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

+ **W.P.(CRL) 2238/2023, CRL.M.A. 20960/2023**

RAMACHANDRA RAO PATRI Petitioner

Through: Mr. Arunabh Chowdhury, Sr. Adv.
with Mr. Manu Sharma, Mr. Vaibhav
Tomar, Mr. Kartik Khanna and Mr.
Abhuday Sharma, Advs.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Anupam S. Sharma, SPP with
Mr. Prakarsh Airan, Ms. Harpreet
Kalsi, Mr. Abhishek Batra, Mr.
Vashisht Rao and Mr. Ripudaman
Sharma, Advs.

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Date of Decision: 09.08.2023.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CRL.M.A. 20961/2023

Exemption allowed subject to just exceptions.

Application stands disposed of.

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1. The present Writ Petition has been filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 the Petitioner invokes the supervisory writ jurisdiction of this Hon'ble Court to assail the validity and legality of the order on charge dated 02.07.2022, passed by the Court of Special Judge (PC) Act, CBI-17, Rouse Avenue Courts, New Delhi in CBI Case No.25/2019 titled State vs. Dheeraj Kumar and Ors., whereby the Ld. Trial Court has been pleased to order framing of charge against inter alia the Petitioner under Section 120B IPC read with Sections 7A, 8, 9, 10 & 12 of the Prevention of Corruption Act, 1988 and separately under Sections 8, 10 and 12 of the Prevention of Corruption Act, 1988.
2. The present petition has been filed with the following prayer:

“a) Issue an appropriate writ/order/direction calling for the records of the case in CBI Case No.25/2019 titled State vs. Dheeraj Kumar and Ors. pending before the Court of Shri Balwant Rai Bansal, Special Judge (PC Act), CBI- 17. Rouse Avenue Courts. New Delhi and after perusing the same, this Hon'ble Court may be pleased to set aside/quash the order framing charge dated 02.07.2022 (ANNEXURE-P/1) read with the Order dated 14.07.2022 (ANNEXURE-P/2) passed by the Court of Sh. Balwant Rai Bansal, Ld. Special Judge (PC Act). Rouse Avenue Courts. New Delhi in CBI Case No. 25/2019 arising out of FIR RC No. 01(A)/2019/AC-III/New Delhi, under Section 120B read with Sections 7A/8/9/10 & 12 of the PC Act 1988 (as amended in 2018) and separate charge for the offences punishable under Sections 8, 10 & 12 of the PC Act, 1988 (as amended in 2018) against the Petitioner and all proceedings emanating thereunder in respect of the



Petitioner.; AND/OR

b) Issue an appropriate writ/order/direction calling for the records of the case in CBI Case No 25/2019 titled State vs. Dheeraj Kumar and Ors pending before the Court of Shri Balwant Rai Bansal, Special Judge (PC Act), CBI- 17, Rouse Avenue Courts, New Delhi and after perusing the same, this Hon'ble Court may be pleased to set aside/quash the order dated 02.08.2023 passed by the Court of Shri Balwant Rai Bansal, Special Judge (PC Act), CBI-17, Rouse Avenue Courts, New Delhi dismissing the application filed by the Petitioner seeking to address arguments on charge afresh in view of the supplementary Chargesheet filed by the Respondent AND/OR

c) Issue a writ/order/direction calling for the records of the case in CBI Case No.25/2019 titled State vs. Dheeraj Kumar and Ors. pending before the Court of Shri Balwant Rai Bansal, Special Judge (PC Act), CBI-17. Rouse Avenue Courts, New Delhi and after perusing the same, this Hon'ble Court may be pleased to direct the Ld. Trial Court to allow the Petitioner to address arguments on charge afresh in view of the supplementary Chargesheet dated 30.12.2022 filed by the Respondent AND/OR

d) Pass any such other similar order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant case and in the interest of justice.”

