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

% ***Date of decision: 22nd August, 2023***

\+ CRL.REV.P. 99/2021, CRL.M.A. 22454/2022 (delay 134 days in filing)

RANVEER SINGH ..... Petitioner
Through: Mr.Ajit Sharma, Advocate.

versus

SERIOUS FRAUD INVESTIGATION OFFICE ..... Respondent
Through: Mr.Anurag Ahluwalia, CGSC along with Mr.Pankaj Mohan, Senior Prosecutor, Mr.Lakshay Singh and Mr.Ashish Singh, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present petition has been filed on behalf of the petitioner impugning the orders dated 30th July, 2019 and 14th February, 2020 passed by the Special Judge (Companies Act), Dwarka Courts, Delhi.

2. Brief facts necessary for deciding the present petition are as follows: -

2.1. The petitioner filed a Writ Petition under Article 32 of the Constitution of India before the Hon'ble Supreme Court, being W.P. 818/2015 praying for an investigation against one, Mahommad Iqbal and his associates for illegally mining and laundering of funds.

2.2. The aforesaid petition was disposed of by the Supreme Court *vide* order dated 16th August, 2017 after recording the statement on behalf of the

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respondent, Serious Fraud Investigation Office (SFIO) that the government has sanctioned prosecution against the accused persons.

2.3. SFIO filed criminal complaint no. 720/2017 before the Special Judge (Companies Act) against accused persons.

2.4. The petitioner filed an application dated 21st February, 2019 before the Special Judge under Section 212(13) of the Companies Act, 2013 to obtain a copy of the investigation report.

2.5. The aforesaid application of the petition was dismissed by the Sessions Court *vide* order dated 30th July, 2019 on the ground that the petitioner had no *locus standi* to ask for a copy of the investigation report.

2.6. Subsequently, the petitioner filed another application on 3rd September, 2019 seeking a copy of the investigation report which was dismissed as withdrawn *vide* order dated 14th February, 2020.

3. The present petition has been filed by the petitioner impugning the aforesaid order on the following grounds:

3.1. The order dated 30th July, 2019 was passed in the absence of the petitioner. The counsel who appeared on the said date was never authorized to appear on behalf of the petitioner.

3.2. The order dated 30th September, 2019 does not take cognizance of Section 212 (13) of the Companies Act, 2013 which permits *"any person concerned"* to obtain copy of the entire investigation report.

3.3. The impugned order dated 14th February, 2020 was passed only on the basis of the earlier order passed by the Special Court.

4. A short affidavit dated 6th July, 2021 has been filed on behalf of the respondent wherein it is stated as under :-

4.1. The petitioner has not filed any criminal complaint against the

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accused persons despite claiming to have additional documents in his possession.

4.2. The petitioner was summoned by the SFIO and examined on oath during the investigation wherein the petitioner stated that he had no new information/documents in his possession or knowledge and all the documents in his possession have already been filed with SFIO.

4.3. The petitioner has no *locus standi* to seek the investigation report as the petitioner is neither a complainant nor an accused party in any way. He has not claimed to be a victim of the offences committed by the accused persons. Therefore, the petitioner cannot be said to be *"any person concerned"* under Section 212 (13) of the Companies Act, 2013.

5. I have heard the counsel for the parties.

6. SFIO is a specialized agency investigating into allegations of serious fraud offences of a company. Section 212 of the Companies Act, 2013 is a self-contained code detailing the manner of investigation to be carried out by SFIO. The relevant provisions of Section 212 of the Companies Act, 2013 are referred.

> ***"212. Investigation into affairs of Company by Serious Fraud Investigation Office.—*** *(1) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—*
> *(a) on receipt of a report of the Registrar or inspector under section 208;*
> *(b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;*
> *(c) in the public interest; or*
> *(d) on request from any Department of the Central Government or a State Government,*
> *the Central Government may, by order, assign the investigation*

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into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.

XXXX XXXX XXXX

(12) On completion of the investigation, the Serious Fraud Investigation Office shall submit the investigation report to the Central Government.

(13) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy of the investigation report may be obtained by any person concerned by making an application in this regard to the court."

7. The perusal of the aforesaid provisions would show that an investigation by SFIO can be ordered by the Central Government only on the basis of events/scenarios described under sub-sections (1) (a) to (d) of the Section 212, Companies Act, 2013. Therefore, the investigation carried out by the SFIO cannot be the basis of a private complaint.

8. Undoubtedly, the petitioner in the present case had filed a Writ Petition under Article 32 of the Constitution of India before the Supreme Court in which various orders were passed. However, the aforesaid Writ Petition was disposed of by the Supreme Court *vide* order dated 16th August, 2017 taking note of the fact that the government had sanctioned prosecution against the accused. After passing of the aforesaid order, the role of the petitioner came to an end. Admittedly, the petitioner is neither a complainant, nor an accused, nor a victim.

9. After the impugned order dated 30th July, 2019 was passed, the petitioner was summoned by the SFIO and examined on oath during the investigation wherein he was asked to supply any information/documents held by him incriminating accused persons. However, the petitioner stated

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that he had no new information/documents in his possession and all the documents in his possession have already been filed with the SFIO.

10. The investigation report by SFIO would contain documents of private and confidential nature pertaining to the accused. These private and confidential documents cannot be provided to any person unless a clear locus is established. In this regard, the words "*any person concerned*" have been carefully used in Section 212(13) of the Companies Act, 2013.

11. Therefore, in my considered view the petitioner would not be covered by the expression *"any person concerned"* used in sub-section (13) of the Section 212 of the Companies Act, 2013. There is no infirmity in the impugned orders passed by the Special Judge (Companies Act), Dwarka Courts, Delhi, which requires interference by this court

12. Dismissed.

AMIT BANSAL, J.

AUGUST 22, 2023
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