

W.P.(MD)No.17716 of 2020

N.KIRUBAKARAN, J.

AND

B.PUGALENDHI, J.

ORDER

(Order of the Court was made by **N.KIRUBAKARAN,J.**)

This Writ Petition has been filed as a Public Interest Litigation seeking for issuance of a Writ of Mandamus to direct respondents 1 and 2 to transfer the case in Cr.No.2 of 2020, on the file of the eighth respondent to the file of the third respondent - Special Investigation Team of CBI headed by the Committee of the Hon'ble Retired Judges of the Madras High Court to have a fair and thorough investigation under the direct monitoring of this Court and to complete the investigation within a time limit that may be fixed by this Court by considering the petitioner's representation dated 22.10.2020.

2. The contention of the petitioner is that one Company called BULLION FINTECH LLP, having its office at Ramanathapuram Sathak Centre, collected deposits to the tune of Rupees Three Hundred Crores from 750 victims with an attractive advertisement stating that the money will be doubled in one year. It is stated that most of the depositors are teachers.

3. Since the amounts, after maturity, had not been returned, a case has been registered in Cr.No.347 of 2020 for the offences under Sections 406, 420 and 506(ii) I.P.C., on 09.06.2020, by the Inspector of Police, Bazar Police Station, Ramanathapuram, on the basis of the complaint given by one Thulasimanikandan. Yet another case in Cr.No.41 of 2020 for the offences under Sections 406, 420 I.P.C., has been registered on 27.06.2020 against the very same BULLION FINTECH LLP Company, on the basis of the complaint given by one Karpagalilly, to the Superintendent of Police, Ramanathapuram. The Superintendent of Police, Ramanathapuram in turn forwarded the same to the District Crime Branch.

4. When things stand so, one Pradeep Chakravarthi filed a Criminal Original Petition in CrI.O.P.(MD)No.8830 of 2020 before this Court to transfer the case from the second respondent police to the Economic Offences Wing, Madurai. During the pendency of the Criminal Original Petition, the second respondent viz., the Director General of Police transferred the case to Economic Offences Wing, Madurai, on 01.09.2020 and the same is investigated by the Economic Offences Wing. A status report is also said to have been filed before this Court in that Criminal Original Petition on 14.10.2020.

5. When that is the position, now the petitioner has come before this Court by filing this Writ Petition making so many allegations against the Deputy Collector and the Superintendent of Police, Ramanathapuram, not convinced with the investigation done by the Economic Offences Wing and therefore, he seeks investigation by the Central Bureau of Investigation-third respondent herein.

6. The learned Counsel appearing for the petitioner would submit that believing the attractive advertisement, more than 750 people deposited about Rupees Three Hundred Crores. The investigation is not properly done by the Economic Offences Wing and only movables worth about Rupees Five Crores alone have been attached when the deposit is to the tune of Rupees Three Hundred Crores. Hence, he seeks the transfer of the case to the CBI.

7. Mr.Sricharan Rangarajan, learned Additional Advocate General assisted by Mr.M.Muthugeethaiyan, learned Special Government Pleader appearing for the respondents 1, 2 and 4 would submit that the case is properly investigated by the respondent police, especially the Economic Offences Wing and according to the investigation done by the Economic Offences Wing, movable properties worth about Rupees Five Crores have already been seized

WWW.LIVELAW.IN

and four persons have been arrested and they have come out on bail. Based on the confession statements given by the accused, about 19 immovable properties have been identified and the same will be attached by moving the TANPID Court. The statements of the depositors are being recorded under Section 161(3) Cr.P.C., and the investigation is under process.

8. Heard the parties and perused the records. It is relevant to extract hereunder the paragraph Nos.4 to 10 of the status report filed by the respondent police in Crl.O.P.(MD)No.17716 of 2020, dated 04.12.2020:

“ 4.In this case accused Anand (A2) and Neethimani (A3) were arrested on 09.06.2020 by Ramanathapuram Police and based on the basis of their confessions statements, the movable properties of A3 Neethimani viz. gold jewels of 99.5 sovereign (791.950 gms) Silver articles of 244.650 gms, cash Rs.2,49,050/-, wrist watch, documents, 6363 Singapore dollars and 3162 Malaysian ringits were seized under a cover of athachi on the same day. Both the accused were remanded to judicial custody. Accused Menaka (A4) was arrested on 10.06.2020 and released on station bail by the Ramanathapuram police. Accused Neethimani was taken into police custody from 19.06.2020 to 23.06.2020 and Anand from 23.06.2020 to 27.06.2020. Based on the confession of A3, 2 Cellphones, Laptop, foreign Passport, Pan Card, debit card and documents

