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

+ **CRL.M.C. 4571/2023&CRL.M.A. 17494/2023**

RAVI MOHAN SHARMA

.....Petitioner

Through: Mr. Pramod Kumar Dubey, Sr. Adv.
with Mr. Hemant Shah, Ms. Pinky
Dubey, Mr. Prince Kumar, Ms. A.
Vatsa, Mr. Akshay Rana, Mr. Saurabh
Pal, Mr. Vishal Mann & Mr. Ojas
Kaushik, Advs.

versus

CENTRAL BUREAU OF INVESTIGATIONRespondent

Through: Mr. Ravi Sharma, SPP with Mr. Ishann
Bhardwaj, Mr. Swapnil Choudhary,
Ms. Madhulika Rai Sharma & Mr.
Shivam Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

09.05.2025

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1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 of the Cr.P.C. seeks the following prayers:-

“(a) Quash the impugned order dated 01.07.2023 passed by the Ld. Special Judge, CBI-19, PC Act, Rouse Avenue District Courts, New Delhi in Case No. 414/2019 entitled as ‘CBI vs. Ravi Mohan Sharma’ in RC No. 7A/2016/AC-III/CBI dated 28.09.2016 under Sections 13(2) read with Section 13(1)(e) of PC Act, 1988 (Annexure P-1) and all consequential proceedings arising therefrom in its entirety;

(b) Pass such other orders as this Hon’ble Court may deem fit in favour of the Petitioner.

AND FOR THIS ACT OF KINDNESS THE PETITIONER, AS IN DUTY BOUND, SHALL EVER PRAY.”



3. A regular case against the present petitioner was registered by way of RC No. 7A/2016/AC-III/CBI under Section 13 (2) read with Section 13 (1) (e) of the PC Act, who at the relevant time was Director, Railway Board, New Delhi. The check period as per the case of the CBI was from a period from 01.09.1997 to 22.10.2014 and it was alleged he had acquired disproportionate assets to the tune of Rs. 24,39,056/- to his known sources of income in his own name and in the name of his family members.
4. During the course of the investigation, as per the calculation made by the CBI, the disproportionate assets of the petitioner was found to be Rs. 7,10,430/- which was 10.31% of his total income during the check period.
5. In these circumstances CBI filed a closure report, in the present RC, in view of the judgment passed by the Hon'ble Supreme Court in **Krishnand Agnihotri vs. State of Madhya Pradesh; AIR 1937 SC 796**.
6. Learned Special Court *vide* the impugned order dated 01.07.2023 did not accept the closure report and passed the following directions:-

“51) If the case of the CBI would have been that the final/closure report has been filed because there were not sufficient evidence or reasonable ground for suspicion to justify filing of the charge sheet, then in such a case, not approaching the sanctioning authority for sanction of prosecution by the CBI would have been understandable (but the CBI ought to have approached the sanctioning authority in view of aforesaid reasons) and had it been the case, then in view of judgment of Hon'ble Delhi High Court in State (C.B.I.) Petitioner v R.S. Mathur (Jt. Dir.) and another, Respondents; 1994 CRI. L. J.794, this Court would have refrained itself from directing the CBI to approach the sanctioning authority for the sanction under section 19 of the Prevention of Corruption Act, 1988. **(Even when the Court cannot give the direction, CBI has not been restrained in approaching the sanctioning authority in any manner.)** But in the facts and circumstances of the present case, when the sole



basis for filing closure/final report by the CBI has been the incorrect understanding of Krishnanand Agnihotri (supra) judgment and it is the admission of the CBI in its clarification/explanation dated 12/04/2023 that in Krishnanand Agnihotri (supra) the Hon'ble Supreme Court did not lay down the legal principle that in a disproportionate asset case against the public servant, if the disproportionate assets come out to be less than 10%, then no case of disproportionate assets/criminal misconduct is made out, therefore this Court directs the CBI to approach the sanctioning authority/Government under Section 19 of the Prevention of Corruption Act, 1988 and apprise this Court as to the outcome i.e., whether the sanction has been . . accorded or refused, on the next date of hearing.

52) It is hereby clarified this Court has not given any direction to the concerned sanctioning authority/Government to imperatively issue the sanction to prosecute. The sanctioning authority/Government is at its absolute liberty to take its own call on the matter. [Ref. Arun Aggarwal v. State of Madhya Pradesh; 2011 AIR (SC) 3056]

53. The copy of this order be sent to the Director, CBI for information and the copy of this order be also sent to the Branch Head/CBI for compliance. The copy of order be given dasti to Ld. PP for CBI”.

