

## 120 CM-11581-CWP-2024 IN CWPP8110-2023

## SUYOG JAIN VS RESERVE BANK OF INDIA AND OTHERS

Present: Mr. Puneet Bali, Sr. Advocate with  
Mr. Surjeet Bhadu, Advocate and  
Ms. Sanya Thakur, Advocate for the applicant-petitioner.

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1. In CWP-34297-2019 along with other connected petitions, decided on 27.05.2024, this Court had in paragraph 32 of the verdict (supra), paragraph whereof stands extracted hereinafter, has declared that the declarations of 'fraud' as made of the accounts concerned, of the petitioners concerned, are required to be quashed, and set aside, thus on the ground that the said declarations of 'fraud' were violative of the principles of natural justice, besides violated the dictum made by the Hon'ble Apex Court in a judgment rendered in case "*State Bank of India and others V/s Rajesh Agarwal and others*".

*"32. In aftermath, the declarations of 'fraud' as made of the accounts concerned of the petitioners concerned, are quashed and set aside, but only if they are so made without adherence by the respondents concerned, qua the solemn principle of audi alteram partem. Moreover, the pursuant thereto FIRs, if any, which become lodged against the petitioners concerned, and if they are rested upon such illegally made declarations, are also, but quashed and set aside."*

2. Moreover, pursuant theretos FIR, if any, which became lodged against the present applicant-petitioner, and, if they were rested upon the said made illegal declarations also become quashed and set aside, besides thereys the consequent thereto proceedings, as become launched, at the instance of the prosecution agency against the borrowers concerned, were also declared to be no longer continued by the learned trial Courts concerned.

3. Be that as it may, the above declarations were with a rider inasmuch as, in paragraph 33 of the verdict (supra), paragraph whereof

becomes extracted hereinafter, yet liberty was preserved to the lending institutions concerned, to after adhering to the principles of natural justice besides and in terms of the principles (supra), carried in the verdict made by the Hon'ble Apex Court, thus to proceed to draw such actions, as deemed fit, against the borrowers/petitioner(s) concerned, therebys even if in paragraph 32, the said declarations were made, yet there was further liberty preserved in the lending institutions concerned, to yet proceed to after adhering to the principles of natural justice rather initiate fresh prosecution(s) against the borrowers/ petitioner(s) concerned.

*“33. Nonetheless, liberty is preserved to the lending institutions concerned to, after adhering to the principles of natural justice, and, in terms of the principles supra, carried in the verdict recorded by the Hon'ble Apex Court, proceed to draw such actions, as deemed fit, against the petitioners concerned.”*

4. Despite the above clear and candid directions being made in respect of the present applicant-petitioner namely Suyog Jain, who filed CWP-8110-2023, yet the said directions earlier remained uncomplied with, at the instance of the learned trial Court concerned, leading the learned counsel for the present applicant-petitioner, to access this Court, through his filing the miscellaneous application bearing No.CM-9901-CWP-2024 in CWP-8110-2023. Though this Court through an order made on the apposite application, on 05.07.2024 thus with utmost clarity declared in paragraph Nos.3 to 6 thereof, that the FIR bearing No.RCBD1/2016/E/0005 dated 11.07.2016, under Section 120-B IPC read with Sections 420, 467, 468 and 471 of IPC, besides Sections 13(2) and 13(1)(d) of the PC Act, 1988, registered at PS CBI, BS & FC, New Delhi, and, as relates to the present applicant-petitioner is quashed, and, set aside, and, further declared that the consequent thereto proceedings as are subjudice before the learned trial

Judge concerned, are also quashed, and, set aside. Significantly, the last sentence of paragraph 6 did make a mandate, upon the learned trial Judge concerned, to not draw any further proceedings, as become launched in pursuance to the said registered FIR.

5. However, it appears that the learned trial Court concerned, has *prima facie* wantonly disregarded the said directions, rather has proceeded to invite responses from the learned Public Prosecutor concerned, and subsequently has ordered for consideration, being made, on the application filed by the present applicant-petitioner, asking for implementation of the said directions. In consequence, the above wanton disregard to the explicit directions (*supra*) as made by this Court, upon the learned trial Judge concerned, thus *prima facie* constitutes contempt of Court. The Public Prosecutor concerned, is also *prima facie* complicit with (*supra*) in purportedly committing the contempt of Court. Therefore, both of them are required to furnish explanations, as to why further proceedings for contempt of Court be not initiated against them. Both the learned trial Judge as well as the Public Prosecutor are present in the Court and both are directed to furnish explanation (*supra*) on the subsequent date of hearing i.e. 31.7.2024.

6. In view of the above, learned Senior counsel appearing for the applicant-petitioner, seeks and is permitted to withdraw the instant application.

7. Dismissed as withdrawn.

**(SURESHWAR THAKUR)**  
**JUDGE**

**25.07.2024**  
Ithlesh

**(SUDEEPTI SHARMA)**  
**JUDGE**