WWW.LIVELAW.IN

were further seized. Similarly on the confession of A2-Anand 5 Cellphones, 2 Foreign Passports, Debit cards, Visa Card, document, Cash Rs.40 Lakhs and 3 vehicles bearing Registration No.1.TN-65 X2985 waganor Car, 2. TN-65AW 0006 Innovacar, 3.TN-65 AV 0006 Hyundai Elantra car were also seized. They were re-remanded to judicial custody. So far 452 petition have submitted their petitions to the district crime branch, Ramanathapuram on 15.09.2020 to the tune of Rs.100 Crores approximately. Based on the confession statement of A3 Neethimani, Cenima producers 7G Siva (A4), Gnannavelraja (A5) and Muruganantham (A6) have been added as accused for having received money from the A3 Neethimani. And, based on the confession statement given by the A2 Anand, at the time of police custody taken by the Ramanathapuram Police, the accused Raju (A7). Mahash (A8) and Boopesh (A9) were added as accused in Bazaar P.S. Crime No. 347/2020 for extortion of Rs.30 Lakhs from the accused Anand for the purpose of suppressing matters and not publishing the same in their channels. Hence the sections of Law of the case has been altered into 406, 420, 294(b), 506(ii), 109 I.P.C. by the Ramanathapuram Police.

5) I most respectfully submit that the respected Director General of Police vide proceedings in Rc.No. 613743/Crime 3(2)/2020, dated: 01.09.2020 passed order transferring the above said 3 cases to Economic Offences Wing-II, Madurai for further investigation.

WWW.LIVELAW.IN

The same has been further ordered to root down to the actual Deputy Superintendent of Police EOW-II, Madurai, through the proceedings of the Superintendent of Police, EOW-II, Chennai, in RC.No.C2/EOW/ 5640/2020, Dated 15.09.2020, RC.No.C2/EOW/5643/ 2020, Dated 29.09.2020, for continuing the investigation.

6) It is humbly submitted that according to the orders of the superior police officials, the case in Crime No.2/2020 under Sections 406, 420, 120-B of IPC and Section 5 of TANPID Act was registered by me on 12.10.2020, and received the case diaries of crime No. 41/2020 and 347/2020 from the hands of Ramanathapuram police. Subsequently, the case diaries of crime No.6/2020 was also received from Sivagangai police. The movable properties which were recovered by the Ramanathapuram police were taken over by us on 22.10.2020.

7)It is further submitted that so far 56 petitions have been received for the cheated amount at about 4.5 crores and all the petitioners were enquired. During the course of the investigation, the following immovable properties belong to the accused person were identified and requisition letter has been sent to Inspector General of Registration for confirmation and to get the details of more property details which are belonged to accused persons

WWW.LIVELAW.IN

and in the name of their benomy. And, the concerned banks wherein the accused persons are having accounts are requested to stop transaction for the purpose of investigation. On 23.10.2020, we have published advertisements in daily newspapers about the transfer of the investigation of the cases and requesting the depositors to lodge their complaints with EOW, Madurai.

.....
10) *During the course of investigation, it was revealed that there are 20 team leaders and nearly 200 against are in the above said defaulted company. Who re the main reason became the public as victims, the list of team leaders and against is submitted here with and they are being enquired.”*

This Court is convinced with the submissions made by the learned Additional Advocate General appearing for the respondents 1, 2 and 4 regarding the investigation made by the Economic Offences Wing. A reading of the status report would reveal that the Economic Offences Wing seized movables, identified about 19 immovable properties based on the confession statements of the arrested accused. Hence, investigation is progressing well and no transfer is required.

WWW.LIVELAW.IN

9. Mrs. Victoria Gowri, learned Assistant Solicitor General of India appearing for the third respondent relying upon the Full Bench Judgment of the Honourable Supreme Court of India, in ***STATE OF WEST BENGAL & ORS. Vs. THE COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS, WEST BENGAL & ORS.***, reported in ***2010(3) SCC 571 FB***, would submit that the power under Article 226 of the Constitution of India, in extraordinary circumstances, is to be used to refer the matter to the Central Bureau of Investigation. Only serious offences should be investigated by the Special Investigation Agency, like, Central Bureau of Investigation, otherwise it will lose its credibility. She opposed the petition contending that CBI is not having enough resources and personnel to investigate the cases.