(emphasis supplied)

It is noted that the learned Special Court accepts the legal principle that it cannot give directions to CBI for obtaining sanction but proceeds to pass directions in that regard.

7. Learned Senior Counsel appearing on behalf of the petitioner submits that challenge to the impugned order is restricted to the directions given by the Special Court, directing the CBI to obtain a sanction under Section 19 of the PC Act. Reliance is placed on the judgment of the learned Division Bench of Madhya Pradesh High Court dated 05.12.2022 in **Mayank Jain v. Special Police Establishment Lokayukt, 2022 SCC OnLine MP 5994**, wherein, it



was observed as under:-

“5. On hearing the learned counsels, we are of the view that appropriate interference is called for. Whether the closure report is acceptable or not is the exclusive jurisdiction of the trial Court. However, in case, if he decides to reject the closure report, the options available to him are as held by the Hon'ble Supreme Court in the case of *Vasanti Dubey* (supra) vide para-20 of the judgment, which reads as follows:—

“20. This position has been further reiterated and reinforced in a recent judgment of this Court delivered in Ram Naresh Prasad v. State of Jharkhand (2009) 3 SCC (Cri) 1336, wherein it has been held that when the police submitted a final report of the investigation of the case which in colloquial term is called closure report “the Magistrate cannot direct the police to submit the charge-sheet. However, on the basis of the material in the charge-sheet, he may take cognizance or direct further investigation. In fact, this position is clearly laid down under Sections 190 read with Section 156CrPC itself and the legal position has been time and again clarified by this Court in several pronouncements viz. in H.S. Bains v. State (UT of Chandigarh) (1980) 4 SCC 631 : AIR 1980 SC 1883 wherein Their Lordships have summarised the position as follows:

“1. When a Magistrate receives a complaint, he may, instead of taking cognizance at once under Section 190(1)(a) direct a police investigation under Section 156(3) ante:

2. Where, after completion of the investigation, the police sends an adverse report under Section 173(1), the Magistrate may take any of the following steps:

(i) If he agrees with police report, and finds that there is no sufficient ground for proceeding further, he may drop the proceeding and dismiss the complaint.

(ii) He may not agree with the police report and may take cognizance of the offence on the basis of the original complaint, under Section 190(1)(a) and proceed to examine the complainant under Section 200.

(iii) Even if he disagrees with the police report, he may either take cognizance at once upon the complaint, direct an enquiry under Section 202 and after such enquiry take action under Section 203. However, when the police submits a final report or closure report in regard to a case which has been lodged by the informant or complainant, the Magistrate cannot direct the police to straightaway submit the charge-sheet as was the



view expressed in Abhinandan Jha (1967) 3 SCR 668 which was relied upon in Ram Naresh Prasad (2009) 3 SCC (Cri) 1336.”

6. The Magistrate, on the other hand, has proceeded to direct for obtaining sanction for prosecution against the petitioner. It is this portion of the order, in our considered view, that becomes unsustainable. Hence, for all these reasons, the petition is allowed. The order dated 13.10.2022 (Annexure P/10) passed by the Special Judge, Ujjain to the extent of directing for obtaining of the sanction is set aside. The matter is remitted to the Magistrate for reconsideration insofar as the said portion of the order is concerned by considering the judgment of Hon'ble Supreme Court as aforesaid.”

8. Learned Special PP for CBI submits that the learned Special Court in para 52 of the impugned order has though clarified that no directions have been given to the concerned sanctioning authority/government to issue the sanction of prosecution but he has no objection if the direction given by the learned Special Court to CBI to approach the sanctioning authority under Section 19 of the PC Act is set aside.

9. In view of the above, the impugned order dated 01.07.2023 is only modified to the extent that the directions given by the Special Court to CBI to approach the sanctioning authority under Section 19 of the PC Act shall not be given effect to and is hereby set aside.

10. Needless to state that the learned Special Court and the respondent are at liberty to proceed in accordance with law.

11. With the aforesaid modification, the present petition is partly allowed and stands disposed of.

12. Pending application (s), if any, also stands disposed of.

13. Copy of the order be sent to the concerned Special Court for necessary information and compliance.



14. Order be uploaded on the website *forthwith*.

AMIT SHARMA, J

MAY 9, 2025/nk/pr

Click here to check corrigendum, if any