

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 1834 of 2021

Petitioner :- Shriram Ram

Respondent :- State of U.P. and others

Counsel for Petitioner :- Akhilesh Kumar Mishra, Akhilesh Kumar Singh, Chandra Kumar Rai, Gyanendra Prakash Srivastava, Rajesh Kumar Yadav, Sunil Kumar

Counsel for Respondent :- Hari Om Sharan Tiwari, Rajiv Lochan Shukla, Sanjay Shukla, Syed Ahmed Faizan, Zaheer Asghar

Hon'ble Siddharth,J.

Hon'ble Prashant Kumar,J.

Order on Criminal Misc. Exemption Application

1. This application has been filed seeking exemption of appearance in Court by the Director General of EOW.
2. For the reasons mentioned in the accompanying affidavit, the exemption application is allowed.

Order on main petition

3. Heard Sri Rishabh Raj, Sri Satyendra Nath Srivastava, Sri Manoj Kumar Mishra, Sri Bhashaj Puri, Sri Sunil Kumar, learned counsel for the petitioners/investors, Sri Manish Goyal, Additional Advocate General assisted by Sri A.K. Sand, Government Advocate, Sri Shashi Prakash Singh, Assistant Solicitor General of India with Sri Manoj Kumar Singh, Advocate for Union of India, Sri Rohit Tripathi, counsel for Enforcement Directorate.
4. In pursuance of order dated 29.05.2024, status reports have been

submitted by Enforcement Directorate and S.F.I.O. before the Court today, which are taken on record.

5. Sri A.V. Rajamouli, Secretary (Home), Sri Prashant Kumar, presently posted as I.G., EOW, Sri Ravi Gautam, Investigating Officer/Assistant Director, Enforcement Directorate, Sri Umesh Gupta, Senior Assistant Director, S.F.I.O. and Sri Nitin Srivastava, Ex-Investigating Officer, S.F.I.O. are present in the Court.

6. In this case, the accused started a Company in the name of M/s Shine City Infra Project Pvt. Ltd., which was a Multilevel Marketing Company. Apart from this, the accused had incorporated various other Companies. Some of them are as follows :-

- (i) Arise Infra Properties Marketing Pvt. Ltd.
- (ii) Arise Real Estate Marketing
- (iii) Click For Life Yatra Pvt. Ltd.
- (iv) Dream Home Infra Project
- (v) Duaa Welfare Society
- (vi) Kashira Properties
- (vii) M/s Shine City Dream Realestate
- (viii) Quick Deal Online Shopping
- (ix) Quick Deal Online Trading Pvt. Ltd.
- (x) Shine City Builders
- (xi) Shine City Charioteer of Reliable Services Pvt. Ltd.
- (xii) Shine City Coloniser Pvt. Ltd.
- (xiii) Shine City Construction Pvt. Ltd.

- (xiv) Shine City Developers Pvt. Ltd.
- (xv) Shine City Dream Home
- (xvi) Shine City Dream Realtor
- (xvii) Shine City Erector Pvt. Ltd.
- (xviii) Shine City Foods and Media Pvt. Ltd.
- (xix) Shine City Infra Height
- (xx) Shine City Infraproject Pvt. Ltd.
- (xxi) Shine City Properties Pvt. Ltd.
- (xxii) Shine City Proxima Developers
- (xxiii) Shine City Realestate Pvt. Ltd.
- (xxiv) Shine City Realtors Pvt. Ltd.
- (xxv) Shine City Sealight Builders
- (xxvi) Shine City Shapers Pvt. Ltd.
- (xxvii) Shine City Shoppers
- (xxviii) Shine City Villa Developers
- (xxix) Shine Join Jewellery Trading Pvt. Ltd.
- (xxx) Shine Join Pvt. Ltd.
- (xxxi) Shinegenex Pvt. Ltd.
- (xxxii) Shinekemflw India Pvt. Ltd.
- (xxxiii) Tashi Developers
- (xxxiv) We The Power

7. Apart from the aforesaid Companies, the accused have made a web of Companies, under which they were launching various kinds of such schemes, which included certain schemes, which were not legal and were being operated without taking proper permission/licence from the authorities. It is alleged by the petitioner the accused has various other Companies, where

directors were the close confidante of the accused, and had been used for siphoning off the funds of the investors.

