

\$~10

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

+ CRL.M.C. 4569/2017, CRL.M.A. 18215/2017 and CRL.M.A. 20079/2017

PREM NARAIN SHARMA

..... Petitioner

Through: Mr. B. Sharma and Mr. Yogesh
Verma, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Anupam S. Sharma, SPP for
CBI with Mr. Prakash Airan and
Mr. Parikshith Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

21.01.2019

Quashing of FIR No. RC11 (E)/2005/EOW-II/DLI, under Sections 120-B-r/w 419,420,465,466,467,468,471 IPC r/w Sections 15 and 13 (2) r/w 13(1)(D) of Prevention of Corruption Act, 1988 registered at CBI, New Delhi is sought on the ground that the sanction under Section 158 & Section 83(2) of Delhi Cooperative Societies Act, 2003 has not been obtained and so, petitioner cannot be prosecuted in this proceedings.

It is informed that the matter is ripe for final arguments and the next date of hearing before the trial Court is 28th January, 2019. Apart from the aforesaid plea, learned counsel for the petitioner submits that the benefit of *The Prevention of Corruption (Amendment) Act, 2018* effective

from 26th July 2018 renders the prosecution of petitioner in these proceedings illegal. It is pointed out that apart from the documents relied upon by the CBI in the charge sheet filed, more documents have been admitted into evidence and they ought to be de-exhibited. Reliance is placed upon Supreme Court's decision in '*Sumangalam Coop. Housing Society Ltd. Vs. Suo Moto, High Court of Gujarat & Ors*'. (2007) 2 SCC 301 in support of petitioner's case.

Petitioner's counsel further submits that direction of this Court is to conduct thorough inquiry in respect of the Cooperative Society in question, but the CBI is naming this court as complainant. This cannot be done, as the complaint/FIR has to proceed on the basis of the material collected.

Since the case is at the stage of final arguments, therefore, this Court is not inclined to invoke its extra ordinary inherent jurisdiction under section 482 Cr.P.C. to intervene at this stage.

In the facts and circumstances of this case, it is deemed appropriate to dispose of this petition with direction to petitioner to raise all such pleas before the Trial Court, who shall consider it after hearing final arguments.

This petition and applications are accordingly disposed of while not commenting on the merits of the case, lest it may prejudice either side at trial.

Dasti.

(SUNIL GAUR)
JUDGE

JANUARY 21, 2019

p'ma