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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 20th December, 2021*

\+ **CRL.M.C. 3375/2021**

SHASHANK SHUKLA AND ANR ..... Petitioner

Represented by: Mr. Hari Shanker, Advocate through video conferencing.

versus

CBI ..... Respondent

Represented by: Mr. Ripu Daman Bhardwaj, SPP for CBI.

CORAM:
HON'BLE MS. JUSTICE MUKTA GUPTA

JUDGMENT : (ORAL)

CRL.M.A.20460/2021 (exemption)

1. Exemption allowed subject to just exceptions.

2. Application is disposed of.

CRL.M.C. 3375/2021 and CRL.M.A.20461/2021 (stay)

1. By this petition the petitioner challenges the order dated 6th September, 2021 whereby the criminal revision petition filed by the petitioner challenging the order dated 15th January, 2020 passed by the learned ACMM, Rouse Avenue Court was dismissed.

2. Vide order dated 15th January, 2020 the learned ACMM dismissed the application under Section 300 Cr.P.C., Article 20(2) of the Constitution of India, 71 IPC and Section 26 General Clauses Act filed on behalf of two petitioners.

3. According to the petitioners two FIRs were registered against them being RC No. 221/2016/E0019 and RC No. 221/2016/E0020. The petitioners have already pleaded guilty in plea bargaining proceedings before the learned Trial Court in RC No. 221/2016/E0019. The allegations in both the FIRs are regarding the transfer of money from the account of a company namely SNAPDEAL to the account of unknown persons of the accused during the period 12th April, 2016 till 30th June, 2016 by way of 12 entries. It is stated that once the petitioner has been convicted for the same offence, the trial for the same set of allegations and cause of action is barred under Article 20(2) of the Constitution of India and Section 300 Cr.P.C. It is stated that since the 12 transactions entered into from 12th April, 2016 till 30th June, 2016 amount to one complete offence, the accused persons cannot be convicted for every individual transaction.

4. The above two RCs were registered on the complaint of one Krishna Mohan Chaudhary, Director (Legal), M/s. Jasper Infotech Pvt. Ltd. wherein he stated that an employee namely Shashank Shukla fraudulently siphoned off the money by making unauthorized and fraudulent entries in the record including electronic record of the company and have cheated their company and committed criminal breach of trust. It is alleged that in RC No. 221/2016/E0019 the petitioner is alleged to have committed the offence in conspiracy with Rameshwar Verma, M/s. Arjun Electronics, Kidwai Nagar, Kanpur, UP and some unknown persons by cheating the funds of the said company to the tune of ₹2,82,26,362/- regarding reimbursement of TDS to the aforesaid firm in an unauthorized manner and in utter violation of the legal principles. Further in RC No. 221/2016/E0020 it is alleged that the petitioner in conspiracy with one Amit Vishwakarma of M/s. Jha Agency,

Jhansi, UP and other unknown persons cheated the funds of the company to the tune of ₹1,18,79,551/- regarding reimbursement of TDS to the aforesaid firm in an unauthorized manner.

5. The two transactions relate to two different accused and co-accused and the conspiracies being different, even if they related to the siphoning off reimbursement of TDS, are distinct offences and hence learned ACMM and learned Additional Sessions Judge rightly rejected the application of the petitioners and the revision petition respectively. This Court finds no error in the two impugned orders.

6. Petition and application are dismissed.

7. Order be uploaded on the website of this Court.

(MUKTA GUPTA)
JUDGE

DECEMBER 20, 2021
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