8. As per the averments made in the bunch of writ petitions, thousands of crores of rupees have been collected under various schemes of lacs of investors and the same were illegally taken away by the accused. It has further been alleged that the accused were involved in laundering of money of various Mafias including a local Mafia namely, Ateeq Ahmad.

9. It is averred that in one of the schemes, the accused had promised to give plot to the investors, they had collected around 237 crores of rupees and, thereafter cheated and duped around 1647 customers, with the result around 284 FIRs have been registered against the accused.

10. It is only after filing of the writ petitions and intervention of this Court, that few of the accused were arrested, but the main accused Rashid Nasim, who was arrested in Nepal for identical activities, managed to slip out of the country and ran away to Dubai and is staying comfortably there.

11. In spite of several directions, the accused were not arrested nor action had been taken against them, hence, this Court vide order dated 01.09.2021 had held as under :-

“It is made clear that if the remaining accused are not arrested by the next date of hearing, the Director General of Police, State of U.P. would remain present to see the affairs of the police as sufficient time has already been given to arrest the accused which includes two accused out of country and

shown to be the main accused.”

12. This Court on 04.10.2021 has further held as follows:-

“It is informed that two main accused are out of the country and passport of one accused has been cancelled by the Ministry of External Affairs. We failed to understand that why the request for cancellation of passport was not made immediately when 284 FIRs were registered against the accused and why the Ministry of External Affairs has cancelled only one passport out of two while requests was sent by the Police simultaneously. In any case, we find that despite cancellation of passport, the information to the Embassy of foreign country, where the accused are residing, has not been given so as to deport them. It is also that one accused, who is represented through the counsel in this proceeding and is available in India has not yet been arrested. This Court intended to make serious observation about the working of the Police and Economic Offences Wing, however, on the request of Sri Manish Goyal (Additional Advocate General), we are adjourning the matter for two weeks to see further efforts of the Police/Economic Offences Wing to arrest the two main accused apart from others against whom warrants of arrest have been issued. Respondents would be expected to send a copy of this order to the Ministry of External Affairs to know about the proceedings and the order passed therein. It is take immediate action for cancellation of passport of other accused and information to the concerned Embassy.”

13. This Court on 17.10.2022 in connected Criminal Misc. Writ Petition No.2230 of 2022 has held as follows:-

“6. Apparently, no serious efforts have been made either by the SFIO or ED even in trailing of money which was deposited in various bank accounts of the Sun Shine City Group of Companies despite the fact that accounts have been seized.

7. Even the State has not shown seriousness in investigation, as number of documents furnished by the counsel appearing for various parties or

representing the investors, who may not be a party to any litigation pending before this Court with regard to cryptocurrency, namely Shine V. Coin (SVC) and Get the Vectory Coin (GDVC) have not been examined. The information thereof was furnished to the officers present in Court on the last date of hearing.

8. In the writ petition filed by the Shine City Infra Project Private Limited, the details have been furnished with reference to various FIRs registered against the Company and its promoters/directors, where after receipt of sale consideration, possession of the plots have been delivered.

10. On the next date of hearing, the Director, Enforcement Directorate, New Delhi, the Director, SFIO, New Delhi and the Director General, Economic Offences Wing, U.P., Lucknow shall appear in person.”

14. This Court has further passed order on 04.11.2022 in connected Criminal Misc. Writ Petition No.2230 of 2022, the relevant paras whereof are quoted below :-

“10. We feel that better coordination in all three Investigating Agencies may be more useful to bring the case to its logical end as the investigation is continuing ever since the first FIR was registered way back in the year 2019. The matter was thereafter transferred to the Economic Offences Wing and subsequently Enforcement Directorate and Serious Fraud Investigation Office were also involved.

11. At the time of hearing, learned counsel for the writ petitioners pointed that YouTube Channel and other platforms of social media are being utilized by main accused Rashid Naseem along with other co-accused to defraud the people.

12. The Investigating Agencies are required to look into that aspect of the matter also to save further defrauding of innocent people.”

