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

+ **W.P.(CRL) 2070/2022, CRL.M.A. 17866/2022**

CENTRAL BUREAU OF INVESTIGATIONPetitioner

Through: Mr.Anupam S.Sharrma, SPP for CBI
with Ms.Harpreet Kalsi, Mr.Prakash
Airan, Mr.Ripudaman Sharma,
Mr.Vishisht Rao and Mr.Syamanktak
Modgil, Advts.

versus

**BANK OF BARODA THROUGH MS. PRIYA RANJAN OR
SUCCEEDING OFFICER, BANK OF BARODA**Respondent

Through: Mr.Kush Sharma, Standing Counsel
with Mr.Nishchaya Nigam and
Ms.Vagmi Singh, Advts.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

22.11.2024

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1. Present petition has been filed challenging the order dated 19.05.2022 whereby the learned Special Judge, CBI-13 (P.C. Act), Rouse Avenue District Courts, New Delhi dismissed the application under Section 93 Cr.P.C. preferred by Petitioner-CBI for issuance of the search warrant.
2. The CBI in its petition has submitted that by declining the issuance of a search warrant learned Special Judge has practically stalled the investigation in a serious bank fraud case. Mr.Anupam S. Sharrma, learned SPP for CBI submits that the impugned order is liable to be set aside. Reliance has been placed upon the orders passed in W.P. (Crl.) 2842/2022 *Central Bureau of Investigation vs. State Bank through*



Rajinder Kumar Dhingra, W.P.(Crl.) 847/2021 ***Central Bureau of Investigation vs. Shyam Sunder Narang***, W.P.(Crl.) 1909/2022 ***Central Bureau of Investigation vs. Union Bank of India***. It has been submitted that in all the above cases, including the present one, the learned Special Judge has not only rejected the application for issuance of a search warrant but also made unwarranted remarks regarding the registration of the FIR.

3. The court has perused the impugned order. Bare perusal of the impugned order indicates that the learned Special Judge at the very initial stage in a very haste manner went into the various issues and questions which were not even relevant. Ld. Special Judge went to the extent of making the remark that there was no legal justification to incorporate Section 13 (1) (d) of the P.C.Act in the FIR of the present case against the unknown public servants and the jurisdiction of the special court under P.C. Act has been wrongly invoked. Learned special judge did not stop here and directed IO and all concerned officers that irrespective of such inclusion in FIR, they shall not investigate into offence under Section 13 (1) (d) of P.C.Act against any public servant without complying with the mandate of Section 17-A of the P.C.Act. It is unknown from where the learned Special Judge derived these powers to pass such a direction.
4. In W.P.(Crl.) 847/2021 ***Central Bureau of Investigation vs. Shyam Sunder Narang***, the Coordinate Bench of this Court vide 22.02.2023 set aside the order of learned Special Judge in the case involving similar questions of fact and law after taking note of the submissions of the CBI and placing reliance upon the judgement of the High Court of



Chattisgarh in Rev.P.No.43/2020 titled ***Satish Pandey vs. Union of India and Others.***

5. Thereafter, this court in W.P. (Crl.) 2842/2022 ***Central Bureau of Investigation vs. State Bank through Rajinder Kumar Dhingra*** while dealing with the identical question *inter alia* held as under:

“4. This Court considers that the learned Special Judge has made the observation in quite haste without taking into consideration the fact that the investigation was at nascent stage. It is not uncommon that the investigating agencies register the FIR on the information of a cognizable offence. The identity of the accused persons in many cases is ascertained during the course of the investigation.

5. Perusal of the record indicates that even the learned Special Judge in the haste of getting rid of the case left the application under Section 93 Cr.P.C. undecided. The impugned order cannot stand in the eyes of law and is set aside. The observations of the learned Special Judge in particular that the PC Act has been invoked in anticipation rather than on the basis of the allegations leveled in the complaint cannot stand scrutiny of law as CBI is yet to investigate the matter. Such observations seem to have been made at too early stage.”

6. Similarly, the coordinate bench of this court in W.P.(Crl.) 1909/2022 ***Central Bureau of Investigation vs. Union Bank of India*** vide order dated 24.08.2022 set aside the order of learned Special Judge and remanded the case back to the concerned court with direction to issue search warrants.
7. This court has no hesitation in its mind to hold that the impugned order is absolutely not sustainable in the eyes of law. There is nothing in the law which prevents the investigating agency to register the FIR against the unknown public persons. The identity of public persons can be



ascertained during investigation. Of course, the requirement of Section 17A of P.C. Act has to be complied with once the identity of such public persons is established. However, by declining the issuance of the search warrant, learned Special Judge vide the impugned order has stalled the investigation. Hence, the impugned order is set aside. The application for search, which was declined by learned trial court vide the impugned order, stands allowed. Let Search warrants be issued in accordance with law.

8. The present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 22, 2024

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