3. Sh. Arunabh Chowdhury, learned senior counsel along with Sh. Manu Sharma submits that initially the learned Special Judge passed an order on charge dated 02.07.2022 whereby it was inter alia held as under:

- “ All the accused persons for the offences punishable u/s 120-B IPC d/w Sections 7A, 8, 9, 10 & 12 of the PC Act,



1988 (as amended in 2018),

- A-1 **Dheeraj Kumar Singh** for the substantive offences punishable u/s 7A, 8 & 12 of the PC Act, 1988 (as amended in 2018),
 - A-2 **Dinesh Chand Gupta** for the substantive offences punishable u/s 8 & 12 of the PC Act, 1988 (as amended in 2018).
 - A-3 **Ramchandra Rao Patri @ P.R. Rao** for the substantive offences punishable u/s 8, 10 & 12 of the PC Act 1988 (as amended in 2018),
 - A-4 M/s **Soma Enterprise Ltd.** for the substantive offences punishable u/s 9, 10 & 12 of the PC Act, 1988 (as amended in 2018).”
4. Learned senior counsel submits that this order was amended vide order dated 14.07.2022 and the charges were ordered to be framed as under:

“Pursuant to passing of order on charge dated 02.07.2022, charges are framed separately today against the accused persons as under: -

- 1. Charge for the offence punishable under Section 120-B read with Sections 7A, 8, 9, 10 & 12 of the PC Act, 1988 (as amended in 2018) against all the accused i.e. A-1 to A-4.*
- 2. Separate charge for the offences punishable under Section 7A, 8 & 12 of the PC Act, 1988 (as amended in 2018) against A-1 Dheeraj Kumar Singh.*
- 3. Separate charge for the offences punishable under Section 8 & 12 of the PC Act, 1988 (as amended in 2018)*



against A-2 Dinesh Chand Gupta @ Dinesh Khandelwal.

4. Separate charge for the offences punishable under Section 8, 10 & 12 of the PC Act, 1988 (as amended in 2018) against A-3 Ramchandra Rao Patri @ P.R. Rao.

5. Separate charge for the offences punishable under Section 9 & 12 of the PC Act, 1988 (as amended in 2018) against A-4 M/s Soma Enterprise Ltd. through its AR Sh. Girish Kumar Jain.

It is clarified that charge u/s 10 of the PC Act, 1988 (as amended in 2018) is not framed against A-4 M/s Soma Enterprise Ltd., though it is mentioned in the order on charge dated 02.07.2022, as it is a typographical mistake.

The accused persons pleaded not guilty to the charge framed against them and claimed trial.

Case is now fixed for admission/denial of documents by the accused persons for 26.07.2022. The said date is given at the specific request of defence counsels.”

5. The modification was only to the effect that the charges under Section 10, PC Act was not framed against A-4 M/s Soma Enterprise Ltd. Learned senior counsel submits that M/s Soma Enterprise Ltd., A-4 challenged the framing of charges against the order of framing of charge and the coordinate bench of this court vide order dated 31.05.2023 remanded the matter back to the learned Trial Court for reconsideration of the charge in view of the supplementary charge-sheet having been filed on 30.12.2022 and set aside the order of framing of charge qua M/s Soma Enterprise Ltd., and remanded the matter back to consider the allegations in the original charge-sheet



dated 08.11.2019 and the supplementary charge-sheet filed on 30.12.2022.

6. Learned senior counsel submits that in view of this development petitioner moved an application under Section 239 Cr.P.C. for giving him an opportunity of being heard which was dismissed by the learned Trial Court vide order dated 02.08.2023.
7. Learned senior counsel submits that the petitioner was the Vice President of M/s Soma Enterprise Ltd., and in view of the order of coordinate bench of this court dated 31.05.2023, it would be in the interest of the justice that his arguments may also be heard and charges against him be considered afresh in view of the supplementary charge-sheet filed against him.
8. Learned senior counsel further submits that though the other accused persons are not present before this court. However, it would be in the interest of the justice if all the accused persons are given an opportunity of being heard on the question of charge.
9. Sh. Anupam S Sharma, learned special counsel for CBI has vehemently opposed the petition. Learned special counsel submits that the petitioner earlier has not challenged the order dated 02.07.2022 and 14.07.2022 order for the framing of charge against the petitioner and now they are esstopped from challenging the same.
10. Learned special counsel submits that the charges were framed against the present petitioner in his personal capacity and this was submitted by the learned counsel appearing for the M/s Soma Enterprise Ltd., as



recorded in the order dated 31.05.2023 passed by the coordinate bench of this court.

