

**CBI Versus Neeraj Agarwal  
RC 219 2017 (E) EOI CBI, New Delhi  
(Against Neeraj Agarwal & Ors.)**

23.11.2020

Present: Shri Hardesh Goswami, Ld. PP for CBI alongwith IO/DSP Sh. Ajeet Singh

1. In this case, in nutshell it is stated by CBI that this case was registered against M/s Shri Balaji Hi-Tech Constructions Pvt. Ltd., its Directors Sachin Dutta and Suruchi Dutta w/o Sachin Dutta and unknown officials of Punjab National Bank & other unknown persons on the basis of written complaint of Chief Manager, PNB, Vasundhra Ghaziabad.
2. It was alleged that the above-said construction company constructed multi-storey residential flats at Crossing Republic, Ghaziabad under the name of Fosters Height. This project was approved by Punjab National Bank for sanction of housing loans to allottees of the flats in the said project. It was alleged that the builder Sachin Dutta connived with the allottees and cheated bank. He issued more than one allotment letter for the same flat and swindled huge amount of money in the name of house loan. The modus operandi adopted by builder had been that he issued multiple allotment letters for the same flat to different individuals and secured housing loans in the name of all such allottees. Most of these allottees in criminal conspiracy with accused submitted personal documents to the builder and no booking amount was paid by such allottees but the builder issued forged receipts showing payment of such booking amount. And the allottees obtained loans by filing such forged receipts of booking amount, fabricated salary slips etc in the bank.

The entire housing loan amount was disbursed to the account of builder's construction firm. The builder had paid commission to the allottees either directly or through the broker sourcing him.

3. In the present case it is alleged that the accused Neeraj Agarwal (purported allottee) in criminal conspiracy with accused Sachin dutta was shown to have been allotted Flat No. A-204 in Project Foster Heights although no bookin amount was paid by him to the builder. Flat No. A-204 was already sold by Sachin Dutta to Bhupendra Singh in 2011.
4. This loan was processed and recommended by K.K. Khurana, the then Manager, PNB, Vaishali, Ghaziabad, this was sanctioned by Smt. Kamla Srivastava, the then senior manager. Thereafter, Sachin Dutta, Neeraj Agarwal and Bank Ofiicer Smt. Kamla Srivastava executed a Tripartite Agreement. After execution of this loan amount of Rs. 24.50 Lacs was disbursed and credited to a/c of builder accused Sachin Dutta.
5. CBI has filed chargesheet against the builder Sachin Dutta, his firm M/s Hi- Tech Balaji, Neeraj Agarwal (purported allottee). It is stated that no sufficient evidence was found against Smt. Suruchi Dutta therefore she is not chargesheeted. It is further stated that no criminality has been found on the part of K.K. Khurana (Loan Processing Officer), and Smt. Kamla Srivastava (Loan Sanctioning Officer), PNB, Vaishali, Ghaziabad. Hence the chargesheet is filed in offences of IPC only though the case was registered under P.C. Act, 1988.
6. It is pertinent to mention here that multiple loans on same flats were sanctioned by Punjab National Bank at 4 brances of Ghaziabad only i.e. Vaishali, Vasundhra, Indirapuram & RAB

branches. I have perused the material i.e. statement recorder u/s 161 CrPC, the documents annexed therewith so far.

In Document D-12 (Annexure 16) filed by the prosecution on page No. 95 the lapses on part of recommending and sanctioning authority of loan A/c of Neeraj Agarwal are given.

**Pre-Sanction lapses are mentioned as;**

- *“ITR of borrower for 9-10 not obtained,*
- *Income Proof such as ITRs, salary slip/ Form 16 and account statements,*
- *Booking money paid in advance to the builder not verified by the branch officials,*
- *Allotment letters does not bear photo of allottee,*
- *Application, Appraisal note, recommendation and sanction are all undated.”*

**Post-Sanction Lapses are mentioned as;**

- *“Adv Cheque letter does not contain details of cheques,*
- *Letter of Authority does not mention Account number to be debited,*
- *In TPA Guarantee Flat No. is not mentioned,*
- *Irrevocable letter of authority for deduction of EMI from salary is blank and is only signed by borrower and not signed by the employer.”*

7. Further the statement of KK.Khurana (Loan Processing officer) recorded u/s 161 CrPC is *“..... On being asked I further state that... In the year 2011, the amount received by my wife and myself totaling to Rs. 47 lacs approximately was paid to Sachin Dutta for purchasing of house in Vasundhra which was to be constructed by him. However the Vasundhra project did not materialize and I and my wife insisted on return of money. After much pursuance Sachin Dutta agreed to give flats in Project Foster Heights in place of the money paid by us. Accordingly, flat no. A-406 was allotted to my wife. The flat cost was 26-27 lacs. As the Amount was paid by her to M/s Balaji Hi-Tech Constructions Pvt. Ltd. I was also Allotted Flat No. AG-05 for total value of Rs. 37 lacs. Since I had also paid Rs. 25 Lacs approximately, the rest amount of Rs. 12 lacs was paid by me in installments to M/s Shri Balaji HI-Tech Constructions Pvt. Ltd. Both the flats are in our possession and registered sale deed have been executed for them.”*
8. Having regard to the material filed by prosecution, the lapse in duty shown by the bank officials does not seem to be a case of professional misconduct as in the present case it is because of the very lapses shown by the Bank officials the accused were able to commit the alleged fraud. It seems highly improbable that a bank official whose main duty is to get the documents verified would skip through the basic minimum requirements of verification, which is to say that he skipped his duty in entirety. It is difficult to believe that the accused would have been able to commit the alleged fraud without the active role of bank officials. Prosecution has stated that accused in connivance with other accused has obtained loans on more than 60 flats in the Project Foster Heights. And all the loans were sanctioned by 4 branches of PNB, Ghaziabad only. Had the officials not turned a blind eye to the verification process, the loan would not have been sanctioned.

9. CBI has chargesheeted 3 accused persons. On basis of the same, I hereby take cognizance of the offences under sections **120B** r/w 420,467,468,471 IPC as well as substantive offences u/s **420, 467, 468, 471 IPC** in the present case.
10. In the chargesheet prosecution has chargesheeted three people namely **Neeraj Agarwal (A-1), M/s Shri Balaji Hi-Tech Constructions Pvt. Ltd. (A-2), Sachin Dutta (A-3)**. Further, accused Suruchi Goel is kept in column 12 i.e. She is not chargesheeted. On basis of such material on record, in the considered view of this court, accused number 1 to 3 are summoned for the offences under sections **120B** r/w 420,467,468,471 IPC as well as substantive offences u/s **420, 467, 468, 471 IPC**. It is stated that none of the accused was arrested during investigation. Issue summons against all 3 accused persons for 07/12/2020. Ahlmad is directed to do the needful accordingly.
11. Having regard to the Chargesheet and the material relied by the prosecution, it appears that there is a half-hearted approach by CBI in investigating the present case. Perusal of the Chargesheet and the material apparently shows that CBI has not conducted proper investigation with respect to particular roles of bank officials. Hence, as per law laid down by Hon'ble Supreme Court in *Vinubhai Haribhai Malaviya and ors. Versus The State of Gujrat* passed in Criminal Appeal Nos. 478-479 of 2017; CBI is directed to conduct further investigation on the culpability of the bank officials in the present case. Copy of this order be sent to Director (Policy), CBI.
12. Copy of this order be given dasti to CBI at request.

Sd/-

**(SHIVANK SINGH)**

**Special Judicial Magistrate (CBI)**

**Ghaziabad**