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

Judgment reserved on: 19.09.2023

Judgment pronounced on: 18.12.2023

\+ **CONT.CAS(C) 232/2015, CM APPL. 40592/2019, CM APPL. 14365/2021**

THE STATE TRADING CORPORATION OF INDIA LTD
..... Petitioner

Through: Mr. Dinesh Agnani, Sr. Adv. with Ms. Madhu Sudan Bhayana, Mr. Vikrant Rana, Advs.

versus

SHEELA ABHAY LODHA & ORS ..... Respondents

Through: Mr. Siddharth Dave, Sr. Adv., Mr. Jeevesh Nagrath, SPP

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\+ **CONT.CAS(C) 233/2015, CM APPL. 14364/2021, CM APPL. 40625/2019**

THE STATE TRADING CORPORATION OF INDIA LTD
..... Petitioner

Through: Mr. Dinesh Agnani, Sr. Adv. with Ms. Madhu Sudan Bhayana, Mr. Vikrant Rana, Advs.

Versus

MS SHEELA ABHAY LODHA & ORS. ..... Respondents

Through: Mr. Siddharth Dave, Sr. Adv., Mr. Jeevesh Nagrath, SPP

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

: **JASMEET SINGH, J**

CONT.CAS(C) 232/2015

1. This is a petition seeking initiation of contempt proceedings for violation of the undertaking given on 04.08.2014 before the learned MM, Patiala House Court, New Delhi in CC No. 3452/1 titled "*The State Trading Corporation of India Ltd. v. Akshata Mercantile Pvt. Ltd. &Ors*.".

Brief Facts

2. The brief facts as per the Petitioner are as under:-

3. The Petitioner company filed a complaint under Sections 138, 141, 142 of the Negotiable Instruments Act, 1881(hereinafter "NI Act") against Akshata Mercantile Pvt. Ltd. (hereinafter "AMPL"), and Respondent Nos. 1 and 2, wherein it stated that Respondent Nos. 1 and 2, on behalf of AMPL, approached the Petitioner-company and requested financial assistance so that AMPL can purchase and import HR coil/HMS1 and 2 etc. (hereinafter "raw material") from domestic market as well as from overseas countries.

4. After various negotiations and discussions, Petitioner company consented to grant financial assistance to AMPL to buy from domestic market as well as overseas countries.

5. The Memorandum of Agreement (hereinafter "MOA") and the addendum thereto were executed and signed by and between the Petitioner and AMPL on 26.11.2007/23.04.2009 and 18.03.2008/22.05.2008 respectively, which contained all terms and conditions so agreed between

the parties.

6. As per Clause 1.0 of the MOA, it was the duty of AMPL to identify and finalise procurement of raw materials with foreign/Indian suppliers and inform to the Petitioner, details of quantities, specifications, price, shipment/delivery schedule etc. On receipt of details, the Petitioner was to sign contract with foreign/Indian suppliers and open foreign/Indian Letter of Credit (hereinafter "L/C") in favour of supplier for each indent/transaction. Further, it was the obligation of AMPL to discharge the amount of L/C on its respective due date. It was further stated in the MOA that overdue payment would attract interest @ 15%/18% per annum.

7. The Petitioner, on request of AMPL, opened 69 L/Cs in favour of suppliers, out of which 7 L/Cs became overdue much beyond their respective due dates, totalling to Rs. 124 crores (excluding interest). It is stated that the material in respect of these 7 L/Cs were duly received by the Respondent No. 1.

8. AMPL and Respondent Nos. 1 and 2issued 5 cheques bearing No. 013056 dates 30.06.2011 for Rs. 10 crores, cheque bearing No. No.013057 dated 20.07.2011 for Rs.15 crores, cheque bearing No.013058 dated 31.07.2011 for Rs.20 crores, cheque bearing No.013059 dated 20.08.2011 for Rs.20 crores and cheque bearing No.013060 dated 31.08.2011 for Rs.20 crores to the Petitioner towards discharge of their part legal debt liability amounting to Rs. 85 crores. All the said cheques were signed and issued by Respondent No.2 for and on behalf of AMPL. The Respondents assured the Petitioner that cheques are good for payment and same will be honoured by their bankers on presentation.