11. Learned special counsel has also submitted that finding in the main charge-sheet dated 02.07.2023 and supplementary charge-sheet dated 14.07.2023 are not opposite to each other and in fact, it supplements each other. Learned special counsel submits that in any case the setting aside of the order on charge would greatly prejudice the CBI.
12. Learned special counsel submits that there was ample material on record against the present petitioner on the basis of which the charges were framed against him and therefore, if the order against him is set aside, it would greatly prejudice the CBI and will also unnecessarily delay the proceedings.
13. The order for framing of charge is an important order which certainly infringes upon the personal liberty of an individual. Asking an individual to face serious charges of corruption is a serious charge and the courts will have to be very careful while making any order on the same. It is also pertinent to mention here that, the serious the charge against the accused the more careful and cautious the courts have to be. The principal of natural justice are also to be given strict adherence by the courts.
14. Before proceeding further it is necessary to refer to the charge-sheet filed by the CBI dated 08.11.2022 in which the role of the present petitioner has been as under:

“16(A)37: Role of Shri Ramchandra Rao Patri @ PR Rao,



Vice President M/s Soma Enterprise Ltd.

i. Shri Ramchandra Rao Patri @ PR Rao is Vice President of M/s Soma Enterprise Ltd. and is heading Regional Office of the company at Gurgaon. He submitted reply dated 30.04.2019 under authorization by Shri Ankineedu Maganti, MD, M/s Soma Enterprise Ltd. to the Enquiry Officer during the enquiry of CBI PE -02(A)/2018, AC- II, New Delhi. He also attended the aforesaid PE on 12.07.2019 at CBI Office, New Delhi.

ii. Shri Ramchandra Rao Patri @ PR Rao conspired with Shri Dinesh Chand Gupta and on 16.06.2019, he forwarded a copy of the CBI notice dated 14.06.2019 of PE-02(A)/2018 received by M/s Soma Enterprise Ltd. through whatsapp from mobile number 9871956789 to mobile number 7413002345.

iii. Shri Ramchandra Rao Patri @ PR Rao (Mobile No. 9119955916) spoke to Shri Dinesh Chand Gupta (A-2) (Mobile No: 9958933814) over WhatsApp for 9.55 minutes, at about 20.31 hrs on 11.09 2019 i.e.. just prior to meeting of complainant and Shri Dheeraj Kumar Singh (A-1) and Shri Dinesh Chand Gupta (A-2). After this call, Shri Dheeraj Kumar Singh (A-1) and Shri Dinesh Chand Gupta (A-2) met the complainant and offered the bribe of Rs. 2 crores for getting relief for his company

iv. During verification of the complaint, Shri Ramchandra Rao Patri PR Rao received whatsapp call on his mobile number 9119955916 from Shri Dinesh Chand Gupta from mobile number 9958933814 and during the said call, Shri Ramchandra Rao Patri @ PR Rao also talked with the complainant Shri Asra Garg and confirmed the offer of illegal gratification to the complainant on behalf of his company. He also confirmed the authorization given to Shri Dinesh Chand Gupta (A-2) in this matter.



v. *Shri Ramchandra Rao Patri @ PR Rao was in possession of another mobile phone (Vivo V7 Plus, IMEI number A66085033022512) with a Airtel SIM 9119955916 which was used in the whatsapp call with Shri Dinesh Chand Gupta and the complainant during verification. This mobile phone was purchased and given to Shri Ramchandra Rao Patri @PR Rao by Shri Yogesh Katyal, Dy. Manager, M/s Soma Enterprise Ltd. in Varanasi and the above mentioned SIM was also procured by Shri Yogesh Katyal through Shri Ram Babu S/o Santial who was working in M/s Soma Enterprise Ltd as an office boy at Varanasi under Shri Yogesh Katyal.*

vi. *Shri Ramchandra Rao Patri @ PR Rao conspired with Shri Dinesh Chand Gupta and authorized him to offer of illegal gratification of Rs. 2 crores to the complainant Shri Asra Garg. In furtherance of said conspiracy, Shri Dinesh Chand Gupta further gave Rs. 20 lacs to Shri Dheeraj Kumar Singh and out of which Shri Dheeraj Kumar Singh paid Rs. 16 lacs to the complainant and he was caught after delivery of the bribe during the trap laid by CBI and the bribe amount of Rs. 16 lacs was recovered in presence of independent witnesses on 12.09.2019.”*

