01.07.2022
Item No.28.
Mithun
Ct.42

CRR 2087 of 2022

Aashish Jhunjhunwala
Vs.
The State of West Bengal & Anr.

Mr. Milon Mukherjee, Sr. Adv.
Mr. Ayan Bhattacharjee, Adv.
Mr. Pawan Kumar Gupta, Adv.
Mr. Suman Majumdar, Adv.
Ms. Ritu Das, Adv.

…for the petitioner.

In the year 2014, the United Bank of India declared the account of the petitioner "fraud" without declaring him a willful defaulter. On 12nd June, 2017 FIR was filed by the United Bank of India with CBI under Section 120B/420 of the Indian Penal Code since the account of the petitioner was declared as fraud. As per RBI Circulation, the bank was under obligation to lodge FIR in case the account of any customer to be declared as fraud. Thus, complaint was lodged as per the said RBI Circulation. The petitioner approach this Court for quashing of the FIR and the case instituted against him by the CBI in CRR No.907 of 2018. A Coordinate Bench of this Court passed an order directing stay of all further proceedings in a limited period of time. Subsequently this Court extended interim order of stay granted by this Court initially on 14th August, 2018 to remain in force till disposal of the said criminal revision. On 10th February, 2020, ECIR was registered by the Enforcement Directorate on the basis of the FIR made by CBI, operation of which was already been stayed in CRR No.907 of 2018. In a coordinate proceeding, this Court passed an order on 21st April, 2022 directing the petitioner to co-operate with the investigating agency as a condition of interim bail order in a writ petition filed by the petitioner therein challenging vires of various provisions of Prevention of Money Laundering Act. On 24th May, 2022 a Coordinate Bench of Delhi High Court passed an order in WP (C) 8184/2022 & CM Application 24729/2022 holding *inter alia* that the petitioner was able to make out a prima facie case and the respondent bank was restrained from taking any steps or actions prejudicial to the petitioner on the basis of the order declaring petitioner's bank account as 'fraud'.

The instant revision is for quashing of the proceeding which was registered on the basis of ECIR No.KLZO/04/2020 dated 10th February, 2020.

Having heard Mr. Milon Mukherjee, learned Senior Counsel on behalf of the petitioner on careful perusal of the entire record, this Court is of the view that the petitioner has been able to make out an arguable case and the instant revision is admitted for hearing. The petitioner is directed to serve notice upon the opposite party No.2 though registered speed post with acknowledgment due and shall file affidavit of service within 3 weeks from the date of this order. Service upon the State of West Bengal shall be effected by delivery of a copy of the petition to the office of the learned Public Prosecutor, High Court, Calcutta.

In the meantime, the opposite party No.2 is prevented from taking any coercive steps in respect of the bank account and properties of the petitioner.

Matter to appear in the '**Monthly List of August, 2022'.**

Interim order of stay of all further proceeding in ECIR No.KLZO/04/2020 dated 10th February, 2020 be stayed till 6 weeks.

(Bibek Chaudhuri, J.)