9. The Petitioner presented the cheques bearing No. 013059 dated

20.08.2011 for Rs. 20 crores and cheque bearing No. 013060 dated 31.08.2011 for Rs. 20 crores to its bankers for collection but both cheques were dishonoured on presentation with the remarks "Funds Insufficient". The Petitioner issued legal notice dated 09.09.2011 to the Respondent Nos. 1 and 2 and AMPL to liquidate amount of dishonoured cheques, but the same was not done despite receipt of the legal notice.

10. Criminal Complaint under Section 138 of the NI Act was filed by the Petitioner against AMPL and Respondent Nos. 1 and 2 in Patiala House Court, New Delhi on 22.10.2011 for dishonour of the cheques.

11. On 04.08.2014, Respondent No. 3 on behalf of AMPL and Respondent Nos. 1 and 2 apprised the learned Trial Court that proposal of AMPL dated 22.07.2014 has been accepted by the Petitioner, as per which AMPL had irrevocably undertaken to repay, without demur or protest, to Petitioner-company an amount of Rs. 10 crores to Rs. 15 crores each and every continuing month and ensure that the total outstanding of the Petitioner is liquidated within a period of 6 to 8 months. The payments were to start from 01.08.2014.

12. The outstanding liability payable by AMPL to the Petitioner was quantified at Rs. 1,00,05,39,803/-, and the same was reflected in the statement of account dated 31.07.2014 filed in the Trial Court on 04.08.2014.

13. On 20.10.2014, the complaint was returned to the Petitioner for filing the same in the appropriate court in view of the judgment passed by the Hon'ble Supreme Court in ***Dashrath Rupsingh Rathod v. State of Maharashtra,*** (2014) 9 SCC 129. The cheques were drawn on a bank branch located in Mumbai, hence, as per the judgment, courts of Mumbai

had the jurisdiction to try the case.

14. Subsequently, in view of the Negotiable Instruments (Amendment) Second Ordinance 2015, the complaints were refilled in Patiala House Court, New Delhi.

15. Since the Respondents did not make payments as per the undertaking given before the learned MM dated 04.08.2014, the present contempt petition was filed.

Petitioner's Submissions

16. It is argued by the learned counsel for the Petitioners that the Respondents have always acknowledged the liability which is due and payable to the Petitioner and never disputed the same. It has been time and again acknowledged and stated by the Respondents, including on 04.08.2014, that the matter has been settled between the parties and payments will be made to the Petitioner and some part payments have also been made. Thus, there is no dispute regarding the liability of the Respondents towards the Petitioner.

17. It is stated that the Respondent No. 3, being the General Manager of AMPL was duly authorised by the Board of Directors for giving undertaking before the Trial Court on 04.08.2014 on the instructions of AMPL and the Respondent Nos. 1 and 2, and has mislead the Trial Court to delay adjudication of the complaint of the Petitioner by giving such false undertaking.

Respondent's Submissions

18. It is stated by the learned senior counsel for the Respondents that the order dated 04.08.2014 cannot be read in isolation for the purpose of deciding whether any undertaking was flouted by the Respondents and the

same has to be read with the letter for proposal to settle dated 22.07.2014 and the statement recorded on 04.08.2014. The letter dated 22.07.2014 states that an amount of Rs. 10 to 15 crores will be paid each month to liquidate the total outstanding of the Petitioner within 6-8 months. The statement dated 04.08.2014 records:

> *"The present matter has been settled between us. In pursuance of the settlement the accused has filed letter dated 22.07.2014. The same is Ex. AW 1/1. The accused has agreed to abide by the contents of the said letter.* ***The AR of the complainant has agreed to release the goods as per the settlement.****"*

Thus, the statement/undertaking given before the learned Trial Court was a two-way statement wherein the Respondents agreed to make payments and the Petitioner agreed to release the goods.

