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

Date of decision: 27.12.2024

+ LPA 1253/2024 and CM No. 76660/2024 (stay)

UNION OF INDIA

.....Appellant

Through: Mr. Amit Tiwari, CGSC with
Mr. Ayush Tanwar and Mr.
Aakash Pathak, Advs.

Mr. Sanjay Shorey, ICLS, DG
(OA), MCA, Mr. Vinod
Sharma, ICLS, Regional
Director, MCA, Mr. Sanjay
Kumar Gupta, ICLS, Joint
Director, MCA and Mr.
Kishore D. Wade, ICLS,
Assistant Director, MCA.

versus

MANPREET SINGH CHADHA

.....Respondent

Through: Mr. Sandeep Sethi, Sr. Adv.
With Mr. Sumeer Sodhi, Mr.
Aman Nandrajog, Mr. Arjun
Nanda, Mr. Dhruv Wadhwa and
Ms. Shreya Singh, Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J. (Oral)

1. The present Letters Patent Appeal under Clause X of the Letters Patent of this Court has been filed impugning the order dated 24.12.2024 passed by the learned Single Judge of this Court in CM APPL No. 73194/2024 filed in W.P(C) No.14518/2024, whereby the Look Out Circular (LOC) issued against the respondent herein has been suspended and he has been permitted to travel abroad, subject to certain conditions.



2. Before dealing with the rival submissions contended at the Bar, a brief factual background is to be noted; The respondent herein is the erstwhile director and shareholder of the M/s Wave Megacity Centre Pvt. Ltd. (Corporate Debtor). While the respondent was serving as director, Corporate Debtor had raised an amount Rs.1400 Crore from 2300 home-buyers, however, possession of the booked units was not handed over to any of the buyers at the time. On 26.03.2021, Corporate Debtor filed a Company Petition bearing CP (IB) No.197/PB/2021 under Section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) before the National Company Law Tribunal, New Delhi (NCLT), seeking initiation of the Corporate Insolvency Resolution Process (CIRP) for the aforesaid company. The respondent herein was transposed as the Financial Creditor in the Company Petition.

3. While the Company Petition was pending adjudication, an FIR bearing No.63/2021 was registered by the Economic Offences Wing (EOW), Delhi Police against the Corporate Debtor and its Directors on 13.04.2021, under Sections 406, 420 and 120B of the Indian Penal Code, 1860 (IPC). *Vide* the order dated 06.06.2022, the NCLT dismissed the afore-mentioned Company Petition while imposing a penalty of Rs. 1 Crore on the Corporate Debtor under Section 65 of the IPC and directed the Central Government to carry out an investigation into its affairs. Pursuant thereto, *vide* the order dated 15.06.2022, the Central Government ordered an investigation into the affairs of the Corporate Debtor under Section 210 of the Companies Act, 2013 (the Act).



4. Aggrieved by the aforesaid order, the Corporate Debtor, on 24.06.2022, filed a Company Appeal bearing CA (AT) (Insolvency) No.918/2022 before the National Company Law Appellate Tribunal, New Delhi (NCLAT) challenging the order dated 06.06.2022 passed by the NCLT. However, *vide* the order dated 05.01.2023, the NCLAT dismissed the Company Appeal filed by the Corporate Debtor.

5. Thereafter, *vide* the reference dated 23.10.2023, the Director, Inspection and Investigation, Ministry of Corporate Affairs (MCA) informed the Bureau of Immigration that a LOC be issued against the respondent. On 08.10.2024, the respondent herein filed a Writ Petition bearing W.P(C) No.14518/2024, praying therein for the following relief:

*“a. Issue a Writ of Mandamus directing the Respondents to place before this Hon’ble Court the Look out Circular(s) and all connected note sheets / letters / documents showing the process and reasons for issuance and continuation thereof against the Petitioner, holder of Indian Passport Nos. Z4537165 issued on 16.10.2019 and Z7651222 issued on 12.01.2024 issued by the Respondent No. 1; and
b. Issue a Writ of Certiorari for quashing/revocation of the Look Out Circular(s) issued by the Respondents against the Petitioner; and c. Pass any such other and further orders as this Hon’ble Court may deem necessary, just and proper in view of the facts and circumstances of the present case.
c. Pass any such other and further orders as this Hon’ble Court may deem necessary, just and proper in view of the facts and circumstances of the present case.”*

6. In the said Writ Petition, the respondent, on 11.12.2024, filed an application bearing CM APPL No. 73194/2024, seeking permission to travel abroad to Dubai and Europe from 22.12.2024 to 01.02.2025 and



praying that his LOC be suspended in the interim. On 24.12.2024, the appellant herein filed their reply to the said application and on the same day, the respondent filed his proposed travel itinerary by way of an Additional Affidavit. *Vide* the impugned order, the learned Single Judge allowed the application filed by the respondent and accordingly suspended the LOC and allowed the respondent to travel abroad, subject to him fulfilling certain conditions.

7. Mr. Amit Tiwari, learned CGSC appearing on behalf of the appellant submits that the learned Single Judge failed to appreciate the fact that the respondent, under the garb of creating a false impression of co-operating with the investigating agency, has deliberately refrained from providing complete information to the investigating agency as directed in the impugned order. The respondent has not provided the investigation officer with (i) the Income Tax Returns as desired (ii) his offshore ownership/stakes/interests until the filing of the aforementioned writ petition, which includes a company in Belgium of which he is a Director and various other companies he is desirous of conducting business with (iii) the financial statements of the Corporate Debtor provided by the respondent, which have no mention of the offshore interests and stakes.

