$~7

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

\+ CRL. M.C. 1805/2020 and CRL. M.A. 12663/2020 (stay)

CENTRAL BUREAU OF INVESTIGATION ..... Petitioner

Through: Mr. Nikhil Goel, SPP with Mr. Dushyant Sarna, Advocate

versus

M/S RANGOLI INTERNATIONAL PVT. LTD. & ANR. ..... Respondents

Through: Mr. Mohit Mathur, Sr. Advocate with Mr. Vinod Kunar and Mr. Manohar Malik, Advocates

**CORAM:**
**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**(VIA VIDEO CONFERENCING)**

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

**% 17.09.2020**

1. The present petition has been filed assailing the order dated 24.02.2020 passed by the learned Special Judge (PC ACT) (CBI-20), Rouse Avenue Courts, New Delhi.

2. Mr. Nikhil Goel, learned counsel for the petitioner submits that the present case relates to RC. No. BD1/2016/E/0004/CBI/BS&FC/New Delhi registered under Section 120B IPC read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 which was registered by CBI against M/s Rangoli International Pvt. Ltd. and its Directors on 24.05.2016 wherein the present respondent No.2 is one of the Directors. The case was registered on a complaint of Sh. *Ajit Kumar Das*, General Manager, Canara Bank, Delhi on the allegation that the

accused *Luv Bhardwaj*, Director, M/s RIPL entered in a criminal conspiracy with the other accused persons and cheated Canara Bank and caused wrongful loss to the tune of Rs. 35.62 crores by discounting Export Bills which were not genuine. The total loss alleged against the consortium banks (total 11 member banks) was about Rs. 250 crores.

3. Mr. Goel, learned counsel for the petitioner further submits that the present case relates to financial transactions for which the investigation is required to be done not only in India but also other countries including UAE, Singapore, Afghanistan, Hong Kong and Romania. He submits that though the domestic investigation is by and large complete, LRs have been issued with the respect to the investigation pending in the aforementioned countries.

4. During the course of investigation, although Respondent no.2 was never arrested but a LOC dated 16.06.2017 was opened against the Respondent No.2 in view of OM No. 25016/10/2017 – Imm (Pt). The same was unsuccessfully challenged by way of an application dated 21.12.2018 however, the Respondent no.2 was allowed to travel abroad barring the above-mentioned five countries.

5. Learned counsel for the petitioner contends that the petitioner agency is aggrieved by the findings recorded in Para 41 of the impugned order where it has been mentioned as follows:-

> *"41. From the above response given by Ld. PP for CBI it is clear that CBI itself has no clarity or justification except for unfounded apprehension based on nothing. If the CBI had had serious apprehension with objectivity that applicant may tamper with evidence lying around or may not return to India in that eventuality it would not have accepted the order passed by the*

> *Ld. Predecessors of this Court, permitting the applicant to travel abroad, instead CBI would have challenged the said order with all materials to show that they have justifiable apprehension in respect of the applicant."*

6. Learned counsel for the petitioner submits that the petitioner's apprehension was justified as it was restricted to only the aforementioned five countries and that too as the investigations were pending.

7. The petitioner is also aggrieved by the direction given in Para 48 of the impugned order whereby liberty was granted to CBI to issue fresh LOC in case fresh material justifying the issuance of such circular is obtained by the CBI however, the same has been made subject to the prior permission of the Court. It is submitted that such a decision being only executive in nature, does not require prior permission of the Court.

8. Mr. Mohit Mathur, learned Senior Counsel for the respondents, on instructions, submits that Respondent No.2 is willing to give an undertaking to the effect that he would not travel to the aforementioned five countries and that for travel to any other place outside India, prior intimation alongwith detailed itinerary shall be submitted to the I.O./S.P. To show his bona fide, it is further submitted that the respondent No.2 on his return, shall also submit the photocopies of his passport to show as to which country he has travelled and for how long. The undertaking is taken on record and the respondent No.2 is bound by the same.

9. The purpose of issuing LOC has been considered by the Division Bench of the Madras High Court in <u>Karti P. Chidambaram *v.* Bureau of Immigration and Ors.</u> reported as **2018 SCC OnLine Mad 2229** where,

while referring to the decisions of this Court in Sumer Singh Salkan *v.* Assistant Director & Ors. reported as **2010 SCC OnLine Del 2699** and Court on its Own Motion *v.* Gurnek Singh etc. in *Crl. Ref. 1/2006* vide order dated 11.08.2010, it was held as follows:

> *"73. ... the issuance of Look Out Circulars is governed by executive instructions as contained in the Office Memoranda Nos. 25022/13/78-F1 dated 05.09.1979 and 25022/20/98-FIV dated 27.12.2000, as modified by Office Memorandum dated 27.10.2010. Such LOCs cannot be issued as a matter of course, but when reasons exist, where an accused deliberately evades arrest or does not appear in the trial Court. The argument of the learned Additional Solicitor General that a request for Look Out Circular could have been made in view of the inherent power of the investigating authority to secure attendance and cooperation of an accused is contrary to the aforesaid circulars and thus, not sustainable."*

10. In view of above discussion, the findings/directions recorded in Para 41 and Para 48 of the impugned order are set aside. Needless to say, that the LOC, if any, issued shall always be subject to judicial review.

11. The petition is disposed of along with the pending application.

**MANOJ KUMAR OHRI, J**

**SEPTEMBER 17, 2020**
na