

CNR No. DLCT11-000548-2024  
CBI NO. 92/2024  
RC No.: RCBD1/2019/E/0006  
Branch CBI/BSFB/NEW DELHI

**CBI Vs. Moserbaer India Ltd. & Ors.**

**11.12.2024**

Present : Sh. V. K. Ojha, Ld. Sr. PP for CBI along with Sh. Munna Kumar Singh, IO / Dy. SP CBI, BSFB, CBI, New Delhi.

Accused M/s. Moser Baer India Ltd. (A-1).  
Sh. Anil Sethi & Sh. Samarth Rai Sethi, Ld. Counsels  
for official liquidator Sh. Anil Kohli.

Accused Nita Puri (A-2) **(through VC)**.  
Accused Ratul Puri (A-3) in person.  
**Proceedings against accused Yogesh Bahadur Mathur  
(A-4) already abated vide order dated 16.10.2024.**  
Accused Naresh Jand (A-5) in person.

Accused Ajay Sehgal (A-6) in person.  
Accused Rajinder Kumar Dhingra in person.  
Sh. Vijay Aggarwal along with Sh. Rajeev Goyal, Sh. Anshul Mishra, Sh. Ekansh Mishra, Ms. Barkha Rastogi, Sh. Kartikay, Sh. Abhinav Kathuria, Ms. Koninica Bose and Sh. Saurabh Nagar, Ld. Counsel(s) for accused nos. 2 to 7.

On the last date of hearing, it was stated by Ld. Counsel  
for the accused persons that the IO be directed to give a time line /

Contd...2

time frame as to by which the further investigations, as stated in para 40 of the charge sheet will be completed, for which the IO sought some time to take necessary instructions from his superiors.

Today report has been filed on behalf of the prosecution in compliance of the order dated 26.11.2024, in which it is stated as under :

**4. That, for early disposal of this case from further investigation, a team of 03 officers, headed by Shri Munna Kumar Singh, Dy. SP, has been formed and efforts will be made to dispose of the further investigation of this case by the end of the year 2025.**

Ld. Counsel for the accused strongly objects to the aforesaid report filed by the IO and submits that the same is in violation of his rights to speedy investigation, as per Article 21 of The Constitution of India, as he submits that in the present case, the FIR was lodged in the year 2019 on the complaint lodged by Central Bank of India against the accused M/s. Moser Baer India Ltd. and other persons mentioned in the charge sheet filed u/S. 120B, 420, 468, 471 IPC and 13(2) r/w. 13(1)(d) of the PC Act, 1988 for causing wrongful loss to the tune of Rs. 354.51 Crores to the Central Bank of India. He further submits that at page 14 of

Contd...3

the FIR, there is a table of the lender banks and the amount of the loan extended to M/s. Moser Baer India Ltd.

It is further submitted by him that after thorough investigations, the initial charge sheet was filed on 07.02.2022, in which the prosecution had cited 17 witnesses, the last witness being Sh. Amit Kumar, Inspector CBI/IO and the prosecution had relied upon 196 documents. He further submits that as per para 40 of the earlier charge sheet regarding further investigation, it was stated as under :

**40. Further investigation u/S. 173(8) CrPC is kept open against other suspect persons, credit facilities sanctioned by Central Bank of India as well as other lender banks. After completion of further investigation, supplementary report will be submitted before this Hon'ble Court in due course.**

Thereafter, vide order dated 16.01.2023, the Ld. Predecessor of this court was pleased to return the earlier charge sheet dated 07.02.2022 with the observations as under :

**The present Charge Sheet had been filed way back in February 2022 by the CBI for the offences u/s 120-B r/w Sec. 420 IPC and the substantive offence thereof; i.e without invoking any PC Act provisions, though as matter of fact, the FIR was well inclusive**

Contd...4

of the offence under PC Act. In the Charge Sheet, in its para no. 40 it has been reflected that further investigation has been kept open. It is also apprised that the requisite permission u/s 17-A of the PC Act 1988 was sought for vide letter dated 02.03.2021 and vide letter dated 04.03.2022.

As per the provisions u/s 17-A of the Act of 1988 'the concerned authority shall convey its decision under this Section within a period of 03 months, which may, for the reasons to be recorded in writing by such authority, be extended by a further period of one month. However, as per the submission made by the Ld. Sr. PPs as well as the IO present in the Court, they have not yet been conveyed any such decision by the Competent Authority and hence as per their submission, they have not yet started investigation qua Bank Officials/Public Servants despite lapse of 3+1 month period long ago. Thus, the Charge Sheet in itself is vague and incomplete at least for the aspect of taking cognizance as neither any PC Act provision has been invoked so as to enable this Court (Special Judge CBI) to take cognizance, nor any sort of closure qua the Public

Contd...5

Servants is there so as to send it to the concerned M.M through the Ld. Principal District & Sessions Judge. Hence, this Court is left with no option except to return back the incomplete Charge Sheet to the IO. Ordered accordingly.

Whereafter, after completion of further investigations, a supplementary charge sheet dated 12.06.2024 was filed before this Court on 02.07.2024. In the said supplementary charge sheet, the further investigation has still been kept open by the CBI and the relevant para 40 is reproduced as under :

**40. Further investigation u/S. 173(8) CrPC is kept open other credit facilities sanctioned by the Central Bank of India as well as other lender banks. After completion of further investigation, supplementary report will be submitted before this Hon'ble Court in due course.**

In fact he submits that it is the ditto reproduction of the earlier para 40 of the previous charge sheet word by word. In fact he submits that the perusal of the present charge sheet would reveal that the number of prosecution witnesses sought to be examined are the same i.e. 17 + 1, as in the previous charge sheet,

Contd...6

the last witness sought to be examined was Sh. Amit Kumar, IO and now Sh. Munna Kumar Singh, DSP has been added as an additional witness only.