15. This Court on 25.11.2022 was pleased to pass the following order :-

“1. Affidavits filed by Economics Offences Wing of the State (for short

'E.O.W.')

in Crl. Misc. Writ Petition No. 2230 of 2022 and supplementary affidavit filed by the petitioner in Crl. Misc. Writ Petition No. 5494 of 2021 are taken on record.

2. ***Despite repeated orders and regular monitoring of the investigation in the matter, where large number of investors have been duped by Shine City Group of Companies, prima facie, we are not satisfied with the manner in which investigation is being carried out. Apparently, there is no co-ordination between three different agencies involved in the investigation, namely, E.O.W., Enforcement Directorate (for short 'E.D.') and Serious Fraud Investigating Office (for short 'S.F.I.O.').***

3. ***What was noticed earlier and also seen today is that large information is being furnished by counsel for the investors, who have been duped, and they are providing material to the Investigating Agencies to proceed further with the investigation, which is, in fact, job of the Investigating agencies. But despite receipt of that material also, there is no positive approach apparent. This is despite the fact that heads of three aforesaid Investigating Agencies were directed to appear in person in Court with a view to sensitize them, however, things have not improved.***

4. ***Stage of investigation and progress made therein are sought to be placed before the Court in sealed covers by the E.O.W. and the E.D. We neither opened those reports nor taken the same on record as we felt that it is not necessary, keeping in view the status thereof as was apprised in the Court. The first F.I.R. for the offence was registered way back in the year 2019 by the State police and different agencies were involved at different times, however, still in the last three years, the investigation has not been taken to its logical end, instead the accused are spreading their business further. Now people are sought to be cheated by uploading videos on a You Tube Channel for promotion of their business.***

5. ***On the last date, we had noticed this argument of learned counsel for the petitioners, who had been cheated, that they had referred to You Tube***

Channel and other platforms of social media being utilized by the main accused Rashid Naseem along with other co-accused persons to defraud the investors. The Investigating Agencies were required to look into this aspect, however, till date as submitted by learned counsel for the petitioners, nothing has been done till date, rather the marketing campaign has increased further.

6. It was further pointed out in Court that the Investigating Officer of the case at the level of Deputy Inspector General of Police was changed on account of certain allegations of dereliction of duty and connivance with the accused. It was so reported in the newspaper of November 19, 2022, a new Investigating Officer was appointed.

7. The aforesaid fact is not disputed by learned counsel for the State. However, he did not know much details about the same, which shows that the persons, who come to assist him in Court, are not well equipped with the facts of the case. Exemption of personal appearance of the Officer heading the E.O.W. was granted on the last date of hearing as it was assured that complete information shall remain available with the Court.

8. Further newspaper report of November 20, 2022 published in Amar Ujala, Lucknow Edition, was referred to, which had reported that Dubai Office of Rashid Naseem has been sealed and it also reported that he has been arrested by Dubai police. The statement of the Director General of the E.O.W., Raj Kumar Vishkarma is also mentioned in the aforesaid newspaper stating that he does not have any information about the same, however, he will verify the same but till today, learned counsel for the State did not have any information about sealing of the Office of Rashid Naseem at Dubai or about his arrest despite the fact that this was in the knowledge of the Director General of the E.O.W. but he deemed it appropriate not to brief the State Counsel in this regard.

10. Further what transpires at the time of hearing is that on November 11, 2022, raid was conducted at a Farm House in Bachhrawan from where certain computer devices, mobile phones and documents were recovered.

*Though fifteen days have gone by but till date, what contained in those devices or hard copies seized from there, **has yet not been analyzed.** The speed of investigation is evident from this.*

11. Learned counsel appearing for Union of India, S.F.I.O. and E.D. submitted that investigation is being carried out and it will take some more time. The communication have been sent to the Government of U.A.E. and U.K. but the fact remains that none of the You Tube Channels, which are playing the advertisement issued by Rashid Naseem, have been blocked despite our observations to that extent in the previous order.

12. Adjourned to November 30, 2022.”

16. Thereafter, on 30.11.2022, following order was passed by this Court :-

“1. On the last date of hearing, learned counsel for the petitioner had referred to a news item stating that Rashid Naseem had been arrested in Dubai and his office there had been sealed. There is no definite information available with any of the counsel appearing for the respondents about that fact. The only answer is that it has been written to the Consulate in Dubai to ascertain these facts. He has sought for certain information that shows the matter is in correspondence only.

