

03.06.2023

Present: Sh. Karan Sharma, Ld. Substitute APP for the CBI.

Proceedings against accused **Jaswant Lal and Hasmukh Naran Lal Bhatt** have already been abated vide orders dated **09.02.2012** and **04.04.2012**.

Accused U.K. Joshi, Kamlesh Barai, Mukesh Puri Hamendra P. Shah, Satish Aggarwal, Lalit Pujara and Pradeep Jha are absent.

Sh. **Manoj Upadhyay**, Ld. counsel for accused U.K. Joshi.

Sh. **Umesh Sinha**, Ld. counsel for accused Pradeep Jha.

Sh. **Rajesh Ranjan**, Ld. counsel for accused Mukesh Puri.

Sh. **Sundeep Goel**, Ld. counsels for accused Lalit Pujara, Kamlesh Barai, Satish Aggarwal and Hamendra P. Shah.

Exemption applications have been moved on behalf of accused persons namely **U.K. Joshi, Kamlesh Barai, Mukesh Puri Hamendra P. Shah, Satish Aggarwal, Lalit Pujara and Pradeep Jha**. Heard and allowed for today only for the reasons mentioned in the applications with the direction to appear in person without fail on the NDOH.

On perusal of the record, it is noted that the FIR in the present case was registered for the offences punishable under section 120B read with 420/468/471 IPC and sections 13 (2) read with 13 (1) (d) of the PC Act, 1988. However, the charge sheet has been filed for the offences punishable under section 120B r/w 420/468/471 IPC and 201 IPC.

Here, the judgment of **M.S. Lamba vs. State (CBI) 1995**

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(33) DRJ, is trite to be referred to, as in that judgment, it was held by Hon'ble High Court of Delhi that once competent court of jurisdiction i.e. Special Judge has assumed jurisdiction in the matter and FIR was filed under the provisions of Section 173 CrPC before Special Judge, the Ld. MM had no jurisdiction to assume jurisdiction on the basis of said FIR.

The facts in the present case are squarely covered by the aforesaid judgment as in the present case also, the FIR was registered for the offences punishable under the IPC as well as under the PC Act whereas, charge sheet was filed only for the IPC offences. Hence, in view of the law laid down by Hon'ble High Court in **M.S. Lamba vs. State (CBI) 1995 (33) DRJ**, this court does not have the jurisdiction to proceed further with the matter. Therefore, **let the instant case file be sent to Ld. Principal District and Sessions Judge cum Special Judge (PC Act), CBI, Rouse Avenue, New Delhi for appropriate orders/directions on 04.07.2023 at 02.00 Pm.** Date is being at the convenience of Ld. counsels.

Ahlmad is directed to send the file complete in all respect to the court of Ld. Principal District and Sessions Judge cum Special Judge (PC Act) (CBI), RADC, New Delhi well before the next date of hearing.

Accused persons are also directed to appear before the court of Ld. Principal District and Sessions Judge cum Special Judge (PC Act) (CBI), RADC, New Delhi on the aforesaid date and time.

**(DEEPAK KUMAR-II)
ACMM-2 cum ACJ
RACC New Delhi / 03.06.2023**