15. The role of M/s Soma Enterprise Ltd., has also been given in as under:

“16 (A)38: Role of M/s Soma Enterprise Ltd. (Company):

i. *The company M/s Soma Enterprise Ltd., through its Vice President Shri Ramchandra Rao Patri @ PR Rao (A-3) and its contractor Shri Dinesh Chand Gupta (A-2) alongwith another person Shri Dheeraj Kumar Singh (A-1), offered bribe of Rs. 2 crores to the complainant to get relief from the ongoing PE of CBI.*

ii. *In furtherance of the said offer, bribe of Rs. 16 lacs were paid to the complainant and in connection with the same,*



Shri Dheeraj Kumar Singh (A-1), Shri Dinesh Chand Gupta (A-2) and Shri Ramchandra Rao Patri @ PR Rao (A-3) were arrested by the CBI after disclosure of their incriminating roles in the offer and payment of aforesaid bribe.”

16. It has also advantageous to reproduce the conclusion of the main charge-sheet as under:

*“16(B)1. That, the accused persons (1) **Shri Dheeraj Kumar Singh**, Section Officer, Ministry of Home Affairs, New Delhi (2) **Shri Dinesh Chand Gupta**, Representative of M/s Soma Enterprise Ltd. (3) **Shri Ramchandra Rao Patri @ PR Rao**, Vice President, M/s Soma Enterprise Ltd. (Company) and (4) **M/s Soma Enterprise Ltd. (Company)** have committed offences punishable U/s 1208 of IPC r/w Sec 7 A, 8, 9, 10 and 12 of Prevention of Corruption Act 1988 (As amended on 2018), 1988, as well as substantive offences thereof.*

16(B) 2. The list of witnesses, list of document and list of articles on which prosecution proposes to rely, are enclosed herewith.

*16(B) 3. It is therefore prayed that, this Hon'ble Court may be pleased to take cognizance of the offences committed by the accused U/s 1208 of IPC r/w Sec 7A, 8, 9, 10 and 12 of Prevention of Corruption Act 1988 (As amended on 2018), 1988, as well as substantive offences thereof and the accused (1) **Shri Dheeraj Kumar Singh**, Section Officer, Ministry of Home Affairs, New Delhi (2) **Shri Dinesh Chand Gupta**, Representative of M/s Soma Enterprise Ltd. (3) **Shri Ramchandra Rao Patri @ PR Rao**, Vice President, M/s Soma Enterprise Ltd. (Company) and (4) **M/s Soma Enterprise Ltd. (Company)**, may be tried in accordance with the law.*



16(B) 4. *As already submitted above, further investigation is also kept open as investigation has revealed that, before meeting the complainant on 11.09.2019, Shri Dinesh Chand Gupta (A-2) spoke to some senior government officials. Further, the accused were also in possession of the notice of CBI issued to CVO, NHAI, New Delhi. The role of senior management of M/s Soma Enterprise Ltd. also needs further investigation. A further report u/s 173(8) will be filed in this Hon'ble Court after conclusion of further investigation if so required."*

17. The supplementary charge-sheet was filed by the CBI on 30.12.2022 in which the CBI concluded as under:

"All the evidences and circumstances indicate that Sh. L. P. Padhy conspired with Sh. Dinesh Chand Gupta to bribe the complainant Sh. Asra Garg in order to scuttle the ongoing PE-02(A)/2018/AC-II in which his role was also under enquiry. Thus, from the facts and circumstances of the case and materials on record, a case is made out for prosecution of accused Sh. Lambodar Prasad Padhy for commission of offences punishable under section 120-B of IPC r/w 201, 204 of IPC and Section 8 and 12 of PC Act, 1988 (as amended) and the substantive offences thereof. Hence, this Supplementary Charge sheet is submitted against the said accused Sh. Lambodar Prasad Padhy u/s 173(8) CrPC. This accused person may be tried as per procedure of Law."