8. The learned counsel submits that the learned Single Judge has failed to appreciate the observations made by the NCLT in its order dated 06.06.2022, wherein the NCLT has observed that the Corporate Debtor has not approached the NCLT with clean hands and had filed the application under Section 10 of the IBC with malicious and fraudulent intentions. Further, the NCLT also observed that the



Corporate Debtor has 285 cases pending before different fora and in order to escape liability, the Corporate Debtor is seeking shelter in the CIRP. The NCLT also observed that the Corporate Debtor, *inter alia*, attempted to play fraud on its stakeholders and the State exchequer by accepting cash and issuing plain paper receipts, therefore, inducing the clients to pay a lower price on paper.

9. Mr. Tiwari, while culminating, contends that the respondent is a 'flight risk' and while his Fundamental Right to travel abroad is well recognized, the rights and interests of the investing public cannot be ignored.

10. At the outset, Mr. Sandeep Sethi, learned senior counsel appearing on behalf of the respondent places on record an order of the Registrar of this Court dated 26.12.2024 whereby the appellant herein, while appearing before the Registrar, have clearly given their 'No Objection' if the respondent herein is permitted to travel in terms of the conditions laid down by the learned Single Judge. He submits that today, the learned CGSC cannot be permitted to turn around to assail the impugned order. Moreso, he submits that the respondent was to travel abroad yesterday in pursuance of the order passed by learned Single Judge, and having fulfilled all the conditions of the order, the appellant, on its own, gave directions to the Immigration Bureau to not allow the respondent to travel. Thus, the appellant has clearly defied the order of the learned Single Judge.

11. Mr. Sethi submits that the respondent was not aware of the LOC till 02.11.2023, when he was informed by the Immigration Officers at the Indira Gandhi International Airport, upon his return to India. In



furtherance, he submits that the LOC has still not been officially communicated to the respondent who had no way of knowing about what transpired which is a clear violation of the principles of natural justice and his Fundamental Rights. He submits that the appellant has failed to follow the proper proceedings as laid down in the O.M. No. 25016/31/2010-Imm dated 27.10.2010 and O.M. No. 25016/10/2017-Imm(Pt.) dated 22.02.2021. In addition to this, learned senior counsel submits that the LOC is not issued pursuant to the commission of a cognizable offence, but only to investigate the affairs of the company.

12. The learned senior counsel vehemently urges that the respondent has always cooperated with the investigating authorities in pursuance to the notices/summons received by him. The respondent has also provided documents which have been sought from the Corporate Debtor. He submits that all documents and information sought from the respondent has already been obtained and therefore, it would serve no purpose if the respondent's right to travel abroad is curtailed. Further, the appellant is not investigating any criminal offence or fraud against the bank, it is only investigating whether the affairs of the Corporate Debtor, in which the respondent was a director, were in accordance with the Act.

13. The learned senior counsel for the respondent submits that the roots of the respondent, along with his family and assets, are all in India. The only offshore investment is a bank account that the respondent has in Singapore and all the other assets of the respondent have been disclosed. The respondent merely wishes to



spend time with his sisters who reside in Dubai and his daughters, who are presently in Europe and thus is not a 'flight risk'.

14. To conclude, the learned senior counsel submits that the allegations against the respondent are false, as he had no intention of siphoning off or misappropriation of the money of the investors or other stakeholders, as the Corporate Debtor, out of a total of 2300 allottees, has refunded monies to 656 people, given possession to 210 people and offered possession to 455 people. Moreover, the imposition of LOC is not warranted and the fundamental right of the respondent under Article 21 of the Constitution of India, to travel abroad, cannot be infringed.

15. To rebut the submissions, the learned CGSC submits that on 26.12.2024, while appearing before the Registrar of this Court, he had no instructions regarding filing of the present LPA, and thus, gave a 'No Objection', so as to follow the directions of the learned Single Judge. He submits that under Section 447 of the Act, the offence alleged to have been committed by the respondent is a cognizable offence. Moreso, the respondent has not disclosed all his assets; thus, he prayed that the impugned order be set aside.

16. We have heard the submissions made on behalf of the parties and perused the record.

17. It is undisputed that the investigation in the present case has been pending since 06.06.2022 and with respect to the FIR registered by EOW on 13.04.2021, no Charge Sheet has been filed till date. Further, the petitioner has been involved in the investigation whenever



he has been summoned by the Investigating Agencies and has disclosed the required information.

18. In this regard, we may note that the learned senior counsel on 24.12.2024, on instructions, had undertaken before the learned Single Judge that '*should the appellant require the respondent's presence, the respondent will return to the country within five days of receiving such intimation, subject to flight availability*'. Moreso, the appellant has further failed to disclose the time frame within which the pending investigations shall be concluded. Needless to say, that in such circumstances, the respondent cannot be deprived of his right to travel abroad.

19. We do not find any infirmity in the order passed by the learned Single Judge, which has imposed various conditions upon the respondent while granting him the permission to travel aboard. The LPA, in view, thereof is dismissed. The pending application also stands disposed of.

20. The order be given *dasti* under the signature of the Court Master.

SHALINDER KAUR, J

NEENA BANSAL KRISHNA, J

DECEMBER 27, 2024 / F/SU

Click here to check corrigendum, if any