19. It is argued that the Respondent issued request letters to the Petitioner seeking issuance of Delivery orders for the payment made towards the outstanding dues, however, the Petitioner did not issue any Delivery order and itself flouted the terms of the undertaking. It is further argued that the Petitioner, instead of releasing goods to AMPL, had admittedly sold the goods in open market by way of auction. The selling of goods would itself make the undertaking given before the learned Trial Court infructuous. It was also contended by the Petitioner in Court that the payment was made before the undertaking was given on 04.08.2014, however, since the payment was made in respect of the same debt, in view of receipt of the said payment, the Petitioner ought to have released the goods.

20. The contempt proceedings are not maintainable against the Respondent No. 1, as he had resigned from the board of AMPL on

24.11.2010 i.e. before the issuance of the cheques in question, and thus, he had no role to play in the cheque bouncing as well as the settlement with the Petitioner. Even the cheque bouncing cases have been quashed against the Respondent No. 1 by this Court vide judgment dated 19.11.2022 in Crl. MC No. 5213/2019 and Crl. MC No. 5219/2019 on these grounds.

21. The learned senior counsel argues that the Respondents have tendered an unqualified and unconditional apology by way of Affidavit-cum-reply dated 01.10.2015 filed in response to the present contempt petition. Therefore, it is *bona fide* and not an afterthought, and the Respondents should be discharged based upon the apology if this Court comes to the conclusion that the Respondents have committed contempt. Reliance is placed upon Section 12(1) of the Contempt of Courts Act, 1971 and ***Priya Gupta and Anr. v. Additional Secretary, Ministry of Health and Family Welfare and Ors.,*** (2013) 11 SCC 404.

22. It is further argued that the non-fulfilment of the undertaking dated 04.08.2014 has not led to any benefit accruing to the Respondents as the cheque bouncing cases are still pending against the Respondents. It is stated that the alleged non-fulfilment of undertaking is not of such a nature that it will substantially interfere with the due course of justice. Reliance is placed upon Section 13 of the Contempt of Courts Act, 1971 and ***Suman Chadha and Another vs. Central Bank of India*** (2021) SCC OnLine SC 564.

23. Mr. Dave, learned senior counsel further states that the undertaking given by the respondents was vague and conditional. There was no timeline given by the Respondents to make the payment.

24. Lastly, he submits that the complaint under Section 138 of the NI Act filed by the Petitioner against the Respondents has not been closed and the

proceedings are still continuing. For the aforesaid reasons, the contempt proceedings cannot proceed and the respondents must be discharged.

Analysis

25. I have heard learned counsels for the parties.

26. Since the fountain head of the present contempt case is Section 138 NI Act complaint and the complaint has already been quashed *vis-a-vis* the Respondent No. 1, I am of the view that Respondent No. 1 is not a contemnor in the present petition. This Court has held that the Respondent No.1 was not a Director of AMPL on the date when the cheques were issued. He was also not a Director on 04.08.2014, when the statement was made before the learned MM.

27. Further, the Respondent No. 3 is only an employee of AMPL and there are no allegations in the contempt petition that he is involved in the day-to-day affairs of AMPL or is the person who is guilty of non-compliance of the undertaking. Respondent No. 3 had given the undertaking for and on behalf of AMPL and not in his personal capacity.

28. Thus, I am of the view that no contempt is made out against Respondent Nos. 1 and 3, and they need to be deleted from the array of parties.

29. As regards the Respondent No. 2 is concerned, the Respondent gave an undertaking dated 22.07.2014 to repay without any demur or protest, an amount of Rs. 10 – 15 crores every continuing month. The undertaking given by the Respondent vide letter dated 22.07.2014 which is stated to be the settlement reads as under:

> "*This is with reference to the ongoing 138 cases. We here by irrevocably undertake to repay without any demur or protest to*

STC an amount of Rs. 10 Crores to 15 Crores each and every continuing month and ensure that the total outstanding of STC is liquidated within a period of 6 months to 8 months.

