

Sh Ram Laal Guptha & Ors vs Union Of India & Ors on 23 September, 2020

Author: Yogesh Khanna

Bench: Yogesh Khanna

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(CRL) 1527/2020

SH RAM LAAL GUPTHA & ORS.

Through : Ms.Neeha Nagpal, Advoc
versus

UNION OF INDIA & ORS.

Through : Mr.Amit Mahajan, CGSC
respondents.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% 23.09.2020

1. The hearing has been conducted through Video Conferencing. Crl.M.A.No.13163-64/2020
2. Exemption allowed, subject to all just exceptions.
3. The application(s) stand disposed of.

W.P.(CRL) 1527/2020 & Crl.M.A.No.13162/2020

4. The petitioners have filed this writ petition with the following prayers:-

"a. Issue a Writ, Order or Direction in the nature of a Mandamus or any other appropriate Writ, Order or Direction directing the Respondents No[s] 2 and 3 to provide a copy of the ECIR bearing ECIR NO. - ECIR/DLZO-I-108/2019 to the Petitioners along with complete records and annexures [if any]; AND b. Issue a Writ, Order or Direction in the nature of a Certiorari / Mandamus or any other appropriate Writ, Order or Direction staying the investigation being conducted by the Respondent No[s] 2 and 3 till the investigation is pending in the predicate offence i.e. Regular Case No: RC- DAI- 2019-A-0035 dated 04.11.2019 registered by the Central Bureau of Investigation, ACB, New Delhi; AND c. Issue a Writ, Order or Direction in the nature of a Certiorari / Mandamus or any other appropriate Writ, Order or Direction directing the Respondent No[s] 2 and 3 not to initiate any coercive action against the Petitioners till the investigation is pending in the predicate offence i.e. Regular Case No: RC- DAI- 2019-A-0035 dated 04.11.2019 registered by the Central

Bureau of Investigation, ACB, New Delhi; AND/OR d. Pass any other order this Hon'ble Court may deem fit and necessary, in the interest of justice and good faith."

5. Issue notice. Mr.Mahajan, CGSC accepts notice and says he also represent Union of India i.e. respondent no.1, besides the Department/respondents No.2 & 3.

6. The allegations against the petitioners are they have obtained a loan of Rs.100 crores in the name of M/s.Shree Nathjee Rollers Floor Mills Ltd. from the Union Bank of India in an open cash credit with a limit of Rs.100 crores by way of a letter of sanction dated 03.09.2015. It is submitted on 31.01.2017 the company was declared Non-Performing Asset by the Bank and on 02.02.2017 a demand notice was sent under Section 13(2) of SARFAESI Act to the petitioners for enforcement of security interest. It is alleged an application under Section 14 of SARFAESI Act was filed wherein three properties were taken over by the respondents vide possession notice dated 14.07.2017.

7. The grievance of the petitioner is vide a circular issued by the Reserve Bank of India, the petitioner company was declared as a fraud without following the principles of natural justice and for this they have filed W.P.(C)3991/2020 titled as M/s.Shree Nathjee Roller Flour Mills Limited & Ors. Vs. Reserve bank of India & Ors. challenging such Master Circular dated 03.07.2017 on the grounds of violation of principles of natural justice. An order dated 07.07.2020 was passed by this Court restraining the banks from taking further coercive steps regarding declaration of the petitioners as a fraud account.

8. In the meanwhile the CBI registered an FIR dated 04.11.2019 under Section 120B/420/468/471 IPC bearing no. RC-DAI-2019-A-0035 against the petitioners herein during which investigation the matter was referred to the respondents no.2 and 3 for holding an enquiry in terms of Sections 3 and 4 of Prevention of Money Laundering Act (PMLA). ECIR/DLZO-I- /08/2019 was registered and it is the grievance of the petitioners the documents in this ECIR have not been provided to them. The learned counsel for respondent no.2 and 3 submits they are not obliged to provide the documents as are sought for since those documents are part of investigation and of internal communication.

9. At this stage it is submitted by the learned counsel for the petitioners they have received summons under Section 50 of PMLA to join the enquiry but the petitioner no.1 presently is in quarantine as he has suffered from COVID-19. It is submitted by the learned counsel for the respondents no.2 and 3 the enquiry is at preliminary stage and in case the petitioner no.1 would be required they will give due weightage to his illness and the period of quarantine.

10. The learned counsel for the respondents seeks time to file a reply to the petition. Be filed within four weeks from today with an advance copy to the learned counsel for the petitioner.

11. List on 02.11.2020.

YOGESH KHANNA, J.

SEPTEMBER 23, 2020 DU