The other witnesses remain the same and the documents relied upon by the CBI have increased from 196 to 202 and the documents number 197 to 202 is the correspondence between the banks / CVO and the CBI related to the sanction u/S. 17A of the PC Act 1988, which was denied in this case.

It is the grievance of the Ld. Counsel for the accused persons that the last letter declining the sanction is dated 21.08.2023, yet the supplementary charge sheet had been filed on 12.06.2024 i.e. almost after one year, when nothing more had to be done.

Ld. Counsel for the accused further submits that when the number of witnesses and the number of documents in the earlier charge sheet and the present supplementary charge sheet are almost the same, yet almost two years were consumed by the prosecution in finalizing the supplementary charge sheet after the return of the initial charge sheet and no worthwhile further investigation was done besides seeking sanction u/S. 17A of the PC Act, 1988.

He has also relied upon the CBI Manual, more specifically para 9.41 & 9.42 with the headings Measures to Avoid

Contd...7

Delays in Investigation and the prescribed timeline and para 9.42, where in it is stated that the field investigation in the regular case, registered on the orders of the Head Office should normally be completed and FR be submitted by the IO within six months and final disposal after receipt of sanction for launching prosecution should be completed within 12 months.

Ld. Counsel for the accused submits that even considering the fact that this case may fall within the last category then the investigations had to be completed within 12 months, but after finalizing of the initial investigation by virtue of which the first charge sheet was filed on 07.02.2022, further investigation should have been completed at the most after the return of the charge sheet dated 16.01.2023 latest by 16.01.2024, whereas, it is stated to be completed on 12.06.2024, which he submits is in flagrant violation of the CBI Manual itself.

He further submits that the accused persons cannot be kept at the edge forever, awaiting the completion of the further investigations by the investigating agency, when the FIR was lodged in the year 2019 and almost six years have already elapsed.

He further submits that this Court can fix a timeline or direct the CBI to complete the investigations within a reasonable time, in support of which, he has relied upon a judgment cited as ***State of Bihar and Anr. Vs. P.P. Sharma AIR 1991 Supreme Court***

Contd...8

1260, more specifically para 44, which is reproduced as under :

*44. In Abhinandan Jha v. Dinesh Mishra, (1967) 3 SCR 668: (AIR 1968 SC 117), this Court held, preceding introduction of S. 173(8) of the Cr.P.C. that the Magistrate cannot direct the police to submit a charge-sheet and compel the police to form a particular opinion on investigation and to submit a report according to such opinion. If the police submits a report that there is no case made out for sending up the accused for trial, the Court itself may take cognizance of the offence on the basis of the report and the accompanying evidence if it is found that there is sufficient evidence to proceed further or itself conduct or direct the subordinate Magistrate to make further enquiry to take action under S. 190 etc. Thus, it is seen that in an appropriate case where after registering the crime if no expeditious investigation for unexplained reasons was done the Magistrate of the High Court, on satisfying the grounds, may direct completion of the investigation within a reasonable time.*

Therefore, he submits that the IO cannot continue with the investigations in his own merry way and he has to complete the investigations, as per the CBI Manual within a reasonable time, and as per the CBI Manual, the maximum time is 12 months from the date of lodging of the FIR,

whereas the IO in his reply filed today has sought time of more than one year, as he has stated that the investigation will be completed by the end of the year 2025. Therefore, he submits that the IO be directed to complete the investigations within a reasonable time.

Contd...9

On the other hand, it is submitted by Ld. Sr. PP for the CBI that no fixed time line can be adhered to by the IO, as it is a voluminous case and in the branch, where the IO is posted i.e. BS&FB, there are number of cases related to the bank fraud, which are generally voluminous in nature. Therefore, the timeline as prescribed in the CBI Manual more specifically in para 9.41 & 9.42 is flexible in nature and no rigid formula to complete the investigation in a particular time line can be fixed.

To this Ld. Counsel for the accused persons has relied upon a judgment *Vineet Narain Vs. UOI 1998 (1) SCC 226* and submits that in view of the said judgment, the CBI Manual has to be strictly adhered to by the CBI and they cannot be allowed to say that the time line mentioned in para 9.41 & 9.42 is flexible in nature.

I have gone through the rival contentions.

The above arguments of Ld. Counsel for the accused persons have sufficient merit, as the accused cannot be kept on the knives edge forever on the pretext that the further investigations are going on, as investigations / further investigations as per the CBI Manual referred to above should be completed within a time span of 12 months and cannot be continued *adindefinitum* or till eternity, as allowing the same would be depriving the accused persons of the right to speedy investigations, which is an intrinsic

Contd...10

part of Article 21 of The Constitution of India and allowing the prosecution to do so would be in violation of the fundamental right of speedy investigations, which is available to the accused persons.

However, before proceeding any further, it will be expedient in the interest of justice that this Court peruses the case diaries written by the IO(s) in this case. Same be produced before this Court on **17.12.2024**, the date already fixed in this case. Further the crime file, which is stated to be a privilege document be produced by the IO only for the perusal of this Court.

At this stage, an application has been moved on behalf of accused no. 7 Rajinder Kumar Dhingra seeking permission for travelling abroad to UAE between 01.01.2025 to 13.01.2025. Copy supplied.

Issue notice of the above application to the CBI. In fact, Ld. PP for CBI accepts notice of the above application and seeks some time to file reply to the same. Time granted in the interest of justice.

Put up for reply / arguments on the above application on **17.12.2024**, the date already fixed in this case.

**(SANJEEV AGGARWAL)**  
Special Judge (PC Act) (CBI)-10  
Rouse Avenue Courts Complex  
New Delhi/11.12.2024