IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

(Appellate Side)

CRR 1310 of 2021

Pronounced on: 01.10.2021

Manoranjana Sinh & Anr.

... Petitioner

Vs.

Central Bureau of Investigation.

... Opposite Party

Present:-

Mr. Sabyasachi Banerjee,
Mr. Amit Agarwalla, Advocates
…for the Petitioner

Mr. Y.J. Dastoor, Ld. ASG
Mr. Phiroze Edulji, Advocate
Mr. Samrat Goswami, Advocate
…for the Respondents

**Coram: THE HON'BLE JUSTICE RAJESH BINDAL,
CHIEF JUSTICE (ACTING)**

**THE HON'BLE JUSTICE ARIJIT BANERJEE,
JUDGE**

ORDER

1. This is an application filed under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing of the proceedings being CBI RC 04/S/2014 pending before the Learned Additional Chief Judicial Magistrate, Alipore, South 24-Parganas, arising out of CBI/SCB/Kolkata Case No. RC

4/S/2014 dated 4.6.2014 under Section 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (for short, 'the PCMC Act), read with Sections 120B/420/409 of the Indian Penal Code, in so far as the same relates to the petitioners.

2. The learned Counsel appearing for the petitioners submitted that the dealing between the petitioners and the Saradha Group of Companies was at arm's length. The petitioners had no idea as regards the source of the funds that Sudipta Sen promised to invest in P2. There was a commercial arrangement between the petitioners and the Saradha Group of Companies, whereunder the petitioners were to promote the business and image of the Saradha Group of Companies. The petitioners were never aware that such companies were indulging in any unlawful activity.

3. Learned Counsel submitted that even taking the allegations in the FIR or charge sheet at their face value, the same do not disclose the ingredients of Sections 420, 406, 409, 120B of the IPC or Section 4 of the PCMC Act.

4. As regards Section 420, it was submitted that it is not CBI's case that there was any direct dealing between the petitioners and the investors who deposited money in Sen's companies. No investor has filed any case against the petitioners. Even SEBI has not thought it fit to make any allegations against any of the petitioners. There is no allegation in the charge sheet of any inducement, much less dishonest inducement by the petitioners to any investors. Relying on the Supreme Court decision in the case of ***Anil Mahajan v. Bhor Industries Ltd. & Anr.: (2005) 10 SCC 228,*** it was submitted that the dishonest intention must be existing from the inception of the transaction in question to attract the mischief of Section 420.

5. As regards Section 406 of IPC (criminal breach of trust), it was submitted that no ingredient of Sections 405/406 of IPC has been made out. There is no allegation of "entrustment of property" by anyone with the petitioners. Similarly, Section 409 is not attracted since the petitioners are

admittedly neither public servant nor their business is that of a banker or merchant or factor or broker or attorney or agent.

6. As regards Section 4 of the PCMC Act, it was submitted that it is not even the case of CBI that the petitioners were in any manner concerned with the collection of deposits from the investors in the Saradha Group of Companies.

7. It was then submitted that the entire case of CBI hinges on Section 120B of the IPC. It was submitted as follows:-

i) Since the first FIR against Sen and Saradha Group was on 6.05.2013, there cannot be "enquiries contemplated" in June, 2010, when the MoU and Agreement were executed between the petitioners and Sen's entity (Bengal Media).

ii) On the date of the Agreement in June 2010 there was no negative publicity against the business activity of Sudipta Sen in the State of Assam.

iii) There is no whisper in the Charge sheet as to what influence was used by P1 in the media to *"counter any negative publicity against the illegal business activity of Saradha Group in the State of Assam"*, as alleged in the Charge sheet.

iv) There is nothing to show that the petitioners were aware that the Saradha Group was involved in any "illegal business".

v) P1 entered into a genuine business transaction in June 2010 to grow her business when Sen showed interest to invest in the business of the petitioners, after knowing the success story and experience of the P1. The business of P2 continued till 2014 when it suffered setback due to failure on the part of Sen to provide funds for running the operations, as was committed by him under the Agreement of June 2010.

8. Learned Counsel referred to the decision of the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh v. Sheetla Sahai & Ors.: (2009) 8 SCC 617*** and submitted that mere knowledge is not enough to rope in a person on charges of conspiracy. In the impugned charge sheet, CBI, at

best, has attempted to indicate that the petitioner had knowledge of business of the Saradha Group. The same is insufficient to rope in the petitioners as CBI has failed to show how the petitioners had **- (a)** participated in attracting investors; **(b)** parked and/or helped Sen to park funds of Saradha Group through her company. This fact has to be appreciated in juxtaposition to the fact that none of the documents relating to the accounts of P2, including its Balance Sheets, has been said to be forged/manufactured documents and the trade payables and receivables shown in the Balance Sheets have not been called in question as fictitious in nature.

9. Relying on the case of ***Kehar Singh & Ors. v. State (Delhi Administration): (1988) 3 SCC 609,*** it was submitted that mere knowledge of source of funds mid-way into execution of a bona fide agreement would not amount to conspiracy in law.

