

**(SHOW CAUSE NOTICE BEFORE ADMISSION)
IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE TWENTIETH DAY OF NOVEMBER

TWO THOUSAND AND TWENTY

: PRESENT:

THE HON'BLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NOS: 5842 & 5732 OF 2020

CRL.P. NO. 5842 OF 2020:

Between:

Suresh Gupta, S/o. Radhakrishnan Ramaswamy,

Petitioner/Accused No. 7

AND

1. The Central Bureau of Investigation, ACB Hyderabad Police Station, rep. by its Special Public Prosecutor, High Court Buildings, at Hyderabad.
2. M/s. IFCI Limited, rep. by Deputy General Manager Law, Having its office at IFCI, Taramandal Complex, Saifabad, Lakdi ka Pool, Hyderabad-500 004, also at IFCI Limited, IFCI Tower, 61 Nehru Place, New Delhi-110 019.

Respondents

WHEREAS the Petitioner above named through his Advocate Sri Bommineni Vivekananda, presented this petition under Section 482 of Cr.P.C, praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to call for the records relating to FIR. No. RC0352020A0009, on the file of CBI ACB Police Station, Hyderabad, and quash the proceedings in the above FIR, against the petitioner/Accused;

AND WHEREAS the High Court upon perusing the petition and memorandum of grounds filed herein and upon hearing the arguments of Sri B.Narayan Reddy, Advocate representing Sri Bommineni Vivekananda, Advocate for the Petitioner, directed issue of notice to the Respondent No. 2 herein to show cause as to why this CRIMINAL PETITION should not be admitted.

You viz:

The Deputy General Manager Law, M/s. IFCI Limited, office at IFCI, Taramandal Complex, Saifabad, Lakdi ka Pool, Hyderabad-500 004, also at IFCI Limited, IFCI Tower, 61 Nehru Place, New Delhi-110 019.

are directed to show cause on or before 15.12.2020 to which date the case stands posted as to why in the circumstances set out in the petition and the memorandum of grounds filed therewith (copy enclosed) this CRIMINAL PETITION should not be admitted.

IA NO: 2 OF 2020:

Petition under Section 482 of Cr.P.C., praying that in the circumstances stated in the grounds filed in support of the criminal petition, the High Court may be pleased to grant stay of all further proceedings in FIR. No. RC035220A0009 on the file of CBI ACB Police Station, Hyderabad, including the appearance of the Accused and framing of the charges, pending disposal of Crl.P. No. 5842 of 2020, on the file of the High Court.

CRL.P. NO. 5732 OF 2020:

Between:

1. M/s. Trinethra Infra Ventures Limited, having its Registered Office at 210, Aditya Trade Centre, 2nd Floor, Ameerpet, Hyderabad, rep. by its Managing Director.
2. Sri P.V.V.R.R.L.N. Prasad, S/o. Koteswar Rao, R/o. 5-157, Palakonda Road, Rajam, Srikakulam District.

3. Sri P.Koteswara Rao, S/o. Veera Raghavulu, R/o. 5-157, Palakonda Road, Rajam, Srikakulam District.
4. Sri S.Subba Rao, S/o. Naguru, R/o. 210, Aditya Trade Centre, Ameerpet, Hyderabad.
5. Sri K. Ramana Shyam Kumar, S/o. K. Satyanarayana, R/o. 210, Aditya Trade Centre, 2nd Floor, Ameerpet, Hyderabad.

Petitioners/Accused No. 1 to 3, 5 & 6

AND

1. The State of Telangana, rep. by SHO, PS ACB, Hyderabad, through Spl. Public Prosecutor, High Court, at Hyderabad.
2. M/s. IFCI Limited, rep. by Deputy General Manager (Law), Having its office at IFCI, Taramandal Complex, Hyderabad-500 004.

Respondents

WHEREAS the Petitioners above named through their Advocate Sri Parsa Ananth Nageswar Rao, presented this petition under Section 482 of Cr.P.C, praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to quash the proceedings in FIR. No. RC0352020A0009, dated 2-11-2020 on the file of PS ACB, Hyderabad.

AND WHEREAS the High Court upon perusing the petition and memorandum of grounds filed herein, and upon hearing the arguments of Sri L. Ravichander, Senior Counsel representing Sri Parsa Ananth Nageswar Rao, Advocate for the Petitioners, directed issue of notice to the Respondent No. 2 herein to show cause as to why this CRIMINAL PETITION should not be admitted.

You viz:

The Deputy General Manager (Law), M/s. IFCI Limited, office at IFCI, Taramandal Complex, Hyderabad.

are directed to show cause on or before 15.12.2020 to which date the case stands posted as to why in the circumstances set out in the petition and the memorandum of grounds filed therewith (copy enclosed) this CRIMINAL PETITION should not be admitted.