*2. With reference to **blocking the social media channels or platforms still indulging in promoting the business of the Shine City Group of Companies, also the matter is still in correspondence. No effective result is there. Similar is the position with reference to extradition of Rashid Naseem. It is pointed out at the time of hearing that none of the Investigating Agency has yet approached the Ministry of Information & Technology for doing the needful for blocking the social media platforms being used by the accused (Shine City Groups of Companies) and its promoter directors.***

3. From what transpired at the time of hearing, it is evident that there is lack of coordination between the three agencies investigating the case. Learned counsel appearing for Enforcement Directorate submitted that the request made by them to the State for supply of certain documents has not been

answered whereas the stand taken by the State is that whatever documents were available with them or asked for have already been supplied. Even the data retrieved from the electronic devices seized from a recent raid have also been supplied.

4. Learned counsel appearing for SFIO submitted that at least three months time be granted for putting concrete result of the investigation being carried out in the matter, as large data is to be processed.

5. Learned counsel for the Enforcement Directorate also seeks reasonable time, which according to him would be forty five days to sixty days.

6. Red corner notice has already been issued against Rashid Naseem and Central Bureau of Investigation is the coordinating agency for the purpose, otherwise for extradition, it is the Ministry of External Affairs.

7. Let Mr. Gyan Prakash, Deputy Solicitor General of India attached to this Court representing Central Bureau of Investigation be informed by the Registry for appearance in the case in hand.

8. Adjourned to December 12, 2022.”

17. Thereafter, the matter was listed on 15.12.2022, and this Court passed the following order :-

*“1. On the last date of hearing, learned counsel appearing for the investors had pointed out that Rashid Naseem and other functionaries of Shine City Groups of Companies were arrested in Nepal in the year 2019. Though, it was pleaded in Crl. Misc. Writ Petition No.5494 of 2021, about a year back, but none of the counsel had any information about the same. The second supplementary affidavit has been filed today in the aforesaid writ petition. Certain more information has been furnished regarding their release after submission of bail bonds in cash to the tune of Nepali Rupees 70 lacs. At page 57 of the aforesaid writ petition, a news item was placed on record that Asif Naseem and other accused were arrested in Nepal and released in coordination with the Ministry of Foreign Affairs. May be, **if an Indian***

citizen is arrested abroad, the Government of India has to help him out but not without verifying his credentials in the country, and in case he is a criminal, he has to be brought back to the country to face investigation, trial and ultimate justice. But as suggested by the learned counsel for the investors, Rashid Naseem was never brought to India and of his own, he never came rather went from there to Dubai, where he expanded his business, which is still continuing.

2. It was only after the last order was passed that the Economic Offence Wing(E.O.W.) got up from slumber and recorded the statement of Asif Naseem son of Naseem Khan, who is in custody. He admitted the factum of arrest of Rashid Naseem in Nepal and also that they had sought help from the Indian Embassy there, and with the help of Foreign Ministry, they were released from jail.

3. Mr. Shashi Prakash Singh, learned Additional Solicitor General of India to apprise the Court about the aforesaid sequence of facts by filing an affidavit of the officer concerned.

4. He shall also apprise the Court about the status of the request received by the Ministry of Information Technology about blocking of various social media channels on which the videos are still being uploaded by Rashid Naseem and other functionaries of the Shine City Groups of Companies, who are still promoting their business sitting abroad. Immediate action in the same is expected, if the authorities are serious about investigation of the case and save thousands of people from being defrauded.

5. We are constrained to note that the authorities are feeling helpless in getting information from Dubai even about the arrest or sealing of office of Rashid Naseem, as against that the investors, who may not have that kind of facilities available, have placed on record in the second supplementary affidavit filed today, i.e. December 15, 2022 regarding various companies floated by Rashid Naseem in Dubai, and the kind of business being carried

on by him. It only shows that there is lack of seriousness in the process of investigation by the three agencies involved.

