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

+ **W.P.(CRL) 833/2022**

CENTRAL BUREAU OF INVESTIGATION Petitioner

Through: Mr. Anupam S Sharma, SPP with
Mr. Prakarsh Airan and Ms. Harpreet
Kalsi, Advocates and Inspector S.
Sridhar Iyer, CBI/STB.

versus

STATE Respondent

Through: Appearance not given

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **19.04.2022**

CRL.M.A. 7109/2022

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(CRL) 833/2022 & CRL.M.A. 7108/2022 (Stay)

1. The instant petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking setting aside of orders dated 31st March 2022 and 13th April 2022 passed by learned Special Judge (CBI-XIII), P. C. Act, Rouse Avenue District Court.

2. Learned counsel appearing on behalf of the petitioner/CBI submitted that vide impugned order dated 31st March 2022, the Ld. Special Judge

observed that the original complaint on the basis of which the FIR was registered was not made a part of the relied upon documents by the CBI. The Ld. Special Judge, in order to appreciate what exactly was done in the course of further investigation and on what basis the original complaint was left to be relied upon in the present case, thought it prudent to direct the Investigating Officer to produce complete Case Diaries as well as complete Crime File including FR-I and FR-II.

3. It is submitted that on 13th April 2022, an application was moved by the Investigating Officer seeking adjournment on the ground that the matter regarding the production of documents as directed by the Court was pending consideration with higher officials. The Ld. Special Judge however, vide impugned order dated 13th April 2022, took it to be a Contempt of Court and as such, issued Show-Cause Notice to the Director, CBI to explain why not a reference of Contempt of Court be made by him against the respective officers of CBI for deliberate non-compliance of his orders as well as directed the Director, CBI to identify the responsible officers, obtain their reply and send the same to the Court besides disclosing the particulars of such officers who opted to ignore the time-frame and did not comply with the orders of the Ld. Special Judge.

4. It is submitted that as such, there was no deliberate or wilful disobedience of the orders of the Court nor was there any conscious defiance of the orders of the Ld. Special Judge. It has been vehemently submitted that the show cause notice issued to the Director of the CBI for initiation of the contempt vide order dated 13th April 2022 is in total disregard to the process of law and procedure since the court concerned does not have the powers of contempt, and therefore merits to be set aside by this Court.

5. As regards the Order dated 31st March 2022, learned counsel for CBI on instructions conceded that the said order passed by the Court below shall be duly complied, without prejudice to the rights of the parties and the question of law involved.
6. Heard learned counsel for the petitioner/CBI and perused the record.
7. As far as the Order dated 31st March 2022 is concerned, as per the oral undertaking given by learned counsel for the petitioner, the direction passed in the Order shall be duly complied without prejudice to the question of law involved therein, and therefore there is nothing left for adjudication *qua* the said order in the instant writ petition.
8. The Court concerned has passed the impugned Order dated 13th April 2022 wherein Show-Cause Notice was issued to the Director, CBI to explain why not a reference of Contempt of Court be made by him against the respective officers of CBI for deliberate non-compliance of his orders.
9. Under Section 10 of the Contempt of Courts Act 1971, the High Court has the jurisdiction to take cognizance of an alleged contempt having been committed in respect of subordinate courts. In order to bring the conduct to the notice of the High Court, the subordinate court is supposed to send a reference of the matter to the High Court. A subordinate court on its own cannot assume jurisdiction under the Contempt of Courts Act and issue show cause notice as to why contempt proceedings should not be initiated.
10. Even otherwise under Section 15 of the said Act, only the Supreme Court and the High Courts have the power to *suo moto* take cognizance of the alleged contemptuous acts. The said order is thus against the procedure laid down under the Contempt of Courts Act as also under the Rules framed by the High Court as regards the contempt proceedings.

11. Therefore, it is outrightly illegal for the Ld. Special Judge to issue the said Order issuing Show-Cause Notice to the Director, CBI to explain why not a reference of Contempt of Court be made by him against the respective officers of CBI for the purported non-compliance of its orders.

12. Hence, the impugned order dated 13th April 2022 is set aside.

13. Accordingly, the instant petition is partly allowed and accordingly disposed of.

APRIL 19, 2022
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CHANDRA DHARI SINGH, J