

S/L.1  
11.01.2024.  
pk

**C. R. R. 164 of 2024**

Enforcement Directorate  
Vs.  
The State of West Bengal & Ors.

Mr. S.V. Raju, Id. ASGI,  
Mr. D. Trivedi, Id. DSGI,  
Ms. Debjani Ray,  
Ms. Sohini Dey,  
Mr. Ankit Khanna

...for the petitioner.

Mr. Kishore Datta, Id. Advocate General,  
Mr. Debasish Roy, Id. P.P.  
Mr. Anand Keshri.

... for the State.

1. The petitioner is the Enforcement Directorate (ED) constituted under the provisions of the Prevention of Money Laundering Act, 2002. They are aggrieved by an FIR No. 7 dated 05.01.2024 registered by the Nazat Police Station against them.
2. In respect of predicate offences, inter alia, in FIR No. 136 of 2020, ED have registered ECIR Case No. KLZO-1/04/2022 recorded on February 25, 2022 under the PMLA Act of 2002. The predicate offence is in respect of large scale corruption and loss to the state under the Public Distribution System, commonly referred to as the "Ration Scam".
3. In aid of the investigation into the said ECIR, the officials of the ED on the 5<sup>th</sup> January, 2024 duly empowered under Section 17 of the Act of 2002 assisted by the forces of the Central Reserve Police went to raid the residence of one Sajahan Sheik at under Nazat Police Station.
4. On reaching the spot at 7:15 A.M. (as per the version of one S.I. Pinaki Sarkar of Nazat Police Station and in-charge of Rajbari

Outpost), the house of Sajahan Sheik was found locked. Despite several attempts by the ED to contact Sajahan Sheik, except once, he was not available or accessible on mobile phone. His mobile phone number found continuously engaged for about half an hour after about 7:20 A.M.

5. However, around about 8:15 A.M. a mob around 3000 persons (as per the version of said Pinaki Sarkar) had converged at the place with sticks and stones only prevented the ED officials and the CRPF from doing their duties, but are also stated to have assaulted officers on duty of the ED. Injuries were sustained by the officials of the Enforcement Directorate. Counsel for the Enforcement Directorate Officials submits that certain articles and belongings to their officials were removed forcibly by the mob. There are also allegations of damage to and attack on, the vehicles of the C.R.P.F. as well as the ED.

6. It is submitted by counsel for the ED that as per the mobile tower location, Sajahan Sheik was personally present in the house and was responsible for mobilizing the mob.

7. Upon returning to the Police Station, S.I. Pinaki Sarkar files a typewritten complaint at about 1:30 P.M. which is registered as FIR No. 8 of 2024 dated 5<sup>th</sup> January, 2024. The FIR is signed by the officer-in-charge, Nazat Police Station, one Suvasish Pramanick.

8. Curiously, by this time, however, the Officer-in-charge appears to have already signed and registered another FIR at about 10:30 A.M in the morning being FIR No. 7 of 2024 on the same date i.e. 5<sup>th</sup> January, 2024. The said FIR No. 7 of 2024 was registered

immediately upon a complaint of one Didarbaksh Molla. The petitioner is aggrieved by this FIR for several reasons.

9. It is submitted that in respect of the incident the ED filed a formal complaint with the Nazat Police Station on 5<sup>th</sup> January, 2024 which is registered as FIR No. 9 of 2024 on 05.01.2024 under Sections 147/148/149/353/427/323/506/34 of the Indian Penal Code It is stated that despite the ED's complaint having clearly disclosed offences relating to Sections 307/333/326/149/143/148/186/189/426/435/440/341/342/109 and 115 of the Indian Penal Code, minor Sections have been registered in FIR No. 9 of 2024 in respect of the ED's formal complaint of the same date received by the police at 8.10 P.M. in the evening.

10. It is submitted by the ED that the FIR No. 7 of 2024 is illegal since it is in violation of Section 27 of the PMLA Act of 2002 prefixed by the Nazat Police and is based on a subsequently manufactured complaint. The said FIR No. 7 of 2024 is stated to be motivated at diluting and shifting focus away from the FIR Nos. 8 and 9 of 2024. There are other allegations made against the said police by the ED which need not be gone into at this stage.

11. Learned Advocate General submitted that the police acted in terms of the dicta of the supreme Court in the case of **Lalita Kumar Vs. State of U. P.** reported in **(2012) 4 SCC 1**, particularly para 119 and 120(1) thereof. Registration of the FIR can therefore not be interfered with by the High Court.

12. This Court however is reminded of the decision of the Supreme Court in the case of **State of Haryana Vs. Bhajanlal** reported in **1992 Suppl (1) SCC 335**. At paragraph 102 point no. 7 it was held

that a mala fide registration of an FIR is a ground for quashing the same. Point No.7 is set out hereinbelow :-

102. \*\*\*

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(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

13. An Officer-in-charge, who has registered an FIR and signed it at 10:30 A.M. in the morning on the complaint of one Didarbaksh Molla would not have signed another FIR on the same day against a complaint of S. I., Pinaki Sarkar of the same P.S., against G.D. No. 138 at 1:30 P.M.

14. There is clear inconsistency between the two FIRs, which disclose completely different versions of the incident. The Court's mind is not free from doubt that the FIR No. 7 may have been pre-timed based on a procured complaint, to show prior FIR on the same day against the officials of the ED. The allegations of the learned counsel for the ED cannot therefore be brushed aside.

15. In the above circumstances, this Court is desirous of looking into the case diaries and the original two documents being FIR No. 7 of 2024 and FIR No. 8 of 2024 dated 05.01.2024 registered by the Nazat Police Station, Barishat Police District which shall be produced on the adjourned date.

16. The State shall explain the aforesaid inconsistencies. Any other steps taken by the State to address any omission on the part of their officials shall also be disclosed.

17. Pending hearing of this revisional application, let further proceedings in respect of FIR No. 7 of 2024 dated 05.01.2024 remain stayed until 31<sup>st</sup> March, 2024.

18. List the matter on 22<sup>nd</sup> January, 2024.
19. Let affidavit-in-opposition to the main revisional application be filed by the State by 18<sup>th</sup> January, 2024, Reply, if any, thereto be filed by the petitioner by the adjourned date.
20. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**