6. *On the last date of hearing, we had requested Mr. Gyan Prakash, Deputy Solicitor General of India to assist the Court on behalf of C.B.I. It was on account of the fact that Mr. Manish Goyal, learned Additional Advocate General submitted that a request was made to CBI on October 19, 2021 for issuing a circular for arrest of Rashid Naseem. In the instructions received by Mr. Gyan Prakash, the letter received from the State is referred to as October 31, 2022. Meaning thereby in case the State had sent the letter in October 2021, nothing was done in last one year in the process.*

7. *Further what transpired at the time of hearing today and was subject matter of arguments on the previous dates as well is that Rashid Naseem and other functionaries of the Shine City Groups of Companies were/are operating in different States in the country, but sad to note that the Investigating Agencies have not coordinated with any other State with reference to the material collected or the modus operandi of the accused or the person involved and further to find out the trail of money. It was further pointed out by learned counsel for the investors that Aqib Naseem brother of Rashid Naseem, who is in India and had been operating the business of Shine City Groups of Companies, whose name finds mentioned in FIR No. 548 of 2020 and 753 of 2020, was not interrogated.*

8. *It was further pointed out that one of the wives of Rashid Naseem namely Salma Parveen is one of the main trustee in the Rahat Foundation. She has been shown as wife of Rashid Naseem there. Further she is shareholder in Bhavya Broadcast Company. There also she identifies herself as the wife of Rashid Naseem. No action against her.*

18. The relevant paragraphs of order dated 21.12.2022 passed by this Court are quoted below :

4. It was further pointed out that on a communication received from the Additional DGP (Crime), U.P. vide letter dated October 13, 2021, query was raised for certain clarification vide letter dated October 22, 2021 to which the reply was received vide letter dated October 31, 2022.

5. **As to why there was so much of delay in sending response to the query raised by CBI needs to be examined by the State.**

6. With reference to investigation of FIR nos.548 of 2020 and 753 of 2020, it was submitted by Mr. Manish Goyal, learned Additional Advocate General that Aqib Naseem brother of Rashid Naseem is absconding.

7. It further transpired at the time of hearing that **the passport number held by Rashid Naseem as mentioned in the Red Notice is R7498595**, valid up to February 21, 2028. A communication from the office of the Deputy Commissioner, Eastern Zone, Lucknow, dated August 28, 2020, addressed to Regional Passport Office, Lucknow, passport number as held by Rashid Naseem is mentioned as Z4982093. **In the aforesaid communication, request was made for cancellation of the aforesaid passport.** A communication dated July 9, 2021, from Regional Passport Office, Lucknow addressed to D.P.N. Pandey, Superintendent of Police, EOW, Lucknow has been referred to, mentioning therein that passport no.Z4982093 **was issued by the Consulate at Dubai.** As is evident from the affidavit dated July 9, 2021 filed by Babita Singh, Deputy Superintendent of Police, Economic Offences Wing, the aforesaid passport was issued to Rashid Naseem. It shows that **Rashid Naseem had multiple passports and was even able to get one issued at Dubai**, as well, though prior to that he was holding a passport issued in India.

8. This issue also needs to be clarified by Mr. Shashi Prakash Singh, learned Additional Solicitor General of India.

9. With reference to **investigation from the wives of Rashid Naseem**, it was pointed out that **the EOW has issued notices to them for appearance on December 22, 2022.**

11. Learned counsel for the investors also pointed out that Kasir Jilani is

having same Aadhar number with different name and father's name, whereas two different PAN numbers, on the basis thereof he has opened two different account in HDFC Bank, G.T. Road, Allahabad. Let these facts be placed on record.

19. Thereafter the matter was listed on 31.01.2023. The relevant paragraphs of order dated 31.01.2023 reads as under :-

3. Strange to note that the Investigating Agencies could not find the whereabouts of Rashid Naseem and his telephone number, whereas the people in India, one of whom is present in Court, are in regular touch with him and even meeting him.

5. Learned counsel for the petitioners has pointed out that even though the respondents claim that Red Notice has been issued for arrest of Rashid Naseem, however, the same is still not reflected on the official website of C.B.I., E.D. or Interpol. To this, learned counsel appearing for C.B.I. did not have any answer.

