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

\+ TR.P.(CRL.) 17/2024

STATE NCT OF DELHI .....Petitioner

Through: Mr.Ravi Prakash, CGSC with Mr.Ali Khan, advt.
Ms.Priyanka Dalal, APP for the State.

versus

SUBHASH CHANDER AGGARWAL AND ORS. .....Respondents

Through: Mr.Shailesh Kumar, Adv. for respondents no.4, 6, 8 & 9.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

O R D E R

% 05.11.2024

An application was filed under sections Section 44 (1) (C) of the Prevention of Money Laundering Act seeking a transfer of trial emanating out of FIR no.104/2009, PS EOW Cell, Delhi Police under Section 420/120B IPC to the court of Ld. ASJ-II,Special Judge, NDPS, North-West, Rohini, Delhi,has been designated as PMLA Special Court.

Upon this application being moved, the learned Principal, District and Sessions Judge vide communication dated 05.02.2024 sent the matter to the learned Registrar General of this court. Learned Registrar General in view of the Minutes of Meeting dated 15.04.2019 of this court forwarded the matter to the Registrar (Listing) for being listed before the concerned Bench. Pursuant to the same the present transfer petition has been listed before this court.

As per order dated 09.04.2024, respondents no.1, 2, 8 &9 have duly been served. It has been submitted that respondent no.3 has died. The affidavit of service in respect of respondents no.1 and 2 has been filed on record as well.

Mr.Ravi Prakash, learned Central Government Standing counsel submits that initially the present FIR no.104/2009 dated 09.06.2009 under Section 406/420/120B IPC was filed against Sh.Subhash Aggarwal and others. After investigation, EOW filed the first charge sheet on 07.08.2009 followed by the supplementary charge sheet on 22.04.2010 against the accused persons.

Mr.Ravi Prakash submits that on the basis of this FIR, ECIR/106/DZ/2009 dated 11.11.2009 was recorded and investigation under the provisions of Prevention of the Money Laundering Act was initiated. After investigation, the complaint was filed before the learned Special Court. It has been submitted that the learned Special Court has already taken the cognizance of the offence of money laundering and accordingly, in view of Section 44 (1) (C) of the Prevention of Money Laundering Act, the EOW case is required to be transferred to the Special Court.

Section 44 (1) (C) of the Prevention of Money Laundering Act provides as under:

44. Offences triable by Special Courts.
(1)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),
(a) xxx xxxx xxxx
(b) xxx xxxx xxxx
(c)[if the court which has taken cognizance of the scheduled offence is other than the Special Court which has taken cognizance of the complaint of the

offence of money-laundering under sub-clause (b), it shall, on an application by the authority authorised to file a complaint under this Act, commit the case relating to the scheduled offence to the Special Court and the Special Court shall, on receipt of such case proceed to deal with it from the stage at which it is committed. *[Insertd by Act No. 2 OF 2013]*

In ***Rana Ayyub vs. Directorate of Enforcement*** (2023) 4 SCC 357, the Apex Court has inter alia held as under:

> *39. Once this combined scheme is understood, it will be clear that in view of the specific mandate of clauses (a) and (c) of sub- section (1) of Section 44, it is the Special Court constituted under the PMLA that would have jurisdiction to try even the scheduled offence. Even if the scheduled offence is taken cognizance of by any other Court, that Court shall commit the same, on an application by the authority concerned, to the Special Court which has taken cognizance of the offence of money-laundering. This answers the first question posed before us*.

In view of Section 44 (1) (C) of the Prevention of Money Laundering Act, the trial of case emanating out of FIR no.104/2009 dated 09.06.2009 under Section 406/420/120B IPC, PS EOW is withdrawn from the court of learned CMM, North, Rohini courts and is transferred to learned Additional Sessions Judge-02, Special Judge, NDPS, North West, Rohini designated as PMLA Special Court.

The transferee court is directed to send the entire record to the transferor court and parties are directed to appear before the learned Principal District & Sessions Judge, North West, Rohini Courts,Delhion 18.11.2024.

DINESH KUMAR SHARMA, J

NOVEMBER 5, 2024
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