10. If the investigation done by the Economic Offences Wing, which was previously done by the District Crime Branch, is transferred, definitely the investigation will be affected . Further investigation would be prolonged and it will not be in the interest of the depositors. Therefore, the prayer sought for by the petitioner cannot be granted. This Court hopes that the Economic Offences Wing will swiftly investigate and attach the immovable properties and file a charge sheet at the earliest possible.

11. However, if the petitioner has got concrete evidence for the allegations against the Deputy Collector and the Superintendent of Police, Ramanathapuram, this order will not prevent the petitioner to take appropriate proceedings seeking investigation.

12. Since the plea of referring the matter to Central Bureau of Investigation is opposed by the learned Assistant Solicitor General of India appearing for the third respondent by submitting that the Central Bureau of Investigation does not have the required strength, this matter is taken up as a Public Interest Litigation to decide about the necessity to have more resources and more personnel including modern infrastructures for CBI. This Court *suo motu* impleads the following officials as eleventh and twelfth respondents in this writ petition:

“(i) The Union of India, represented by its Secretary to Government, Ministry of Home and Affairs, North Block, New Delhi-110001” and

(ii) “The Union of India, represented by its Secretary to Government, Ministry of Personnel and Training, Public grievances, New Delhi-110001”

Mrs.Victoria Gowri, learned Assistant Solicitor General of India takes notice for the newly impleaded eleventh and twelfth respondents.

13. Mrs.Victoria Gowri, learned Assistant Solicitor General of India, who takes notice for the third respondent, would oppose the writ petition for transferring the case by stating that the Central Bureau of Investigation does not have the required man power and resources to investigate all the cases, which are sought to be referred to the Central Bureau of Investigation. In support of her contention, she would rely upon the Full Bench Judgment of the Honourable Supreme Court of India, in ***STATE OF WEST BENGAL & ORS. Vs.THE COMMITTEE FOR PROTECTION OF DEMOCRATIC RIGHTS, WEST BENGAL & ORS.***, reported in ***2010(3) SCC 571 FB.*** It is relevant to extract hereunder paragraph No.46 of the said judgment:

46.Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although

no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.

14. However, when serious cases are coming up before Courts, there is always a glamour to seek for transferring the cases to the Central Bureau of Investigation, as the Central Bureau of Investigation has got a reputation as a premier investigation agency. It is known for investigating economic offences, corruption cases and sensitive cases. However, many cases which are investigated by the Central Bureau of Investigation, even serious cases, have ended in acquittal. It badly reflects upon the investigation of CBI. Hence, time has come to look into problems faced by CBI. Investigation of CBI needs to be

improved by adding experts and modern gadgets.

15. It is not known as to whether the Central Bureau of Investigation is doing recruitment of their own Officers independently or it is depending upon the Officers deputed from other sources.

16. The white collar crimes, like, Bank offences are mainly investigated by the Central Bureau of Investigation. When such serious investigations are being undertaken by the Central Bureau of Investigation, it is stated that CBI depends upon the police officials deputed from various other sources, like State Police, CISF and CRPF and there is a likelihood of investigating officers going back to their parent force during investigation. If it is true, the Officials from CISF and CRPF may not have experience in investigation. To investigate white collar crimes, especially, Bank offences, financial offences, larger magnitude, the officials with qualifications of CA, ICWA, ACS, are essential for investigation, otherwise the very purpose of investigation will be frustrated, because of lack of expertise in that particular field.

17. When there is always a glamour for investigation by Central

WWW.LIVELAW.IN

Bureau of Investigation, the Central Bureau of Investigation cannot oppose by stating that it does not have the required man power and resources and it has to increase the number of officials, as more number of cases are being referred to the Central Bureau of Investigation. More over, CBI should have expert officials with special knowledge in various fields, as various types of cases involving different fields are referred viz., Bhopal Gas Tragedy, Bofors scam, 2G Spectrum Scam, Coal Scam, Hawala Scandle, Phurlia Army dropping case, Sathyam Scandle, Sarada Chit Scandle, Nithari Killings, Sushant Singh Rajput suicide case, Taj Corridor case, Vyapam case.

18. Though Mrs. Victoria Gowri, learned Assistant Solicitor General of India appearing for the third respondent would submit that the Central Bureau of Investigation has its own source of recruitment, this Court would like to raise the following queries to be answered by CBI and Central Government:

“(a) Whether the Central Bureau of Investigation recruits their own officials independently or through some other agencies, especially for investigation?;

(b) Why not CBI recruit their officials and train them independently?