6. With reference to blocking of channels, on which the videos are still being uploaded by Rashid Naseem, learned counsel for the petitioners submitted that none of the channels have been blocked. The submission was controverted by Mr. Shashi Prakash Singh, Additional Solicitor General of India stating that five channels were blocked. However, this was found to be incorrect as the channels are still found to be operating, on which videos are being uploaded regularly, as one of the video, as submitted by the learned counsel for the petitioners, was uploaded about 6-7 hours back.

7. In case, all the channels being operated by Rashid Naseem for uploading the videos are not blocked before the next of hearing, the Secretary, Information and Technology Department, Government of India, shall appear in person in Court.

8. Learned counsel for the petitioners pointed out that in the list of most wanted criminals uploaded on the official website of U.P. Police, the particulars of Rashid Naseem have not been properly uploaded. There are

spelling errors and photograph has not been uploaded.

9. It was further pointed out that the audio recording of Investigating Officer, Sanwal Prasad in the case is being circulated, who is having conversation with Abhinav Deep, President of Shine City, for certain dealings with reference to the case in hand.

10. At this stage, Mr. Manish Goyal, Additional Advocate General pointed out that Sanwal Prasad was placed under suspension, however, subsequently his order of suspension was set aside by this Court vide order dated September 7, 2022 passed in Writ A No. 5450 of 2022. He has again been posted at Lucknow in Economic Offences Wing (EOW). That shows utter lack of seriousness on part of the administration?

20. In spite of the Court pointing out about Rahat Foundation and Bhavya Broadcast Company, no investigation seems to have been carried out by the agencies. The agencies are supposed to look into their activities and source of funds. The Investigating Officer would also apprise to Court as to why no action has been taken against them till date and whatever action has been taken after this Court's intervention, what was the outcome of the investigation.

21. Thereafter, the matter could not be listed and no proper investigation has been carried out by any of the investigating agencies. When the matter was listed next on 29.05.2024, this Court directed the concerned Officers of S.F.I.O., E.D. and E.O.W. to remain present in the Court today along with the relevant documents to apprise the Court about the progress of investigation by each agency.

22. Sri Ravi Gautam, Investigating Officer/Assistant Director, Enforcement Directorate present in Court. He apprised that the matter was referred to the Enforcement Directorate in January, 2021 and since then till date, land and other properties have been attached, which is worth Rs.127 crores. A specific question was put to the I.O. as to how much money/moeny trail has been collected till date. The answer was zero.

23. He submits that the Enforcement Directorate has investigated 28 Companies. However, the names of these 28 Companies has been pointed out by this Court in its earlier order. Apart from it, the Enforcement Directorate has made no effort to find out or to investigate about the other companies. In fact, counsel for the petitioners had been doing the job of the Enforcement Directorate. They had given a list of 60 Companies, which were involved in this scam, but surprisingly no step has been taken by the Enforcement Directorate to investigate about these Companies. He submits that till date he has only examined more than 100 bank accounts of various companies of the accused.

24. He further submits that out of Rs. 1050 crores collected by the group of Companies, Rs.454 crores has been given in advance to the land managers/aggregators to aggregate/purchase the lands. According to him, there were 20 land managers, out of which only one has been interrogated, and according to him, he was having six crores rupees of the Company given

as advance to him. The Enforcement Directorate has till date not even bothered to attach this amount and is absolutely silent about the fact as to why they had not even investigated against the other land managers till date.

25. He further apprises that advance brokerage of Rs.39.18 crores were given to various brokers, however, the E.D. has till date not bothered to investigate those brokers or took any step to get attach this amount.

26. It was apprised that advance of Rs.10.24 crores were given as loan but no efforts were made by the E.D. to find out or investigate to whom the money was given or find out the money trail.

27. He further stated that Rs.361 crores were shown as expenses and nothing has been done to verify the veracity of these expenses.

28. He further submits 70 crores have been advanced to the vendors, still E.D. had not even bothered to find out about those vendors and to attach this amount.

29. He further apprises that advance brokerage of Rs.39.18 crores was given. However, none of them have been interrogated till date nor any efforts were made to attach this amount.

30. Rs.10.24 crores were given as loans. However, no action has been taken till date against the people to whom the loans were given.

31. He further submits that Rs.361 crores were shown towards expenses, however, E.D. has not investigated about the genuinity/authenticity of these

expenses.