The payment will start from 01st August, 2014."

30. On 04.08.2014, the learned MM recorded the joint statement as under:-

"The present matter has been settled between us. In pursuance of the settlement the accused has filed letter dated 22.07.2014. The same is Ex.AW 1/1. The authority letter of AR is Ex.AW 1/2. The accused has agreed to abide by the contents of the said letter. The AR of the complainant has agreed to release the goods as per the settlement."

31. Thereafter, on 04.08.2014, the following order was passed by the learned MM:

"Authority letter filed. Same is taken on record.

Ld. Counsel for the complainant has also filed the proposal sent by the accused to the complainant regarding settlement. The same is taken on record.

As per the proposal, the accused has undertaken to make the entire payment within a period of 6-8 months, starting from 1st August, 2014. Let statement of AR of accused be recorded to this effect separately. Statement record.

Ld. Counsel for the accused has filed statement of account. Same is taken on record.

Now put up on 20.10.2014, to apprise the court regarding payment made by the accused. As prayed copy of order be given

dasti."

32. There is solemnity and seriousness attached to court proceedings. Parties to court proceedings cannot give undertakings without intending to honour them, or at least, they must make sincere and conscious efforts to comply with the same. If undertakings are given and the parties are permitted to resile from the same without any reasons, the judicial system cannot function. The Court in contempt proceedings is to ensure that the dignity and majesty of the Court are maintained and any act and conduct of a party tantamount to lowering the dignity and majesty of the Court would amount to contempt.

33. In ***Commr., Agra v. Rohtas Singh,*** (1998) 1 SCC 349, the Hon'ble Supreme Court held:

> *"6….A contempt proceeding is often described as a quasi-criminal proceeding because it results in punishment for the contemner. The proceeding, however, cannot be equated with the prosecution of a criminal by the State.* ***Contempt proceedings are essentially a matter between the court and the contemner. Contempt jurisdiction enables the court to ensure proper administration of justice and maintenance of the rule of law. It is meant to ensure that the courts are able to discharge their functions properly, unhampered and unsullied by wanton attacks on the system of administration of justice or on officials who administer it, and to prevent wilful defiance of orders of the court or undertakings given to the court.*** *That is why the Supreme Court and the High Courts have an inherent power to punish for contempt even dehors legislation pertaining to*

contempt of court.

7. This is apparent also from the definition of "contempt" under the Contempt of Courts Act, 1971. Two types of contempt are defined. Under Section 2(b), civil contempt means wilful disobedience of any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court. While criminal contempt is defined under Section 2(c) to mean the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise), of any matter or the doing of any other act whatsoever which — (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court; or (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. ***From this definition it is clear that the courts' power to punish for contempt is a power which is required in furtherance of proper administration of justice and preserving the authority of the court. This power is expressly preserved under Articles 129 and 215 of the Constitution. That is why the question of contempt is a question which is essentially between the court and the contemner****."*

(emphasis supplied)

34. In the present case, the Respondents undertook to repay the outstanding amount to the Petitioner. The statement was recorded on solemn affirmation by the AR of the accused/Respondent. Based on the undertaking

and the statement, the learned MM was pleased to record and put the 138 complaint after two months for reporting status of the payment.

35. The argument of the learned senior counsel for the Respondent that the undertaking was a conditional undertaking, and that there was no timeline fixed and no benefit derived by the Respondents is without merit.

36. The amount due and payable by the Petitioner to the Respondents is admitted by the Respondents as on 04.08.2014, and the Respondents themselves had filed the statement of account. The Respondents had also undertaken to pay Rs. 10 – 15 crores every month and to liquidate the total outstanding within 6 – 8 months starting from 01.08.2014. Hence, the terms of the settlement are neither vague nor devoid of timelines.

