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

+ **W.P.(CRL) 1793/2020 & CRL.M.A. 16064/2020, CRL.M.A. 3162/2021, CRL.M.A. 3165/2021, CRL.M.A. 4658/2021, CRL.M.A. 10253/2021, CRL.M.A. 13565/2021, CRL.M.A. 20887/2021, CRL.M.A. 24704/2022**

ANKUR GUPTA

..... Petitioner

Through: Mr. M S Khan, Ms. Neha Khan and
Mr. M. Arshyan, Advocates

versus

THE UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Ravi Prakash, CGSC with Mr.
Farman Ali, Mr. Aman Rewaria,
Advocates
Mr. S.V. Tyagi, Advocate for Bank of
India
Mr. Amit Peswani, Advocate for
Ms.Nandita Rao, ASC for the State
Mr. Anupam S. Sharma, SPP with
Mr. Prakash Airan, Ms. Harpreet
Kalsi, Mr. Ripudaman Sharma,
Advocates for CBI.
Mr. Ruchir Bhatia, Sr. Standing
Counsel, Income Tax.
Mr. Mohit Mathur, Sr. Advocate with
Mr. Naveen Sharma, Mr. Shabbuddin,
Advocates for R-48.
Mr. O.P. Gaggar, Mr. Sachindra
Karn, Advocates for R-148 and R-153.

+ **W.P.(CRL) 1218/2022 & CRL.M.A. 11889/2022**

ANKUR GUPTA

..... Petitioner

Through: Mr. M S Khan, Ms. Neha Khan and

Mr. M. Arshyan, Advocates

versus

THE UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Amit Peswani, Advocate for
Ms.Nandita Rao, ASC for the State
Mr. Anupam S. Sharma, SPP with
Mr. Prakash Airan, Ms. Harpreet
Kalsi, Mr. Ripudaman Sharma,
Advocates for CBI.
Mr. Mohit Mathur, Sr. Advocate with
Mr. Naveen Sharma, Mr. Shabbuddin,
Advocates for R-9 to R-12.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

16.01.2023

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1. The instant writ petitions have been filed for taking necessary steps/legal action against the financial institutions and the companies alleging that financial institutions are extending loans to a select few companies which has resulted in huge amounts being siphoned off from the financial institutions and the nationalized banks. The Central Bureau of Investigation (CBI) and the Enforcement Directorate (ED) have been impleaded in the writ petitions.
2. The CBI and the ED have filed their Status Reports. It is evident from the Status Reports that FIRs have been registered against companies and also the bank officials who have given undue favours to these companies and investigations are being conducted by the CBI and criminal law has been set into motion by the registration of regular cases by CBI and

Enforcement Case Information Report (ECIR) by the ED wherever offences have been committed.

3. It is well settled that High Courts while exercising its jurisdiction under Article 226 of the Constitution of India cannot mechanically direct CBI or any other investigating agency to inquire into the transactions only on a possibility that some crime would have occurred. The High Court cannot merely proceed on the basis of ‘ifs’ and ‘buts’ and thinks it appropriate that inquiries should be made by CBI. [Refer : Secretary, Minor Irrigation & Rural Engineering Services, U.P. & Ors. v. Sangoo Ram Arya & Anr., (2002) 5 SCC 521].

4. The Apex Court in Disha v. State of Gujarat, (2011) 13 SCC 337, after considering a number of other decisions has held that High Court can transfer matters to CBI or any other investigating agency only when it is satisfied that the accused is a very powerful and influential person or that high officials are involved in the offence and, therefore, the investigation will not proceed in proper direction or there is a strong possibility that the investigation will be conducted in a biased manner.

5. This Court cannot be asked to conduct fishing and roving inquiry directing the investigating agencies to look into every transaction by the companies and the financial institutions which have been arraigned as Respondents in the present petition.

6. If the Petitioner has got any concrete material or information regarding commission of a crime, it is always open for the Petitioner to approach the Police/investigating agencies to look into the matter and to investigate into the allegations of the offence committed by the private Respondents and the bank officials. If the investigation into the complaint

reveals any cognizable offence, then FIRs will be registered and further steps would be taken by the investigating agencies. It is also settled law that in case the Police does not register FIR, it is always open for the complainant to file an application under Section 156(3) CrPC, before the Magistrate for registration of FIR. In fact, the Apex Court has warned the High Court against mechanical directions for registering FIRs without the complainant taking recourse to Section 156(3) CrPC. [Refer : Sakiri Vasu v. State of Uttar Pradesh & Ors., (2008) 2 SCC 409 & Priyanka Srivastava & Anr. v. State of Uttar Pradesh & Ors., (2015) 6 SCC 287].

7. In view of the fact that the investigating agencies, namely, CBI and the ED are looking into the cases and have filed Status Reports confirming that they are already investigating into certain matters and are registering FIRs, this Court is not inclined to proceed further in the instant writ petitions.

8. It is always open for the Petitioner to take such steps as permitted under law in pointing out specific suspect transactions to the authorities and the authorities will take action in accordance with law.

9. With these observations, the writ petitions are disposed of, along with the pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

JANUARY 16, 2023

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