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WPO/359/2024
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

ANIL KUMAR JAIN
VS
UNION OF INDIA AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 3rd May, 2024.

Appearance:

Ms. Noelle Banerjee, Adv.

Mr. Dipak Dey, Adv.

Mr. Aniket Ojha, Adv.

Ms. Sucheta Mitra, Adv.

. . .for the petitioner.

Mr. Soumya Roy, Adv.

Mr. Benazir Kazi, Adv.

. . .for the respondent nos.5 & 6.

Mr. Dhiraj Trivedi, Ld. DSG of India.

Ms. Anamika Panday, Adv.

. . .for the UOI.

The Court: Learned counsel for the petitioner submits that on the basis of a request raised by the respondent bank, a Look Out Circular (LOC) has been issued against the petitioner.

It is submitted by placing reliance on an order of this Court dated March 12, 2024 passed in WPA 2002 of 2024, that the self-same request of the Bank, which gave rise to as many as 13 LOCs, was set aside along with the LOC in the said case.

As such, the present LOC issued against the petitioner, being premised on the same request of the bank which has already been quashed, cannot survive.

Learned counsel appearing for the Union of India submits that since an investigation has been commenced by the Central Bureau of Investigation (CBI), the said agency ought to be heard before passing any final order in the present writ petition.

Learned counsel for the bank points out that, as opposed to the petitioner in WPA 2002 of 2024, the present writ petitioner has been clearly named as an accused person in the FIR registered by the Central Bureau of Investigation on the complaint lodged by the bank.

It is argued that thus, the facts of the present case are different from the one cited by the petitioner.

A perusal of the order dated March 12, 2024 passed in WPA 2002 of 2024, which was also been annexed to the present writ petition, shows that the self-same request of the Bank, which was the genesis of the present impugned LOC, was itself set aside by this Court by the said order along with the LOC issued in that case.

Thus, the very premise on which the present LOC has been issued has already been quashed and cannot retain validity as a basis of the LOC.

The concerned Circular issued by the MHA, Union of India provide that such LOC shall be issued on the request made by the entities as enumerated therein, including certain high officials of the bank.

The request itself having been set aside, subsequent naming of the petitioner as an accused in an investigation does not *ipso facto* constitute a differentiating factor.

That apart, it is well-settled in Indian Criminal Jurisprudence that a person is presumed innocent unless found guilty by a competent Court of law. In the present case, merely because the petitioner has been referred to as an accused person in an investigation being carried out by the CBI, that too on the basis of a complaint made by the bank itself, which was merely a corollary of the various actions taken by the bank against the petitioner, it cannot be said that the validity of the already-quashed request is revived.

In view of the above, the impugned LOC cannot stand on sound legal footing.

Accordingly, WPO 359 of 2024 is allowed on contest, thereby setting aside the Look Out Circular (LOC) issued by the immigration authorities at the behest of the respondent bank against the petitioner. All consequential actions taken pursuant to such issuance of LOC stand thereby reversed and appropriate steps in that regard shall be taken by the immigration authorities promptly.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

SP/