37. The reliance of Mr. Dave, learned senior counsel on the judgment of the Hon'ble Supreme Court in ***Suman Chadha v. Central Bank of India,*** 2021 SCC OnLine SC 564, is misconceived. Paragraph 25 of the said judgment reads as under:-

> *"25. It is true that an undertaking given by a party should be seen in the context in which it was made and (i) the benefits that accrued to the undertaking party; and (ii) the detriment/injury suffered by the counter party. It is also true that normally the question whether a party is guilty of contempt is to be seen in the specific context of the disobedience and the wilful nature of the same and not on the basis of the conduct subsequent thereto. While it is open to the court to see whether the subsequent conduct of the alleged contemnor would tantamount to an aggravation of the contempt already committed, the very determination of an act of contempt cannot simply be based upon*

the subsequent conduct."

38. It also cannot be said that no benefit has accrued to the Respondents and no injury has been suffered by the Petitioner because based on the settlement, the proceedings before the learned MM have been delayed. The learned MM, for a long period of time, was adjourning the complaint of the Petitioner in order to enable the respondents to make payments and comply with its undertaking.

39. The benefit accrued to a party and the detriment/injury suffered by another party is not to be measured only in terms of pecuniary loss or injury. The very fact that proceedings initiated by the Petitioner before the learned MM have been delayed on account of the undertaking and assurances given by the Respondents which it never intended to honour is itself benefit accrued to the Respondents and injury suffered by the Petitioner. The objective of contempt proceedings is to maintain dignity of the orders passed by the Courts. Even if no pecuniary loss/injury to the petitioner is made out, false assurance given by a party to the Court in the absence of injury would still make the party liable for contempt.

40. The contention of the Respondent that it had made payment of Rs. 8 crores on 01.07.2014 and despite the same, the Petitioner-company did not release the Delivery order, is also devoid of merits as there is nothing on record to show that the Respondent made payment of Rs. 10 – 15 crores every month after the undertaking dated 04.08.2014. The Minutes of meeting regarding reconciliation of accounts dated 21.12.2015 show Rs. 101,76,70,308/- as due and payable to the Petitioner by AMPL (even though the AMPL representatives did not agree to the above recoverable without citing any reasons). The reply filed by the respondent to the contempt

petition does not disclose the reasons as to why the undertaking given to the Court has not been complied with.

41. The fact that the petitioner had undertaken to release the goods was conditional upon the Respondent making payment which the Respondent never did. In addition, the Respondent also challenged the act of the Petitioner to dispose of the goods of the Respondents by filing an application being Notice of Motion (L) No. 2648/2014 in Suit No. 1108/2014 in Mumbai High Court. The learned Single Judge *vide* order dated 26.11.2014 permitted the Petitioner to sell the pledged goods of the respondents.

42. Further, the argument of the Respondent that they tendered an unconditional apology at the first instance on 01.10.2015 in their affidavit-cum-reply, making it *bonafide*, is also without merit. For this, reliance is placed upon Section 12(1) of the Contempt of Courts Act, 1971, which reads as under:

> *"12. Punishment for contempt of court.—(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.*
>
> *Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court.*
>
> *Explanation.— An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide."*

43. The Respondent has further relied upon ***Priya Gupta v. Ministry of Health & Family Welfare***, (2013) 11 SCC 404, which reads as under:

> *"7.Tendering an apology is not a satisfactory way of resolving contempt proceedings. An apology tendered at the very initial stage of the proceedings being bona fide and preferably unconditional would normally persuade the court to accept such apology, if this would not leave a serious scar on the dignity/authority of the court and interfere with the administration of justice under the orders of the Court.*
>
> *8.…All that we have to examine is whether the apology tendered is bona fide when examined in the light of the attendant b circumstances and whether it will be in the interest of justice to accept the same."*

44. I am of the view that the Respondent's reliance on the provision as well as the aforementioned judgment is misconceived.

