

# Central Bureau Of Investigation vs Shyam Sunder Narang on 22 February, 2023

**Author: Jasmeet Singh**

**Bench: Jasmeet Singh**

\$~26

\*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 847/2021

CENTRAL BUREAU OF INVESTIGATION

Through: Ms. Harpreet Kalsi, Mr.  
Airan, Mr. Ripudaman Sh  
Abhishek Batra, Advocat

versus

SHYAM SUNDER NARANG

Through: Mr. Krishnan Kumar , Mr.  
and Ms. Muskan Jain, Ad

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% 22.02.2023

1. This is a petition seeking quashing and setting aside of the order dated 21.01.2021 passed by the learned Special Judge, CBI -13, Rouse Avenue District Courts Complex, New Delhi. The learned special Judge in the impugned order has observed:

"24. In view of my foregoing discussions and observations, I find that there was no legal justification to incorporate u/s 13 (1) (d) of P.C. Act in the FIR of the present case, without compliance of Section 17 A of P.C. Act. Hence, IO and all concerned officers are directed that irrespective of such inclusion in FIR, they shall not investigate into offence u/s 13 (1) (d) of P.C. Act against any public servant without complying with the mandate of Section 17 A of P.C. Act. At present, the FIR shall be treated for offences u/s 120-B, 420, 467, 468 & 471 of IPC only and investigation should be carried on accordingly. The consequent proceedings shall be maintainable only before the court of ld. CMM, RADC because all these offences under IPC are Magistrate triable offences.

Hence, this FIR and related records are remanded to Ld. CMM, RADC, New Delhi. Jurisdiction of this court can be invoked only after invocation of offence under P.C. Act, by satisfying all legal

requirements, as mentioned herein above. In the event of compliance of S.17A of the P.C. Act, IO may add relevant offence under the Act and thereafter, he may apply for transfer of FIR to the Special Court under P.C. Act. This order may be placed before Id. Director, CBI as well, so as to take suitable steps in other similar cases."

2. In the present case as correctly argued by Ms. Kalsi, on behalf of Mr. Sharma that the concerned officers of the bank are yet to be identified. She states that once the officers are identified, the permission required under Section 17A of the PC Act, will be taken. The stage of taking permission as of today has not yet arrived. She has drawn my attention to the judgment of „Satish Pandey Vs Union of India' in Revision Petition 43/2020, wherein the High Court of Chhattisgarh observed:

"In so far as arguments based on Section 17A of the PC Act is concerned, suffice it would be to observe that the officers or employees who would eventually be charged of committing the offence is not yet known, therefore, the stage of application of Section 17A is not yet commenced. Even otherwise, the said provision would be attracted only when their act is found to be relatable to any recommendation made or decision taken by a public servant in discharge of his official functions or duties."

3. For the said reasons, the order of the Special Judge is not sustainable as the officers, who will be charged of committing the offence under the PC Act, are yet to be identified. Once the officers are identified the permission under Section 17A shall be sought and the due process will be followed including the applicability of Section 17A of the PC.

4. For the aforesaid reasons the order is unsustainable in law and is hereby set aside.

5. The petition is allowed and disposed of in the above terms.

JASMEET SINGH, J FEBRUARY 22, 2023/st Click here to check corrigendum, if any