18. It is also necessary to refer to the order passed by the coordinate bench of this court wherein learned judge inter alia held as under:

"17. In my considered view, the supplementary charge sheet filed by CBI on 30.12.2022 was admittedly not before the learned Special Judge, when he passed an order on charge on 02.07.2022, amended by an order dated 14.07.2022 in



the present case. Had the supplementary charge sheet been before the learned Special Judge on an earlier date, he would have come to know about two versions of the same incident, i.e., offering of bribe of Rs. 2 crores to Mr. Asra Garg on behalf of the present petitioner company, i.e., M/s Soma Enterprise Ltd. and offering of the same amount of bribe through the same alleged conduit, i.e., Mr. Dinesh Chand Gupta by Mr. L.P. Padhy, and then the learned Special Judge would have an occasion to weigh both the versions of the same incident and he would have been in a better position to take a call as to which person, i.e., the juristic person being M/s Soma Enterprise Ltd. or a human person, i.e., Mr. L.P. Padhy had offered the bribe of Rs. 2 crores to Mr. Asra Garg, a CBI official, through the same conduit, Mr. Dinesh Chand Gupta.

17.1 It is pertinent to mention here that it is not the case of CBI that a bribe of Rs. 4 crores, i.e., Rs. 2 crores by the present petitioner and further Rs. 2 crores by Mr. L.P. Padhy was offered to Mr. Asra Garg. The amount of the offered bribe remains the same, i.e., Rs. 2 crores. If the present charge against the petitioner company, i.e., M/s Soma Enterprise Ltd. and the charge against Mr. L.P. Padhy remain as it is, then one fails to understand as to how CBI will lead evidence in two diametrically opposite directions to prove its allegation that a bribe of Rs. 2 crores was offered by two different persons/entities. The situation cannot be allowed to remain fluid, without taking final call at the stage of framing of charge itself with a view to charge the person (juristic or human), who is alleged to have offered a bribe of Rs. 2 crores to Mr. Asra Garg, which prompted him to lodge a complaint with CBI. The best course in the present circumstances is to set aside the order(s) on charge against the petitioner company and remand back the matter.



18. In view of the above, I hereby set aside the order framing charge against the present petitioner, M/s Soma Enterprise Ltd. dated 02.07.2022, further amended by an order dated 14.07.2022 and the charge framed against the petitioner company under Section 120B IPC read with Section 7A, 8, 9, 10 and 12 of the PC Act and separate substantive charge under Section 9 and 12 of the PC Act, 1988.

19. The parties shall appear before the learned Special Judge on 10.07.2023 and shall address arguments on charge. Both the parties may address arguments on all the grounds raised before this Court.

20. The learned Special Judge is requested to consider the allegations in the original charge sheet on 08.11.2019 and the supplementary charge sheet filed on 30.12.2022 as well as arguments on the grounds raised in the present petition and pass a detailed reasoned order on charge.

21. It is imperative to mentioned here that this Court has not expressed any opinion regarding the merits of the case qua the present petitioner as well as Mr. L.P. Padhy and the learned Special Judge shall not get influenced by anything stated herein above.

22. A copy of this order be sent to the learned Special Judge for information and further action.

23. The present writ petition is disposed of with the above directions. ”

19. This court will not go into the question at this stage whether the conclusion arrived at by the CBI in the main charge-sheet and the supplementary charge-sheet are diametrically opposite to each other or supplementary to each other because, it is for the learned Trial Court to



decide. However, this court is convinced with the fact that since the charges against M/s Soma Enterprise Ltd., has been set aside by the coordinate bench of this court vide order dated 31.05.2023, the present accused need to be reheard because he was also initially named as accused in the capacity of the Vice President of M/s Soma Enterprise Ltd.

20. The reading of the order dated 31.05.2023 passed by the coordinate bench of this court indicate that the role of M/s Soma Enterprise Ltd., is required to be re-considered, in view of the supplementary charge-sheet. When the role of M/s Soma Enterprise Ltd., will be regulated/assessed again the role of the present petitioner is required to be re-considered. However, I consider that as far as the role of other accused persons are concerned, that is not concerned with the role of M/s Soma Enterprise Ltd., or the present petitioner.
20. Thus, the charges framed vide order dated 02.07.2023 and as modified vide order dated 14.07.2023, is set aside qua the present petitioner and the matter is remanded back to the learned Special Judge with a direction to afford an opportunity to the petitioner to advance his submissions on the question of charge in light of the supplementary charge-sheet. The learned Special Judge is directed to conduct the hearing on day to day basis and pass an order on charge/discharge as expeditiously as possible.
21. In view of the submissions made, the present petition along with pending application is disposed of.



AUGUST 9, 2023/AR

DINESH KUMAR SHARMA, J

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