45. The Court in ***Priya Gupta*** (supra) has also observed:

> *"8.'…Bona fide' is an expression which has to be examined in the context of a given case. It cannot be understood in the abstract. The attendant circumstances, behaviour of the contemnor and the remorse or regret on his part are some of the relevant considerations which would weigh with the Court in deciding such an issue. Where, persistently, a person has attempted to over-reach the process of Court and has persisted with the illegal act done in wilful violation to the orders of the Court, it will be difficult for the Court to accept unconditional apology even if it is made at the threshold of the proceedings. It is not necessary*

for us to examine in any greater detail the factual matrix of the case since the disobedience, manipulation of procedure and violation of the schedule prescribed under the orders of the Court is an admitted position….”

46. The afore-stated provision and judgment suggest that apology may be considered as a mitigating circumstance. However, the apology has to be seen with regard to the nature of disobedience and the pre and post circumstances surrounding the apology. In the present factual matrix, and the conduct of the Respondent to not make the payment as agreed between the parties and recorded as per the order dated 04.08.2014, as well as repeatedly ask for extensions in order to delay the proceedings, I am of the view that the apology of the Respondent cannot be said to be *bona fide*.

47. The fact that the criminal complaints under 138 NI Act are still pending does not mitigate the non-compliance of the undertaking dated 04.08.2014.

48. Respondent No. 2 is the Whole Time Director of AMPL and is responsible for the affairs of AMPL. Hence, it is the Respondent No. 2 who is responsible for non-compliance of the undertakings for and on behalf of AMPL before the learned MM.

49. For the said reasons, I am of the view that the Respondent No. 2 is guilty of contempt and must be punished accordingly.

50. The Respondent No. 2 is given 4 weeks to file a reply to show-cause as to why he should not be punished for contempt for non-compliance of the undertaking given before the learned MM on 04.08.2014.

CM APPL. 26480/2020(Modification)

51. This application has been filed with the following prayers:

"(a) Clarify that order dated 23-09-2016 passed by this Hon'ble Court is not a direction to CBI to register a Preliminary Enquiry (PE) rather the direction was to file a Preliminary Report regarding the settlement between the petitioner and M/s Akshata Mercantile Private Limited.

(b) Direct the CBI to quash/stop the Preliminary Enquiry (PE) bearing No. PE221/2016/E0008 dated 05-12-2016 against the respondents as the same has been registered without jurisdiction of the CBI.

(c) During the pendency of the application CBI may be restrained to convert the Preliminary Enquiry (PE) into a Regular Case (RC) as the counterblast to the present application by the Respondent no.1&2.

…"

52. The Hon'ble Supreme Court, vide order dated 25.08.2023 was pleased to direct to hear CM APPL 26480/2020 expeditiously. Pursuant to the said direction, the hearing of the matter was preponed from 19.10.2023 to 19.09.2023 and the matter has been heard.

53. On 12.10.2015, this Court was inclined to order an independent investigation as the manner in which the Petitioner and the Respondents had entered into a settlement in proceedings under Section 138 of NI Act was seemingly *'not above board'.* However, learned senior counsel for the Respondents had sought deferment of the order directing investigation and had stated that the Respondents would like to reconcile their accounts with the Petitioner and would make payments of outstanding amount, if any. On

this date, the Respondent No. 2 was present in Court.

54. On 23.09.2016, this Court passed an oral judgment in which it recorded that in pursuance of the order dated 12.10.2015, the Respondents have only paid Rs.10.50 crores to the Petitioner. Further, it recorded that in the additional affidavit filed by the Respondent No. 2, the Respondents have contended that they have made excess payment to the Petitioner and have to recover a sum of Rs. 2,28,39,832.44/-. However, the learned ASG stated that Rs. 1,041,872,755/- was still due and payable as on 30.04.2016, in pursuance to the settlement.

