

August 10th, 2022
S.L. Item No.1
Court No.1
PA(RB)

WPA (P) 308 of 2022

Rama Prasad Sarkar

vs.

Union of India and Ors.

Mr. Rama Prasad Sarkar, petitioner-in-person

Mr. Debasis Sur, Advocate

... for the petitioner

Mr. Tarunjyoti Tewari

... for the Union of India

Mr. Asok Kumar Chakraborty, Ld. Addl. Solicitor General

Mr. Dhiraj Trivedi, Ld. Asst. Solicitor General

Mr. Arijit Majumdar

...for the CBI

Mr. Rajdeep Majumdar

Mr. Moyukh Mukherjee

...for the respondent no. 6

The petitioner is an advocate of this Court who, by way of this public interest petition, has made a prayer to direct investigation in respect of involvement of the private respondent no. 6 in Saradha scam.

The plea raised by the petitioner is that Saradha financial scam was a major financial scam caused by the collapse of a Ponzi Scheme run by the Saradha Group. According to the petitioner, Saradha Group had launched the scheme in early 2000 and the scheme had collapsed sometimes in January, 2013. Therefore, the report was made and the persons found responsible for running the scheme were arrested. It is further alleged that a 4 member Judicial Enquiry Commission to probe the scam

was formed and a Special Investigation Team (SIT) headed by Kolkata Police Commissioner was also set up. The petitioner alleges that the respondent no. 6 had extorted money from the chit fund agency, therefore, investigation should be carried out against him.

Learned counsel for the respondent nos. 2 and 3, Central Bureau of Investigation (CBI) has submitted that investigation has been transferred to the CBI and the investigation is in progress and that the writ petition is not maintainable.

Learned counsel for the respondent no. 6 has also pointed out that the name of the respondent no. 6 has not figured in any of the investigation by the State agency or CBI and that it is a politically motivated and publicity interested petition.

We have heard the learned counsel for the parties and perused the record. There is no material on record that any of the investigation agency has found the involvement of the respondent no. 6 in the Saradha scam. The allegation which has been made by the petitioner in the writ petition is also not substantiated. It has been pointed out that respondent no. 6 is a Member of Legislative Assembly from the opposition party and presently, Leader of Opposition in the West Bengal Legislative Assembly. It has also been pointed out that the petitioner is a Member of the High Court Cell of the Ruling Party in the State. Learned counsel for the

respondent has placed before this Court the order of the Division Bench dated 11th of February, 2021 passed in WPA (P) 53 of 2021 in the matter of Ramaprasad Sarkar vs. Union of India and others wherein considering a PIL by the present petitioner, the Division Bench of this Court had observed that:

“15. On perusal of the aforesaid facts it is clearly established that the present writ petition has been filed by none else than a practicing advocate in this court, who is a member of the Calcutta High Court Tribunal Law Cell, the political party in power at present in the State of West Bengal.

16. Filing of a writ petition by an advocate, who is directly connected with a political party in power raising issues against other political party during election time cannot be said to be in larger public interest. It can be said to be a private interest litigation.”

Hence, we find substance in the allegation of the respondents that it is a politically motivated petition.

The issue relating to Saradha Chit Fund Scheme had come up before the Hon’ble Supreme Court in the matter of **Subrata Chatteraj vs. Union of India and Others** reported in **(2014) 8 SCC 768** wherein Hon’ble Supreme Court had taken note of the relevant facts relating to the scheme and thereafter, had transferred the investigation to the CBI.

Learned counsel for the CBI has pointed out that the investigation by the CBI is in progress and so far, two charge-sheets have been filed and the CBI is trying to put all the culprits to the book. In the present petition, no fault or lapse on part of the CBI has been alleged. Hence,

the petitioner has failed to make out any ground for issuing the direction prayed for in the writ petition.

Hon'ble Supreme Court in the matter of **R and M Trust vs. Koramangala Residents Vigilance Group and Ors.** reported in **(2005) 3 SCC 91** has noted that lately, public interest litigation has been abused by some interested persons and it has brought very bad name and therefore, cautioned the Courts to be very slow in entertaining petitions involving public interest as this jurisdiction is meant for the purpose of coming to the rescue of down trodden and not for the purpose of serving private ends.

Hon'ble Supreme Court in the matter of **Neetu vs. State of Punjab and Ors.** reported in **(2007) 10 SCC 614**, after taking note of the earlier judgments on the point, has held that a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It has been noted that the public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking.

In the matter of **Tehseen Poonawalla and Ors. vs. Union of India (UOI) and Ors.** reported in **(2018) 6 SCC 72**, Hon'ble Supreme Court reached to the conclusion that the misuse of public interest litigation is a serious

matter of concern for the judicial process and that it is a travesty of justice for the resources of the legal system to be consumed by an avalanche of misdirected petitions purportedly filed in the public interest which, upon due scrutiny, are found to promote a personal, business or political agenda.

On the perusal of the present petition, we find that this petition is also one such petition, which has been highly deprecated by the Hon'ble Supreme Court.

In the aforesaid circumstances of the case, we find no ground to issue any direction in the present public interest petition, which is accordingly dismissed.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]