



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 663/2020

Jyotsana Suri W/o Late Shri Lalit Suri, Aged About 67 Years,
Chairperson And Managing Director, M/s Bharat Hostel Ltd.,
Barakhamba Lane, New Delhi.

-----Petitioner

Versus

Union Of India, Through Central Bureau Of Investigation

-----Respondent

Connected With

S.B. Criminal Revision Petition No. 665/2020

Ashish Guha S/o Late Deb Kumar Guha, Aged About 63 Years,
23, Poorvi Marg, Vasant Vihar, New Delhi 110057

-----Petitioner

Versus

Union Of India, Through Central Bureau Of Investigation

-----Respondent

S.B. Criminal Revision Petition No. 667/2020

Arun Shourie S/o Hari Dev Shourie, Aged About 79 Years, By
Caste Brahmin, R/o House No. A-31, West End Colony, Block A,
New Delhi- 110021.

-----Petitioner

Versus

Union Of India, Through Cbi

-----Respondent

S.B. Criminal Revision Petition No. 669/2020

Kantilal Vikamsey S/o Karamsey Vikamsay, Aged About 73 Years,
R/o 412, Maker Chambers No. 5 Plot No. 221, Nariman Point,
Mumbai 40002.

-----Petitioner

Versus

Union Of India, Through Central Bureau Of Investigation.

-----Respondent

S.B. Criminal Misc(Pet.) No. 2993/2020

Pradip Baijal S/o L.b. Baijal, Aged About 77 Years, 561 Ats





Greens, Sector 93A, Noida Express Way, Noida, 201301

----Petitioner

Versus

Union Of India, Through Cbi

----Respondent

Parties through their
respective counsels

Mr. Arun Shauri
Mr. Sanjeev Sen, Sr. Advocate
assisted by Mr Ashish Guha
Mr. P.P. Choudhary, Sr. Advocate
assisted by Mr. Umesh Kant Vyas
Mr. S.V. Raju, ASG
Mr. Siddhart Aggarwal
Mr. Nishant Bora
Mr. Pradeep Shah
Mr. C.S. Rathore
Mr. Virendra Pal Singh
Mr. Sneyl Trehan
Mr. Gautam Khanzanchi
Mr. Sahil Modi
Mr. Chirag Sharma
Mr. Dinesh Barfa
Mr. Kunal Vikusmy
Mr. Hitesh Jain
Mr. Himanshu Pandey
Mr. Anirudh Singh Shekhawat
Mr. D.S. Jasol
Mr. Abhimanshu Dhyani
Mr. Ashwini Kumar Sharma
Mr. Sanjeet Purohit
Mr. Harsh Chittora
Ms. Vandana Bhansali
Mr. Sanjeev Sain Basu
Mr. Pradhyumn Kistha
Mr. Tarun Aggarwal
Mr. Vishwajeet Singh
Mr. Saurabh Kripal
Mr. Rajendra Muelwa
Ms. Sanjana
Mr. Vir Sandhu
Mr. Chandan Singh Shekhawat



HON'BLE MR. JUSTICE VIJAY BISHNOI

Order

21/10/2020



These petitions are filed on behalf of the petitioners challenging the order dated 15.09.2020 passed by Special Judge, C.B.I., Jodhpur (hereinafter referred to as 'the trial court') in Final Report Case No.19/2019 (R.C. JDH 2014 A 2008), whereby the trial court while rejecting the above referred Final Report, ordered for taking cognizance against the petitioners for the offences punishable under Sections 420, 120B IPC and Section 13(2) read with Section 13 (1)(D) of Prevention of Corruption Act, 1988. The trial court has summoned the petitioners through warrant of arrest and further ordered for attachment of the property i.e. Laxmi Vilas Hotel situated at Udaipur and appointed the District Collector, Udaipur as receiver.



This Court, vide order dated 22.09.2020, while issuing notice to the sole respondent, passed the ad interim order in the following manner:

- (i) The petitioner shall not be arrested in pursuance of the arrest warrant issued in relation to the impugned order dated 15.09.2020 passed by Special Judge, CBI Cases, Jodhpur ;
- (ii) The petitioner shall appear before the Court below on 08.10.2020 and furnish a personal bond of Rs.5 lacs and two sureties of Rs.2.5 lacs each. The petitioner shall be permitted to appear before the Court below along with her counsel ;
- (iii) Petitioner shall also furnish an undertaking to the effect that till the disposal of the present case, she or her company will not sell, alienate or otherwise transfer the land, building or fixed assets of the hotel in question. The undertaking aforesaid shall also contain a stipulation that the company would not create any further security interest or liability qua the assets of the Company nor shall it enhance its credit limit, without the leave of the Court.



(iv) The petitioner shall not leave India without prior permission of the Court.

(v) The effect and operation of the impugned order dated 15.09.2020 to the extent of appointing the District Collector, Udaipur as a receiver is hereby stayed till the next date (15.10.2020).

(vi) The receiver shall hand over the possession of the hotel, its assets and record forthwith to the authorised representative of the Company.