55. On 23.09.2016, this Court took a prima facie view that the conduct of the Petitioner and the Respondents was *'dubious'* and *'not above board'*, and directed a CBI examination of the entire transaction between the parties. The relevant portion of the said judgment reads as under:-

> *"8. Keeping in view the divergent stands as well as the wide gap in the amounts due and payable between the parties and the 'vague' settlement, this Court is of the view that is not possible to amicably resolve the matter.*
>
> *9. Consequently, keeping in view the order dated 12th October, 2015, this Court directs the Central Bureau of Investigation (CBI) to examine the entire transaction between the parties including the way the settlement offer was accepted by the petitioner-public sector undertaking.*
>
> *10. Let a preliminary report be filed by the CBI before the next date of hearing. A copy of this order along with entire paper book shall be forwarded to the CBI by learned counsel for the petitioner within a period of one week. Both parties are directed*

to furnish whatever additional documents and filed the CBI asks for and to extend full cooperation to the CBI."

56. Pursuant to the said order, the CBI conducted an inquiry and filed a preliminary enquiry registration report dated 05.12.2016. The CBI, as per its procedure, registered a Preliminary Enquiry bearing No. PE221/2016/E0008.

57. After the PE was registered, the CBI conducted inquiry and submitted report dated 31.01.2017. It found that there were serious violations regarding following of guidelines by the officers of Petitioner-STC while sanctioning credit facility to the Respondents. The CBI also found serious irregularities amounting to commission of criminal misconduct involving officials of Petitioner-STC and the Respondents.

58. It is argued by the learned senior counsel for the Respondents that in view of the direction issued by this Court for submission of preliminary report by the CBI and subsequent submission of the same, the role of CBI ought to have come to an end. As per the preliminary enquiry bearing No. PE221/2016/E0008 dated 05.12.2016, the complainant is shown as *"as per Delhi High Court order dated 23.09.2016".* The said registration of PE, it is argued, was not the direction given by this Court and the CBI misused the said direction to register a PE.

59. It is further stated that even if the preliminary enquiry is allowed to be continued, the Respondent No.1 ought to be protected from the purview of the same as the main case from which the present contempt proceedings have arisen has been quashed against Respondent No. 1, and thus, no proceedings ought to be initiated against Respondent No. 1.

60. I am of the view that the order dated 23.09.2016 is only a direction to

the CBI to look into the transactions between the parties which, this Court, has found *"dubious"* and *"not above board"*. This Court has not directed or circumscribed the nature of inquiry or the manner in which the inquiry is to be conducted by the CBI. The Court, while passing the order dated 23.09.2016, was very much within its powers to flag issues which seem to be dubious and not inspiring confidence, especially when a PSU is involved dealing with government funds. The orders dated 12.10.2015 and 23.09.2016 are only the trigger points pursuant to which the CBI has conducted investigation into the transactions between Petitioner-STC and the Respondents.

61. For the said reasons, I am not inclined to entertain the present application and the same is dismissed.

62. The CBI is entitled to conduct the inquiry and proceed in accordance with law.

CONT.CAS(C) 233/2015& CM APPL. 26875/2020 (Modification)

63. The facts in the present contempt are similar to CONT.CAS(C) 232/2015, except that the alleged contempt is of the order dated 04.08.2014 before the learned MM in CC No. 3453/1. On account of parity, and for the reasons stated hereinabove, the present contempt case is disposed of in terms of the judgment in CONT.CAS(C) 232/2015.

64. In the present case also, I am of the view that the Respondent No. 2 is guilty of contempt and must be punished accordingly.

65. The Respondent No. 2 is given 4 weeks to file a reply to show-cause as to why he should not be punished for contempt for non-compliance of the undertaking given before the learned MM on 04.08.2014.

66. For CM APPL. 26875/2020, the order of CM APPL. 26480/2020 in CONT.CAS(C) 232/2015 is to be read as the order in this application also.

67. List for further proceedings on 29.02.2024, on which date the Respondent No. 2 shall remain present in Court.

JASMEET SINGH, J

DECEMBER 18, 2023
skm