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

+ **CRL.M.C. 7320/2023**

JAG MOHAN GARG

..... Petitioner

Through: Mr. Vijay K. Singh, Mr. Himanshu Dubey and Mr. Kumar Shashwat Singh, Advs.

versus

CENTRAL BUREAU OF INVESTIGATION & ANR.

..... Respondents

Through: Mr. Ravi Sharma, SPP, CBI with Mr. Anjani Kumar Rai and Ms. Madhulika Rai Sharma, Advs.
Ms. Soma Mullick, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

09.10.2023

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CRL.M.A. 27295/2023

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 7320/2023 AND CRL.M.A. 27296/2023 (stay)

3. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. RC2232022A0003 under Sections 120B/406/420 IPC and Sections 13(1)(D) and 13(2) of the Prevention of Corruption Act, 1988 registered at Police Station CBI-AC-V, New Delhi and all proceedings emanating therefrom.
4. In brief the facts of the case are that the petitioner is an



erstwhile director of Tirupati Infra Projects Private Limited (TIPL). TIPL executed an agreement with a consortium of banks comprising Bank of India/Respondent No. 2 as the lead member along with other members inter alia, Union Bank of India, Canara Bank, Bank of Baroda and UCO Bank, for term loan facilities. Respondent no. 2 filed a complaint dated 26.04.2022 mentioning the transactions/facilities granted to TIPL and its utilization wherein it has been alleged that a fraud has taken place in the account of TIPL and it caused wrongful loss of 289.15 crores as on date of the NPA i.e. 01.04.2012, declared by the lead bank on 30.09.2014. On the basis of the said complaint dated 26.04.2022, the present FIR No. RC2232022A0003 under Sections 120B/406/420 IPC and Sections 13(1)(D) and 13(2) of the Prevention of Corruption Act, 1988 was registered against the present petitioner- Jag Mohan Garg, Amandeep Singh Sran, Harminder Singh Sran, Subhash Dabas, Adarsh Mohan Garg, Sant Lal Agarwal and some unknown public and private persons.

5. Learned counsel for the petitioner submitted that entire term loan facilities granted to TIPL were utilized for the construction of the project and no money was diverted for any other purposes in any manner whatsoever which is evident from the Lender's Engineer's Report dated 08.09.2011 of M/s SJA Industrial Consultants Private Limited. It is further submitted by learned counsel for the petitioner that on 24.06.2015, respondent no. 2 and other consortium banks held a meeting wherein it was categorically observed that there is no evidence of any fraud committed by the Company and it was noted



that the reasons for default by TIPL in payment of the installments of the said term loan facility was also fully endorsed by the members of the consortium of banks. It is further submitted that Respondent No.2 initiated Corporate Insolvency Resolution Proceedings before NCLT against TIPL on 03.07.2017 whereby Anil Kohli was appointed as Resolution Professional and the entire record of TIPL was handed over to him. It is further submitted that respondent no. 2 reported the alleged fraud on 11.01.2021 to the Serious Fraud Investigation Office which was challenged by the petitioner vide petition being W.P. (C) 338/2021 wherein the co-ordinate Bench of this Court directed the respondents to maintain status quo with regard to declaration of account of TIPL as a fraud account and from taking any further steps pursuant thereto. It is further submitted that subsequently, on 26.04.2022 respondent no. 2 filed a complaint against the petitioner alleging the period of purported offence from 2009-2014.

6. Learned counsel for the petitioner has drawn the attention of this Court to the letter dated 07.07.2015 which contains the minutes of the consortium meeting dated 24.06.2015 wherein it was observed and held that there was no evidence of any fraud committed by the Company involving term loans with the banks that securities are available with the Consortium and it is only due to low revenue generation by the Hotel that the Company was facing difficulties in meeting their repayment commitments to the said banks, furthermore, it was also observed that the Company/Directors may not be declared wilful defaulters at that stage.

7. It is contended by learned counsel for the petitioner that the



investigation is going on since last one year and till date, no public persons are found to be involved. The alleged offence is time barred and there is nothing on record to show that the petitioner is involved in the case of cheating. It is further contended that it is only because of business losses that the account was declared NPA and the same is also evident from the Bank report itself. It is further submitted that the present dispute is purely of civil nature and respondent no. 2 is trying to give it a criminal color.

8. In support of his contentions, learned counsel for petitioner has relied upon judgments passed by the Hon'ble Supreme Court in *State Bank of India and Ors. vs. Rajesh Aggarwal and Ors. [Civil Appeal No. 7300 of 2022]*, *Mohammad Ibrahim & Ors. vs. State of Bihar & Another, (2009) 8 SCC 75*, *M/S Indian Oil Corporation vs. NEPC India Ltd. & Ors., (2006) 6 SCC 736* and *Sardool Singh & Anr. vs. Smt. Nasib Kaur 1987 (Supp.) SCC 146*, to bring home the point that it is necessary to take notice of growing tendency in business circles to convert purely civil disputes into criminal cases and, therefore, the criminal courts are to ensure that the proceedings before it are not used for settling scores or to pressurize parties to settle civil disputes.

9. Issue notice. Learned SPP for CBI and learned counsel for respondent no. 2 appear on advance notice and accept notice.

10. On the other hand, it is submitted by learned SPP for CBI that the loan was sanctioned to M/s TIPL for the purpose of construction of a five-star hotel for which the estimated cost of project was Rs. 541 crores to 640 crores, however M/s TIPL instead of introducing the



funds from his own sources, liquidated the mortgaged security of the bank. It is further submitted that the instant case pertains to bank fraud of highest magnitude involving cheating of Rs. 289.15 Crores. Learned SPP seeks time to file status report.

11. As far as the reliance placed by the Ld. Counsel for the petitioner on *State Bank of India v. Rajesh Aggarwal and Ors. [Civil Appeal No. 7300 of 2022]* is concerned, the petitioner has wrongly placed reliance on the same, however, there is no denial to the fact that investigation is going on since last one year and till date no public servant is found to be involved.

12. Let status report be filed by the respondent no. 1- CBI and reply, if any be filed by respondent no. 2 before the next date of hearing with an advance copy to the other side.

13. List on 17th November 2023.

14. Till the next date of hearing, investigation pursuant to the impugned FIR no. RC2232022A0003 qua petitioner shall remain stayed.

RAJNISH BHATNAGAR, J

OCTOBER 9, 2023

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