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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 185/2025 & CRL.M.A. 1002/2025 (stay)**

**M/S CHOLAMANDALAM INVESTMENT AND FINANCE
COMPANY LIMITED AND ANRPetitioners**

Through: Mr. Kirti Uppal, Senior Advocate with
Mr. Siddharth Chopra, Mr. Navneet
Thakran, Mr. Hriday Gandhi and Ms.
Vidhi Uppal, Advocates.

versus

STATE GOVT. OF NCT OF DELHI AND ANR.....Respondents

Through: Ms. Richa Dhawan, APP for the
State.
SI Manoj Kumar, PS EOW.
Mr. Anurag Bhatnagar and Mr. Ariyan
Bhatnagar, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **15.01.2025**

1. This hearing has been done through hybrid mode.

CRL.M.A. 1003/2025 (exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CRL.M.C. 185/2025 & CRL.M.A. 1002/2025 (stay)

3. The present petition under Section 528 of the BNSS, 2023 read with
Section 482 of the Cr.P.C. seeks following prayers:-

- “a. quash FIR no. 16/2023 U/s 420/120B IPC registered at P.S. Economic Offences Wing, New Delhi and all the proceedings emanating therefrom; and
- b. set aside the notice dated 09.01.2025 issued by the Investigating Officer under Section 41(A) of the Code of Criminal Procedure.
- c. Pass such other or further order(s) as may be deemed fit and proper in facts and circumstances of the present case.”



4. Learned Senior Counsel appearing on behalf of the petitioners submits that a connected petition by employees of the petitioner no.1 company being CRL.M.C. 6428/2023 is pending wherein interim order dated 05.09.2023 has been passed by this Court which reads as under:-

“4. Learned Senior Counsel appearing on behalf of the petitioners submits that the learned CMM passed the aforesaid order with knowledge that SARFAESI proceedings were initiated by M/s Cholamandalam Investment & Finance Ltd. (NBFC) and draws the attention of this Court to a judgment passed by the Hon’ble Supreme Court in **Priyanka Srivastava and Another v. State of Uttar Pradesh and Others, (2015) 6 SCC 287**, wherein it was held as under:-

“33. At this juncture, we may fruitfully refer to Section 32 of the Sarfaesi Act, which reads as follows:

“32. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any secured creditor or any of his officers or manager exercising any of the rights of the secured creditor or borrower for anything done or omitted to be done in good faith under this Act.”

In the present case, we are obligated to say that the learned Magistrate should have kept himself alive to the aforesaid provision before venturing into directing registration of the FIR under Section 156(3) CrPC. It is because Parliament in its wisdom has made such a provision to protect the secured creditors or any of its officers, and needless to emphasise, the legislative mandate has to be kept in mind.

34. In view of the aforesaid analysis, we allow the appeal, set aside the order passed [Priyanka Srivastava v. State of U.P., Criminal Misc. WP No. 24561 of 2011, decided on 23-12-2011 (All)] by the High Court and quash the registration of the FIR in case Crime No. 298 of 2011, registered with Police Station Bhelupur, District Varanasi, U.P.”

5. It was submitted that the present petitioners were employees of the aforesaid NBFC, i.e., M/s Cholamandalam Investment & Finance Ltd. at the relevant time.

6. It is pertinent to note that in the FIR which has been registered on the complaint of respondent no. 2, it is stated as under:

“The above named Amit Srivastava and the Directors of M/s



Cholamandalam Investment & Finance Ltd. (NBFC) had cheated us in calculated manner after the direction given by the Hon'ble DRT that only the mortgaged property i.e. 1st and 2nd floor of the property bearing No. WZ-267, Jail Road, Nangal Rai, New Delhi-110046 was need to take physical possession. But the above said persons with malafide intention illegally and fraudulently, forged and fabricated documents and with the connivance of the Directors of Mohan Ram Trading Pvt. Ltd. has illegally sold the whole property and issued the same certificate.”

7. On a pointed query to the Investigating Officer, who is present in Court, with regard to the alleged fabricated documents as stated in the aforesaid FIR, he submitted that no such documents were annexed with the complaint.”

5. Learned Senior Counsel submits that petitioner no. 2, Ravinder Kumar Kundu is the Managing Director and he has been summoned. He further submits that the petitioners are ready and willing to join the investigation as and when called by the concerned Investigating Officer. It is further submitted that since petitioner No. 2 is a resident of Chennai, Tamil Nadu, the IO may accommodate him for visit for the purpose of investigation.

6. Issue notice.

7. Learned APP for the State accepts notice and seeks time to file a status report. Let the same be done before the next date of hearing.

8. Learned counsel appearing on behalf of respondent no. 2 accepts notice. Let a copy of the petition be supplied to counsel for respondent no. 2.

9. Response, if any, be filed before the next date of hearing, with an advance copy to learned counsel appearing on behalf of the petitioners.

10. List on 04.02.2025.

11. No coercive action shall be taken against the said petitioner No. 2, till the next date of hearing, on his joining the investigation before the concerned



Investigating Officer, by way of a notice in writing. The petitioner No. 2 shall be at liberty to seek an accommodation from IO for a convenient date who shall duly consider the same.

12. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

JANUARY 15, 2025/sn

Click here to check corrigendum, if any