32. A specific question is put to E.D. as to how many bank accounts and transactions therefrom they have checked, but the I.O. was silent in the Court.

33. We are exasperated, and are holding back any comments against the I.O., who has thoroughly failed to investigate in this scam. We would request the Director, Enforcement Directorate to personally look into it, as to why investigation was not being carried out properly and ensure that the investigation of this is carried out.

34. Sri Umesh Gupta, Senior Assistant Director, S.F.I.O. and Sri Nitin Srivastava, Ex-Investigating Officer, S.F.I.O. are present in the Court. Sri Srivastava submits that only Rs.728 crores was inflow of the company of accused and of its 17 sister concerns. (These numbers also do not match with the numbers given by the I.O. of E.D. The pace of investigation of S.F.I.O. is also highly unsatisfactory.

35. Sri Prashant Kumar, presently posted as I.G., EOW as well as Sri A.V. Rajamouli, Secretary is present in Court and submit that the investigation has properly been carried out. As far as the last incident of executing the sale deed is concerned, they have ensured the Court that they would investigate in this matter.

36. Counsel for the petitioners submit that an email was sent on 16.12.2023 to E.D. copy whereof was marked to Director, S.F.I.O., Director, C.B.I, Chief

Secretary, Government of U.P. whereby a list of 60 Companies owned by the accused was given. He further submits that the petitioners have been sending information to the investigating agencies but neither any action was taken nor they even bother to look into it and find out as to whether such companies existed and the accused had any relation with those Companies. It is a shocking state of affairs where the investors and the lawyers on their own are providing information to the investigating agencies and still after getting the same, none of the investigating agencies has acted upon it.

37. Sri Rishabh Raj, learned counsel for the petitioners submits that there is hard copy along with email consisting details of various other companies of the accused, who have given C.R.M. Data to the investigating agencies on 01.12.2023, however, even after lapse of six months, none of the agencies have bothered to take any steps to recover C.R.M. Data, which is very crucial for the investigation. This shows seriousness of the investigating agencies in carrying out the investigation.

38. The Investigating Agencies should also investigate as to how hundreds of crores of cash were withdrawn from the bank and concerned departments/agencies had no knowledge about the same. RBI in its master Circular dated 04.05.1995 had made it mandatory for the banks to maintain a separate register for cash deposit and withdrawals of amount more than Rs.10 lakhs. However, vide Circular dated 20.09.1995, all the banks mandatorily

has to report about all the cash deposits and withdrawals of amount above Rs.10 lakhs. If the transactions were suspicious, fortnightly statement was to be sent to the controlling offices, who in turn would send it to the Head Office. The Investigating Officer would also look into as to whether the banks (from which huge amount of cash was withdrawn and deposited), had ever made any such report to the Head Officer and if yes, why no action was taken against the accused. A proper investigation should be carried out to find out as to where all the cash withdrawn from the bank has been parked/invested. E.D. shall further to find the trail of the said amount. Apart from it the trail of money through bank transactions shall also be investigated.

39. This Court feels that all these agencies have utterly failed to carry out the investigation properly. The entire investigation has been carried out in most lackadaisical manner. All these investigating agencies are directed to carry out proper investigation against the accused and the Companies and further put sincere efforts to find out the trail of all the money.

40. Ministry of External Affairs to file an **affidavit/better affidavit** showing the day to day progress about extradition of the fugitive accused, from the date request has been made.

41. It is directed that no further sale deeds shall be executed by the accused persons or their nominees or their managers in favour of any third party and the respondents authorities to ensure that none of the person, who is involved

in this case, shall leave the country.

42. The personal appearance of Director General/I.G. of E.O.W. and Secretary (Home) is hereby dispensed with, until and unless directed otherwise by this Court.

43. By the next date, the Ministry of External Affairs, Government of India shall file the detailed status report on extradition of the fugitive accused. Further, a status report showing the progress of the investigation should be filed by E.D., S.F.I.O. and E.O.W.

44. List this case on **01.07.2024 at 10.00 A.M.** for further hearing.

Order Date :- 31.5.2024
Manish Himwan

(Prashant Kumar, J.) (Siddharth, J.)