IA NO: 2 OF 2020:

Petition under Section 482 of Cr.P.C., praying that in the circumstances stated in the grounds filed in support of the criminal petition, the High Court may be pleased to grant interim stay of all further proceedings in FIR. No. RC0352020A0009, dated 2-11-2020 on the file of PS ACB, Hyderabad, including the arrest of the petitioners, pending disposal of Crl.P. No. 5732 of 2020, on the file of the High Court.

**The Court made the following
ORDER:**

"Notice to 2nd respondent.

Personal notice is permitted.

List on 15.12.2020.

Crl.P.No.5732 of 2020 is filed by accused Nos.1 to 3 and 5 and 6 and Crl.P.No.5842 of 2020 is filed by Accused No.7 under Section 482 Cr.P.C in Crime No.RC0352020A0009, pending on the file of CBI, ACB Police Station, Hyderabad. The offences alleged against the petitioners herein are under Sections 13(2) r/w 13(1)(d) of PC Act, Section 120-B r/w 420, 468, 471 & 409 of IPC.

Sri L.Ravichander, learned Senior counsel representing Sri Parsa Ananth Nageswar Rao, learned counsel for the petitioner in Crl.P.No.5732 of 2020 would submit that as per

the contents of the complaint, loan was sanctioned in the month of October, 2010 and the facility was availed in the month of March, 2011. Respondent No.2 vide its order dated 04.11.2015 has reported the fraud to Reserve Bank of India (RBI) on certain grounds which are mentioned in the complaint specifically. By referring the same, learned senior counsel would submit that there is abnormal delay in lodging the present complaint.

He would further submit that the contents of the complaint lacks the ingredients of the offences under the provisions of the Prevention of Corruption Act, 2018 (for short 'the Act'), since the petitioners are not public servants as defined under Section 2(c) of the Act. He has also referred to Staff Accountability Report which says that as per prevalent practice, subsequent to the detection of the fraud, a committee (Staff Accountability Cell) was constituted by IFCI Factors Limited, to ascertain and fix the accountability of the officials involved, who had submitted its report dated 31.07.2015 itself. By referring the same, learned senior counsel would submit that ingredients of the offences alleged against the petitioners are lacking in the complaint. There is abnormal delay in lodging the complaint. He would further submit that petitioners 4 and 5/accused Nos.5 and 6 have already submitted their resignations on 31.07.2011 itself and they have also submitted Form-32 to the Registrar of Companies. Therefore, A-5 and A-6 are not at all responsible for the affairs of the company from the said date and they are not liable for the offences alleged in the complaint.

Sri B.Narayan Reddy, learned counsel representing Sri B.Vivekananda, learned counsel for the petitioner/A-7 in CrI.P.No.5842 would submit that the petitioner/A-7 is not having shareholding in A-1 company. He is only a formal Director and he is not responsible for day-to-day affairs of the A-1 company. With regard to other aspects, he has adopted the arguments of the learned senior counsel.

The above said aspects would reveal that Purchase Bill Factoring Agreement was entered on 13.10.2010. The facility was availed in the month of March, 2011. According to Respondent No.2 the fraud was detected in the year, 2013. Staff Accountability Cell was constituted by the 2nd respondent-de facto complainant to ascertain and fix the accountability of the officials involved and it had submitted its report dated 31.07.2015 pointing out certain irregularities. Even then, the 2nd respondent has lodged the complaint only on 02.11.2020, which shows that there is delay in lodging the complaint. There are several other factual aspects to be investigated into by the Investigating Officer. Whether the ingredients of the offences alleged against the petitioners are lacking in the complaint is also a matter to be investigated into by the Investigating Officer. The 3rd petitioner who is Executive Director of 1st petitioner company is 78 years old.

Considering the said aspects, the Investigating Officer in Crime No.RC0352020A0009 pending on the file of CBI ACB Wing, Hyderabad is directed to not arrest petitioners/A-1 to 3 and A-5 and A-6 and A-7 in the said crime. However, it is made clear that the investigation may go on."

//TRUE COPY//

Sd/- LNAGA LAKSHMI
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Station House Officer, Central Bureau of Investigation, ACB Hyderabad. ✓
2. The Deputy General Manager Law, M/s. IFCI Limited, office at IFCI, Taramandal Complex, Saifabad, Lakdi ka Pool, Hyderabad-500 004, also at IFCI Limited, IFCI Tower, 61 Nehru Place, New Delhi-110 019. (by RPAD- along with a copy of petition and memorandum of grounds) ✓
3. One CC to Sri Bommineni Vivekananda, Advocate [OPUC] ✓
4. One CC to Sri Parsa Ananth Nageswar Rao, Advocate [OPUC] ✓
5. Two CC to Sri K.Surender, Spl. Public Prosecutor for ACB, High Court, Hyderabad (OUT) ✓
6. One spare copy

HIGH COURT

KLJ

DATED:20-11-2020

NOTE: POST ON 15.12.2020

NOTICE BEFORE ADMISSION

CRLP.Nos.5842 & 5732 of 2020

DIRECTION