(c) Whether the Central Bureau of Investigation is depending upon only the police officials drawn from

various agencies like State Police, CISF and CRPF for investigation ?;

(d) What is the strength of the CBI in 2000, 2010,2015 and as on date?(cadre wise strength viz., Constable to higher levels to be given)

(e) Why not increase the man power in CBI to handle more case?

(f) Why not CBI recruit more officials with degrees in CA, ACS, ICWA, Cyber Science Law, as more economic offences are investigated by CBI?

(g) Whether allotment of fund made by the Central Government is sufficient?

(h) Why not Central Government allot more funds to CBI for modern investigation and to increase man power?

(i) Whether the CBI has got all modern infrastructures including modern gadgets, machines available in its Central Forensic Sciences Laboratory at New Delhi as available in CFSL Hyderabad and CFSL Gujarat?

(j) How many cases have been referred to the Central Bureau of Investigation for the past 20 years? (year wise details to be given);

(k) What is the status of those cases?(year wise details to be given) ;

(l) How many cases ended in acquittal?(year wise details to be given);

WWW.LIVELAW.IN

(m) How many cases ended in conviction?(year wise details to be given);

(n) What is the rate of conviction?(year wise details to be given);

(o) What are all the reasons for enormous delay in concluding investigations by CBI?”

19. The Registry is directed to carry out necessary amendments in the cause title.

20. Call the matter for filing response by way of affidavit by CBI and Central Government on 14.12.2020 in the motion list.

Index : Yes/No
Internet : Yes/No

[N.K.K.J.] [B.P.J.]
08.12.2020

SSL

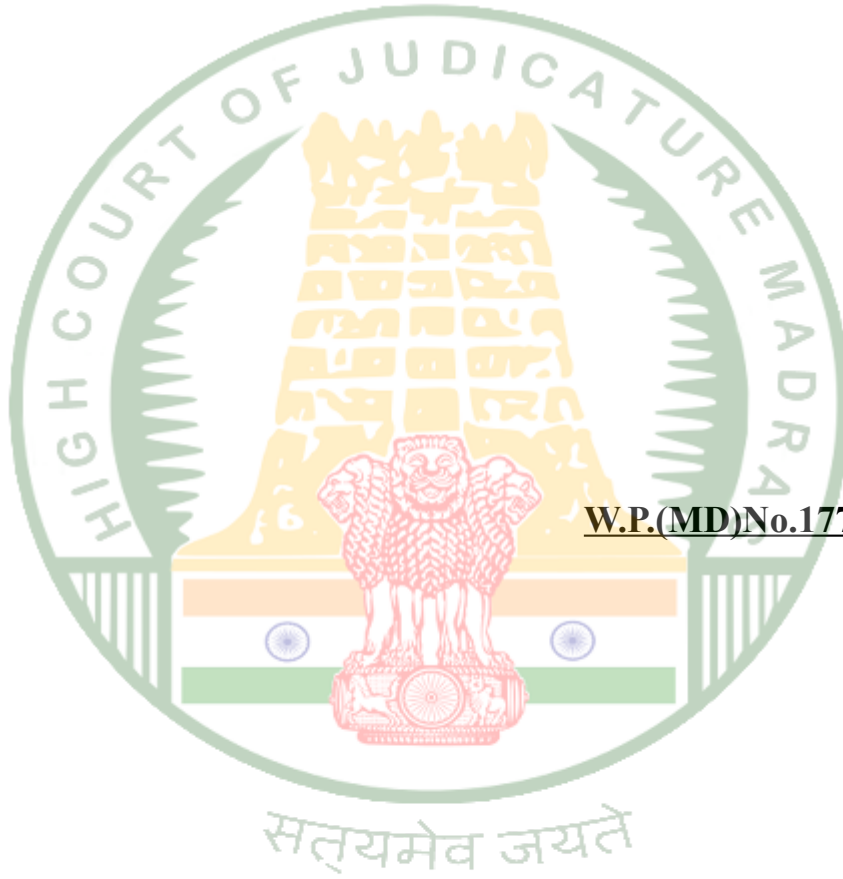
Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WWW.LIVELAW.IN

W.P.(MD)No.17716 of 2020

N.KIRUBAKARAN, J.
AND
B.PUGALENDHI, J.

SSL



W.P.(MD)No.17716 of 2020

WEB COPY

08.12.2020