

**IN THE COURT OF MS. NIRJA BHATIA, SPECIAL JUDGE, PC
ACT (CBI)-03, ROUSE AVENUE DISTRICT COURT, NEW DELHI**

Misc/DJ/ASJ/2/2020
CBI vs. Someshwar Thakur & Ors.

24.07.2020

Pr. (on screen): Sh. Praneeet Sharma, Id. Sr. PP for CBI alongwith HIO/
SI Mukesh Pandey.

Matter is taken up through Video Conferencing hosted by Sh.Ashok Kumar, Reader of the court in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dated 16.05.2020 and 16/DHC/2020 dated 13.06.2020.

Reader has sent the scanned copy of relevant order-sheets and the applications as well as certain annexures. It is apparent that the IO moved an application under Section 457 Cr.P.C. on 15.03.2017 claiming that the complainant Sh. Surinder Kumar Wadhwa has not come forward to claim cash of Rs.2,00,000/- (trap money). On the said application, notice was issued to the complainant who appeared and moved an application purportedly for exchange of old currency notes to new as the trap money was being offer to him, which was taken up on 28.03.2017 and directions were passed to CBI for exchange. However, as the amount/trap money was not returned, the complainant was forced to come forward by way of another request, which culminated in subsequent orders dated 02.05.2017 and 05.05.2017. Thereafter, the amount by way of cheque /Pay Order against indemnity issued by the complainant for quantum of Rs.2,00,000/-

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(trap money amount) was reportedly paid. In none of the applications and/or reply of CBI, it had been mentioned that the amounts cannot be returned by way of cash as there was any impediment by virtue of any CBI policy as is now reflected in para-6 of the application, which reads as below:

“That, as per I.d. Court order dated 05.05.2017, CBI has been returned the equal amount of Rs. 2,00,000/- by sanction order dated 16.05.2017, through Cheque no. A-350212 dated 18.05.2019 to the complainant as per CBI policy after executed of Indemnity Bond. As per Government of India instruction/ CBI policy exhibited trap money cannot be returned to the complainant. However, equivalent amount thereof is returned to the complainant from the GOI funds”.

Constraint by the aforesaid vide order dated 02.05.2017, Id. Predecessor had issued show cause notices, reply to which, had also come on record. Devoid of any plea which is now being raised in the aforesaid para and the ground taken is completely contradictory in the replies. It is worthwhile to observe that though it is stated that compliance is shown, show cause is not yet discharged specifically.

It is observed that vide proceedings dated 21.07.2020, Id. Sr.PP has mentioned that the amount was to be paid in cash, which again stands contradicte to the plea raised in aforesaid para (para-6) *supra*.

Today, the matter was fixed for obtaining clarification on aforementioned. However, Id. Sr.PP has claimed that there are number of judgments of Hon'ble Courts above to pay the amount by way of cheque. He is enquired about the delay from the year 2015 till the year 2017 and if there was a clear policy laid for returning the amount in terms of the orders of Hon'ble Courts above, then why till 15.03.2017 the IO waited for

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moving the application for disposal of case property and also for return of trap money by cheque. No such policy is placed on record.


Though, it is admitted that the application under Section 457 Cr.P.C. stands disposed off and no further proceeding is pending before this Court, it is claimed that the present application is in continuation of the aforementioned proceedings. It be further observed that subsequent to Government of India cessation of Old Notes Ordinance November, 2016, it was obligated to all Government Departments to come forward with a clear policy for dealing with such currency.

Before advertng further on the decision of the present application, it is pertinent that the directions be issued to HIO for explaining the position of CBI and what compliance was made by a premier agency like CBI in dealing with the old currency notes post demonetization in November, 2016.

To come up for above-said purpose on **28.07.2020**.

A copy of this order be sent to the computer branch for uploading on the official website.

A copy of this order be scanned and placed on judicial file.


(Nirja Bhatia)
Spl. Judge PC Act (CBI)-03,
RADC, New Delhi/24.07.2020