



\$~63

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 6546/2023**

NAVENDU AGRAWAL

.....Petitioner

Through: Mr. Vinayak Bhandari and Ms. Jaisal
Singh, Advocates.

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with Sandeep Singh, P.S. Ranjit
Nagar.
Mr. Anushasit Arya, Advocate for R-
2 and 3.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

26.07.2024

CRL.M.A. 21744/2024

1. By way of the present application, the petitioner seeks early hearing of the petition.
2. Issue notice.
3. Learned counsel appearing for respondent Nos. 2 and 3 accepts the notice and states that they have no objection to the prayer made.
4. In view of the averments made in the application and the no objection given by the respondent Nos. 2 and 3, the application is allowed and the matter is taken up for hearing today itself. Date fixed in the matter i.e., 18.09.2024 stands cancelled.
5. Application is disposed of.

CRL.M.C. 6546/2023

1. By way of the present petition, the petitioner seeks to assail the order



dated 22.05.2023 passed by Ld. ACMM, Tis Hazari Court, Delhi in Criminal Case No. 487/2022.

2. Facts, in nutshell, are that the present FIR 285/2020 under Sections 465/469/471/408/506 IPC came to be registered against the petitioner/accused on the complaint of Mi2C Security & Facilities Pvt. Ltd. Later, after investigation, a cancellation report came to be filed in the said FIR. The cancellation report was assailed by the complainant in the form of a protest petition thereby disputing the conclusion reached by the I.O. in the cancellation report. The concerned Court considered the cancellation report as well as the protest petition and vide order impugned order, directed further investigation.

3. In the FIR, it was alleged on 01.03.2019, the petitioner was appointed as Head Business Development in the Tender Division of the complainant company. The petitioner misappropriated a sum of Rs. 4 lacs by way of two vouchers towards personal gain when the said amount was to be used for the work expenditure. Further, as part of work, he was assigned with the work of preparation and submission of a tender floated by DDA for protection of its land under Rohini Zone. As part of tender documents, a solvency certificate and performance certificate were enclosed. The former was stated to be issued by HDFC bank and the later by IBHAS. Both were found to be forged resulting in black listing of the complainant company by DDA. Also, he threatened the complainant company for payment of Rs.7,57,500/- by writing emails. The complainant claimed damage to its reputation on petitioner's writing emails to IIM Udaipur. He was also accused of being in illegal and unauthorised possession of proprietary data of the complainant's as well as personal data of the CEO/Managerial staff. Later, it came to fore



that the petitioner had also forged a performance certificate issued by IBHAS which resulted in issuance of a tender termination notice. During investigation, statement of witnesses were recorded wherein it was stated the petitioner had forged the above certificates in collusion with other employees.. The demand draft for the tender was found to be submitted under the signatures of petitioner. Apparently, another FIR No. 285/2020 P.S. Ranjit Nagar on some of these allegations is also pending investigation.

4. Pertinently, the cancellation report came to be filed on the basis of an FSL opinion that the petitioner's signature on the two vouchers didn't match with his sample signatures and the further fact that before the petitioner had joined the complainant company, a similar forged solvency certificate was used by the complainant company with respect to a tender floated by Chandra Shekhar Azad University.

5. A perusal of the impugned order would indicate that learned ACMM noted that the IO did not even investigate the bank account of the accused to ascertain if the subject amount was ever deposited in it. It was further noted that the allegations of misappropriation could not have been rubbished merely on the basis of the FSL Report. The complainant in support of his allegations had also placed on record WhatsApp chats exchanged between the accused/petitioner and one *Sangeet Kumar*. I.O. did not even seize the mobile phone of the accused to verify the allegations. Finding laxity in the investigation, learned ACMM directed further investigation.

6. The power of Judicial Magistrate to direct further investigation is not doubted by the petitioner. Even otherwise, the same is well settled in light of the decision in Vinay Tyagi v. Irshad Ali reported as **(2013) 5 SCC 762**. Learned Magistrate in the impugned order has highlighted the area of laxity



in investigation as the allegations besides forgery also pertained to other offences. Having gone through the impugned order as well as the material placed on the record, I find no ground to interfere with the same and consequently, the petition is dismissed.

7. At this stage, it has been informed that IO has already carried out further investigation and filed a supplementary challan. The same is pending consideration before the concerned Court. Needless to state that the concerned Court shall consider the material placed before it independently without being in any manner influenced by the present decision.

MANOJ KUMAR OHRI, J

JULY 26, 2024

ga