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

\+ CRL.M.C. 1240/2020

RAM SAKAL TIWARI ..... Petitioner

Through Petitioner in person

versus

CENTRAL BUREAU OF INVESTIGATION & ANR .... Respondents

Through Mr.Rajesh Kumar, SPP with Ms.Saakshi Agrawal, Advs.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

<u>O R D E R</u>

% 04.03.2020

<u>Crl. M.A.4807/2020 (for exemption)</u>

Allowed, subject to all just exceptions.

Application is disposed of.

<u>Crl. M.A. 4808/2020 (for condonation of delay)</u>

In view of the reasons mentioned in the application, delay of three days in re-filing petition is condoned.

Application is, accordingly, allowed and disposed of.

<u>CRL.M.C. 1240/2020</u>

The present petition has been filed by petitioner under Section 482 Cr.P.C. for summoning Trial Court record from the Court of Mr. O.P. Saini, learned District and Sessions Judge cum Special Judge (PC ACT), Rouse Avenue Courts, New Delhi, in case FIR No. RC-DAI-2005-A-0044 for offences punishable under Sections 120B/420/467/468/ 471 IPC and 13(2) r/w 13(1) (d) of PC Act, 1988 and quash the said impugned order dated 29.7.2019 and also to direct respondent No.1/investigating agency for further investigations.

Case of petitioner who is appearing in person and an Advocate by profession is that Savings Bank Account No.8086 of Punjab & Sindh Bank was opened by accused persons in joint name of petitioner and his wife Ms.Shobha Tiwari by forging her signatures. His signatures were obtained on many blank cheques of Bank Account No.8086 by accused Rakesh Sharma who was posted in the said Bank, by misleading him. This account was misused by accused persons who were officials of said bank and caused loss to petition by operating fake business of shares. Petitioner never took any loan for purchase of computers, but accused persons who are officials of bank also showed that loan was sanctioned and disbursed to the petitioner.

Learned SPP appearing on behalf of CBI/respondent No.1 submits that the account was opened by petitioner and his wife and petitioner's signatures have been confirmed by handwriting expert of GEQD. The cheques issued from aforesaid account were signed by petitioner and this fact has also been confirmed by GEQD. However, no opinion could be given by GEQD with respect to signatures of Ms.Shobha Tiwari, wife of petitioner, on cheques. As such, it could not be ascertained as to whether the cheques were indeed signed by accused persons or petitioner.

As far as loan for purchase of computer is concerned, that loan was duly obtained by petitioner and when he failed to repay the same, bank filed a civil suit for recovery of loan against him. Suit was decreed by Trial Court vide decree dated 4.1.2003 against which, admittedly, no appeal was filed by petitioner.

Petitioner submits that he was not aware about aforesaid decree, whereas, it is an admitted fact that when he was proceeded exparte, he filed an application for setting aside exparte order which was dismissed. Thereafter, petitioner had not challenged the same, thus, decree has attained finality.

However, in order to frustrate execution of decree, petitioner lodged instant FIR with CBI on 5.8.2005. In the civil suit against petitioner, he did not raise plea that his account was misused by any of the accused persons. As per instructions of petitioner, bank had purchased some shares and it has come on record that beneficiary of shares was petitioner and his wife. One Manoj Aggarwal had sold a computer to petitioner, for the purchase of which, he had taken loan and said Manoj Aggarwal has been examined and he has confirmed this fact.

However, no incriminating material has come on record against accused persons despite long and extensive investigation. It is not in dispute that closure report filed earlier has been rejected twice and present one is the third closure report which has been finally accepted.

Petitioner submits that CBI has not fairly investigated case, therefore, crime committed in the present case has not come on surface.

Case was investigated by CBI not once or twice but thrice and every time there was evidence on record that petitioner had taken loan for purchase of computer and the same was purchased from Manoj Aggarwal who has been examined and has confirmed this fact. But, no material has come on record, in investigation, against alleged accused persons.

Accordingly, there is no purpose to direct CBI to further investigate the matter.

In view of above, I find no merit in the present petition and same is accordingly dismissed.

SURESH KUMAR KAIT, J

MARCH 04, 2020/rk