Pvt. Ltd. (SEPL) was approached on behalf of RNPL inducing it to become its "super stockiest" in India and on the false assurances and representation and promises that were held out, confidence of the Managing Director of SEPL was gained resulting in an agreement being executed on 25.07.2012 wherein SEPL became India's "super stockiest" of the RNPL, it having been signed on behalf of the RNPL by co-accused Vaidyanathan Nateshan, he being the husband of the petitioner herein. In terms of the said business transactions entered upon, SEPL made over, by cheque, Rs.5,27,13,110/- in favour of another subsidiary company named Rapid Nutri Manufacturing Pvt. Ltd. at the instance of RNPL. The amount, thus paid, included Rs.2 crores towards security and the balance towards orders for health produces placed by SEPL. It is alleged that, in spite of such payment, no products were made available or supplied and when the matter was pursued there was a commitment for entire refund with financial cost by 15.01.2013, the same not having been honoured. The investigation into the FIR is stated to have shown that out of aforementioned amount of Rs.2,21,34,000/- was diverted by co-accused Amit Srivastava, Additional Director of RNPL, to his own account, this besides transfer of Rs.1,18,00,000/- into the personal account of Vaidyanathan Nateshan, husband of the petitioner and co-director.

5. It appears during the course of investigation Vaidyanathan Nateshan and Amit Srivastava were arrested. A charge-sheet *qua* Amit Srivastava was filed on 25.10.2014 and a supplementary charge-sheet *qua* Vaidyanathan Nateshan was filed on 04.04.2015. It appears that both the said persons offered to settle the matter by making certain payments or transfer of certain assets in favour of the complainant company and certain proceedings to that effect were recorded in the court of Metropolitan Magistrate.

6. The State submits that the investigation as against the petitioner and also against her husband is still not complete. Though it is fairly conceded that the charge-sheet having been filed against Amit Srivastava, the offences involved have been compounded by said accused on the statements of the said account and the complainant side leading to proceedings against him being dropped, such result of the case against co-accused cannot come to the aid or assistance of the present petitioner to seek investigation into the case against her being interdicted. There is no reason why the allegations against her in the criminal case which are presently under investigation are to be treated as unfounded. There are reasons to suspect her complicity and it will not be proper or fair for this court to record any observations either way lest it prejudices her in her further defence.

7. The petition and the applications filed therewith are dismissed.

R.K.GAUBA, J.

JULY 09, 2018
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