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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CrI.M.C. No. 5116/2019**

CENTRAL BUREAU OF INVESTIGATION Petitioner
Through: Mr. Anupam S.Sharma, Mr.Prakarsh
Airan & Ms.Harpreet Kalsi,
Advocates

versus

S.K. GARG & ANR Respondents
Through: R-1 & 2 in person

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **23.11.2020**

(Through Video Conferencing)

CrI.M.A. No. 16178/2020

Exemption allowed, subject to just exceptions.

CrI.M.C. No. 5116/2019 & CrI.M.A. 16177/2020

The matter is indicated to have been renotified for the date 11.1.2021 when it could not be taken up on 20.5.2020 and taken up on CrI.M.A. No. 16177/2020 filed on behalf of the CBI seeking an extension of the interim orders dated 11.10.2019 in the instant case as well as the interim order dated 2.12.2019 whereby vide the order dated 11.10.2019, the appearance of the Joint Director of the concerned Branch & Director of Prosecution was stayed and vide order dated 2.12.2019, the operation of the impugned order dated 20.8.2019 was stayed. It has been submitted through the application Cr.M.A. 16177/2020 that the learned Trial Court vide order dated 10.11.2020 has observed to the effect:



“On perusal of the record, I find that Hon'ble High Court of Delhi had stayed operation of order dated 20.12.2019 as passed in his case. By virtue of mandate of directions issued by Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt. Ltd. v. CBI (2018) 16 SCC 299, such stay had to lapse/vacate on expiry of 6 months from date of such order. The said 6 months expired on 02.05.2020 i.e. during lockdown period. During such period, Hon'ble High Court of Delhi vide general order passed in WP (C) 3037/2020, had been extending the interim orders passed in all such cases. But, even in that proceeding as per order dt. 20-10-2020, now there is no more further direction for extension of any interim order like stay orders etc. Thus, by virtue of directions given by Supreme Court in the case of Asian Resurfacing of Road Agency Pvt. Ltd. (supra), in absence of further extension of stay order by High Court of Delhi, CBI has to comply with the directions given by this court on 20.08.2019. Neither any further stay order has been received by this court, nor any such order has been presented before this court by ld. PPs till date. In these circumstances, CBI is directed to either comply with the aforesaid directions or they must ensure that they get further extension of stay from Hon'ble High Court of Delhi before next date of hearing. It is made clear that if they do not get further stay, IO must file the supplementary chargesheet as per directions already given.”

In view of the aspect that the matter is *sub judice* in the Crl.M.C. No. 5116/2019 and vide orders dated 11.10.2019 and 2.12.2019 there was a stay of the directions of the learned Trial court for appearance of the Joint Director of the concerned Branch and Director of Prosecution as the operation of the impugned order dated 20.8.2019 whereby the learned Special Judge had directed the appearance of the Joint Director of the concerned Branch and the Director of Prosecution to explain as to why the investigation was not



conducted in the manner as directed by the Court despite orders dated 20.8.2019 qua which the submission made on behalf of the CBI to the effect that the directions were premature and that the investigation was still going on and, if needed, a separate charge sheet would be filed, with submissions having made on 2.12.2019 that the learned Special Judge, was of the view that vide the order dated 11.10.2019 there was only a stay of the appearance of the Director of Prosecution the Joint Director of the concerned Branch, without any stay of the operation of the impugned order with regard to the filing of the charge sheet for different transactions with the submission made on behalf of the petitioner that the investigation was in progress and appropriate steps will be taken as per the evidence collected during the investigation with it having been submitted that there was thus interference in the investigation being conducted, presently the interim orders dated 11.10.2019 and 2.12.2019 specifically directing the stay of operation of the impugned order dated 20.8.2019 of the learned Special Judge is extended till the next date of hearing. The response of the respondents No.1 and 2 to the petition be filed before the next date of hearing within a period of two weeks with an advance copy being supplied to the CBI and the rejoinder, if any, of the petitioner be also filed within two weeks thereafter.

The matter in the circumstances, be renotified for the date 11.1.2021.

ANU MALHOTRA, J

NOVEMBER 23, 2020/SV