10. Learned Counsel for the petitioner submitted that she was arrested on October 07, 2015 and was granted bail by Hon'ble the Supreme Court vide order dated February 06, 2017 passed in Criminal Appeal No. 240 of 2017 titled as Manoranjana Sinh @ Gupta vs. Central Bureau of Investigation. As the conditions imposed for bail were stringent, she filed application for modification thereof. The same was allowed vide order dated August 27, 2020. Ever since then she has never misused the concession of bail. The trial is not proceeding even though the charge sheet was filed more than five years back on January 04, 2016. This fact is even mentioned in the order passed by Hon'ble the Supreme Court. The continuation of trial against the petitioner is nothing else but causing mental agony to her and is misuse of process of law. It was case of simpliciter business transaction otherwise the petitioner had nothing to do with the collection of funds by Sudipta Sen.

11. Appearing for CBI, Mr. Dastoor, Learned Additional Solicitor General, submitted that the only argument advanced on behalf of the petitioners was on the basis of an alleged agreement entered into by and between P2 represented

by P1, P1 representing herself, her father and others being 100% shareholders of the P2 company on the one hand and Bengal Media Pvt. Ltd., represented by Sudipta Sen, on the other hand, pursuant to an alleged Memorandum of Understanding dated 09.06.2010 between Bengal Media represented by Sudipta Sen, and P1. Learned Counsel submitted that there are several discrepancies between the Memorandum of Understanding and the alleged agreement, entered into between the parties, which cannot be relied upon. There is no reference to any Board Resolution on the strength of which the document has been purported to be signed. Manoranjana Sinh appears to have signed on behalf of GNN Private Ltd. The non-judicial stamp paper of Rs. 50 bearing Serial No. E 911715 appears to have been purchased on 18th March 2010. That had lost its validity for the purpose of execution within the prescribed period of 3 months from the date of purchase of the document. The MOU though apparently was filled up completely but the agreement is bereft of many details including addresses, PAN No. dates, etc. Major portions are blank. The MOU states that P1 and her father are the 100% owners of the P2 company. However, the Agreement states that P1, her father and others together are the 100% shareholders of the company.

12. Learned Additional Solicitor General submitted that on the basis of the aforesaid two documents, the petitioners sought to establish that the agreement was made at arm's length and that P1 was unaware that the money, approximately Rs. 21.05 crores she received, came from the Saradha Group of Companies.

13. Learned Counsel submitted that at the stage of framing charges or quashing of an FIR/Charge sheet the Court is precluded from looking into any documents other than those produced by the prosecution. The Courts would not be justified in invoking the inherent jurisdiction under Section 482 Cr. P.C. to quash the same except in those rare cases where forensic exigencies and formidable compulsions justify such a course and even in such exceptional

cases the High Court could look into only those documents, which are unimpeachable and can be legally translated into relevant evidence.

14. It was then submitted that P1 was always aware of the activities of the Saradha Group and she had been engaged, as admitted by her, to launch the Saradha Group in Assam, to publicize their so-called noble activities, to identify politicians and illegally finance their elections in Assam. Even though she was aware of and fully participated in the activities of the Saradha Group, she now seeks to portray herself as a paragon of virtue and a victim of the Saradha Group.

15. It was submitted that in the last paragraph of the Supplementary Charge sheet No. 5 dated 04.01.2016 it is stated that further investigation of the case as per the provisions of Section 173(8) Cr.P.C. continues in respect of the accused persons including influential persons, role of regulatory agencies like SEBI, ROC, RBI, role of other agencies, larger criminal conspiracy and money trail as submitted in the Supplementary Charge sheet dated 03.12.2015. By order dated January 4, 2016, Learned Additional Chief Judicial Magistrate, 24 Parganas, South at Alipore, allowed the Investigating Officer's prayer for further investigation u/s. 173(8) Cr.P.C.

16. Heard learned Counsel for the parties and perused the relevant referred record.

17. It is a case in which the CBI alleges a big chit fund scam, the FIR for which was registered on a direction by Hon'ble the Supreme Court in the year 2014. It is claimed that there are number of persons involved in the crime. Even though 4-5 charge sheets have been filed but the matter is still under investigation for which the CBI has permission from the Court under section 173(8) Cr.P.C. At the time of hearing number of documents were referred to by both the parties. We do not find it appropriate to opine thereon as the evidentiary value thereof will be appreciated by the learned Court below at appropriate stage of the proceedings. Delay in any trial certainly prejudices an

accused as the sword keeps on hanging on the head. There are number of restrictions imposed. The factum of delay of trial was even noticed by Hon'ble the Supreme Court in order dated August 27, 2020, relaxing the conditions of bail. The order records that for the last 4 years the trial was standstill. The petitioner had appeared before the trial Court at Kolkata 27 times, though she is residing at Delhi. Even her personal appearance was exempted and she was allowed to appear through Counsel unless otherwise directed by the Court.

18. From the arguments of the parties as we have noticed briefly above, in our opinion the present petition can be disposed of giving liberty to the petitioner to raise all the issues available to her at appropriate stage of the case including framing of charge. The prejudice being suffered by the petitioner with the delay of trial can be resolved with a direction to the learned Court below to expedite the trial as the petitioner being a widow lady living at Delhi is facing trial at Kolkata. Keeping that fact in view and the order dated August 27, 2020 passed by Hon'ble the Supreme Court, in our opinion, use of video conferencing facility can be explored by the trial Court for recording of evidence, wherever possible. Needless to add that in case the trial still does not proceed or any order adverse to the petitioner is passed, she shall be entitled to avail of her appropriate remedy.

19. The petition is disposed of accordingly.

(RAJESH BINDAL)
CHIEF JUSTICE (ACTING)

(ARIJIT BANERJEE)
JUDGE

Kolkata

01 .10.2021

PA (P.H.)