(vii) The receiver shall nevertheless prepare the list of the assets etc. and place the same before the trial Court."

Pursuant to the above order, learned counsels for respective parties have made several submissions assailing the validity of the impugned order.

Mr P.P.Choudhary, Senior Advocate assisted by Mr Umesh Kant Vyas appearing for petitioner Jyotsana Suri has argued that the trial court has grossly erred in passing the impugned order as from the material collected by the CBI during the course of investigation, it cannot be said that the petitioner was involved in commission of crime in any manner. It is also argued that the Cabinet Committee on disinvestment chaired by the then Hon'ble Prime Minister and comprising of other Cabinet Ministers took a decision to accept the recommendations of Disinvestment Committee and pursuant to that, disinvestment process of M/s Laxmi Vilas Hotel was carried out.

M/s Bharat Hotels Ltd. took part in the process of disinvestment of Laxmi Vilas Hotel and offered a bid of Rs.7.52 crores (25% above the reserve price) and its bid was accepted. It is also argued by Mr Choudhary that the process of disinvestment of Laxmi Vilas Hotel was fair and transparent and scrutinized at





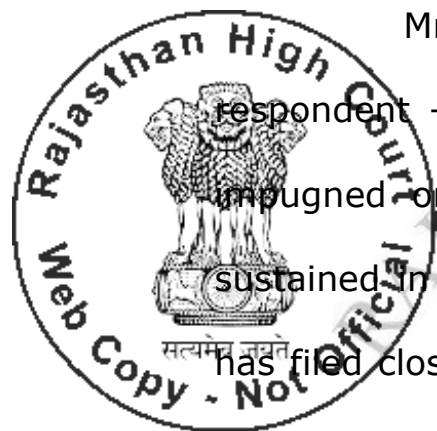
various levels, however, the trial court without taking into consideration the above aspect of the matter illegally rejected the closure report filed by the CBI and took cognizance against the petitioner – Jyotsana Suri for various offences. It is further argued that there is no iota of evidence available against the petitioner – Jyotsana Suri in the material placed before the trial court, however, the trial court has illegally passed the impugned order.

Mr Sanjeev Sen, Senior Advocate assisted by Mr Ashish Guha has argued that the petitioner was only a financial adviser to the Committee on disinvestment at that time and except this, there was no role of the petitioner in disinvestment process, however, the trial court without there being any iota of evidence against the petitioner passed the impugned order. Mr Sen has also adopted the arguments made by Mr P.P.Choudhary, Senior Advocate.

Mr Arun Shourie – petitioner has also addressed the Court through video conferencing and highlighted the process of disinvestment. He has submitted that process of disinvestment of Laxmi Vilas Hotel was challenged by one individual person twice before the Division Bench of this Court by way of D.B.Civil Writ Petition Nos.910/2002 and 1678/2006, which came to be dismissed vide orders dated 04.04.2002 and 19.07.2006 by making specific observations that no material has been placed that fixation of reserve price of shares was arbitrary. Mr Shourie has also argued that the trial court, without providing opportunity of hearing to him, has made certain observations against him alleging that he is of dual character. It is further submitted that it



is the duty of a subordinate court to follow the law laid down by the superior courts, however, the trial court while passing the impugned order has failed to keep in mind the specific observations made by this Court in its orders dated 04.04.2002 and 19.07.2006 passed in D.B.Civil Writ Petition Nos.910/2002 and 1678/2006.



Mr S.V.Raju, ASG appearing on behalf of sole respondent - Union of India has strenuously submitted that the impugned order passed by the trial court is not liable to be sustained in the eye of law. Mr Raju has submitted that the CBI has filed closure reports twice in the matter with detailed reasons that why no offence is made out against any of the persons named in the FIR but the trial court without considering the said reasons in right perspective has illegally passed the impugned order.

Mr S.V. Raju-ASG has placed reliance on the decisions of Hon'ble Supreme Court rendered in ***Balco Employees' Union (Regd.) vs. Union of India & Ors., (2002) 2 SCC 333, R.Sai Bharathi vs. J.Jayalalitha & Ors., (2004) 2 SCC 9*** and in ***All India ITDC Workers' Union & Ors. vs. ITDC & Ors., (2006) 10 SCC 66*** and has submitted that in the above cited decisions, the Hon'ble Supreme Court has categorically held that disinvestment policy of the Union of India, under which the process of disinvestment of Laxmi Vilas Hotel too took place, was fair and transparent. It is also submitted that the Hon'ble Supreme Court has also held that any purchase affected through open sales cannot attract the criminal liability.

Heard learned counsels for the respective parties.



After considering the arguments advanced on behalf of the respective counsels for the petitioners, in furtherance of the order dated 22.09.2020 passed by this Court in these matters, it is ordered that the trial court shall not proceed against the petitioners pursuant to the impugned order till further orders.

Record of the trial court be called for.

List these matters after three weeks.



[VIJAY BISHNOI],J.



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