

ITEM NO.9

COURT NO.4

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).9192/2021

(Arising out of impugned final judgment and order dated 25-11-2021 in CRLMWP No. 11135/2021 passed by the High Court of Judicature at Allahabad)

YES BANK LIMITED

Petitioner(s)

VERSUS

THE STATE OF U.P. & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.155065/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.155067/2021-EXEMPTION FROM FILING O.T. and IA No.155517/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 30-11-2021 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE A.S. BOPANNA
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Raunak Dhillon, Adv.
Mr. Indranil Deshmukh, Adv.
Mr. Dhananjay Kumar, Adv.
Ms. Gathi Prakash, Adv.
Ms. Madhavi Khanna, Adv.
Mr. Amit Bhandari, Adv.
Mr. Rishabh Malviya, Adv.
Mr. Nihaad Dewan, Adv.
M/s. Cyril Amarchand Mangaldas, AOR

For Respondent(s) Mr. Kapil Sibal, Sr. Adv.
Mr. G.S. Chaturvedi, Sr. Adv.
Mr. Mohit Chaudhary, AOR
Ms. Puja Sharma, Adv.
Mr. Kunal Sachdeva, Adv.
Ms. Garima Sharma, Adv.
Mr. Chowdhary Zulfkar Ali, Adv.
Mr. Balwinder Singh Suri, Adv.
Mr. Avinash Pandey, Adv.
Mr. Paras Mithal, Adv.
Ms. Mahima Ahuja, Adv.
Mr. Nimesh Joshi, Adv.
Mr. Praveen Kumar, Adv.

Ms. Garima Prasad, Sr. Adv/AAG
Ms. Ruchira Goel, AOR

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The principal issue which has been canvassed in the Special Leave Petition, which arises from a judgment and order of the Division Bench of the High Court of Judicature at Allahabad dated 25 November 2021, is that the notices which were issued under Section 102 of the Code of Criminal Procedure 1973¹ by the second respondent (the investigating officer of the Crime Branch in the Police Commissionerate, Surajpur, Greater Noida) are beyond jurisdiction.

- 2 Dr Abhishek Manu Singhvi, Senior Counsel appearing on behalf of the petitioner, submits that:
 - (i) A loan of Rs 5,270 crores was disbursed by Yes Bank to the Essel Group and its sister concerns between 2016-2018 against a pledge of shares;
 - (ii) The pledge of (approximately) 44.53 crores shares was invoked following which, between May and July 2020, an intimation was furnished to the BSE, NSE and RBI;
 - (iii) Invocation of the pledge was sought to be interdicted in proceedings before the Civil Court at Saket, which have been withdrawn;
 - (iv) A complaint was lodged on 22 June 2020 by the third respondent, complaining that the borrowers had been induced or pressurized to take loans;

1 “CrPC”

- (v) An FIR on the basis of the complaint under the provisions of Sections 420, 467, 468, 409, 120B and 34 of the Indian Penal Code 1860 was registered on 12 September 2020;
 - (vi) The AGM of the Company was to take place on 30 November 2021, but was deferred; and
 - (vii) On 5 November 2021, the IO issued notices under Section 102 CrPC preventing the transfer of the shares and the exercise of rights under them.
- 3 In the above backdrop, it has been submitted that the notices under Section 102, which have been issued by the second respondent, directing the petitioner not to transfer the 44.53 crores shares or to exercise rights in respect of the shares “till completion of investigation or further orders” are beyond jurisdiction. Moreover, it has been urged that there has been a misuse of the criminal process to restrain the petitioner from exercising its rights under the pledged shares.
- 4 The High Court of Judicature at Allahabad dismissed the petition on the ground that an alternate remedy is available under the provisions of Sections 451 and 457 of the CrPC.
- 5 Mr Kabir Sibal, Senior Counsel, appears on behalf of the third respondent, on caveat. While seeking an opportunity to file a counter affidavit, Mr Sibal submitted that there was neither a genuine loan transaction nor a valid pledge of shares in favour of the petitioner. The Senior Counsel submitted that, given an opportunity to do so, it would be possible to demonstrate before this Court that the order of the second respondent does not suffer from want of jurisdiction having regard to the provisions of Section 102 CrPC.

- 6 *Prima facie*, at this stage, we are of the view that it would be necessary to protect the interest of the petitioner in respect of the pledged shares, the pledge having been admittedly invoked. Hence, we issue notice and direct that, pending further orders, there shall be a stay of the operation of the impugned notices dated 5 November 2021 (Annexure P-9 of the paper book). There shall also be a stay of further proceedings in connection with FIR No 0821 dated 12 September 2020 lodged at Police Station Noida Sector 20 (Annexure P-7).
- 7 Counter affidavit be filed within a period of three weeks.
- 8 List the Special Leave Petition on 12 January 2022.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER