

FIR No. 118/20
PS EOW Mandir Marg
State vs. Siddharth Vasudev and Ors.

Application No. 13

31.05.2021

Due to Corona pandemic outbreak and in view of Office Order No. 2/R/RG/DHC/2021 dated 19.04.2021 and 6/RG/DHC/2021 dated 14.05.2021 of Ld. Registrar General, Hon'ble High Court of Delhi, the present matter is taken up for hearing through V/C via Cisco Webex Meeting App, from the camp office cum residence of the undersigned.

This is an application u/s 156 (3) Cr.P.C moved by applicant Ramesh Beniwal seeking directions to police/IO in this case to investigate the diversion of funds from and to the sister concerns / related / parent companies of accused persons and to submit a detailed status report before the court.

At 4.00 PM

Pr Ld. APP for the State
None for accused.

The facts of this case in brief as per the application are that the accused persons managed by a group/ parent companies being a family driven enterprises, created a web of companies by incorporating several special purpose vehicles (SPVs), to launch several projects in Delhi NCR and lured/induced public / home buyers at large and collected huge amount of money, through a well-knit conspiracy. It is stated that one SPV namely M/s Kindle Infraheights Pvt Ltd for project "Sikka Kaamna Greens" and another SPV namely M/s Sikka Infrastructure Pvt Ltd. for project "Sikka Karnam Greens" was also incorporated by the accused persons.

The accused persons received 90-95% funds from the home buyers for their projects and diverted the same to other areas, as a result of which the projects are still incomplete even after several years. The present FIR was registered with respect to SPV M/s Kindle Infraheights Pvt Ltd pertaining to project

FIR No. 118/20 PS EOW Mandir Marg
State vs. Siddharth Vasudev and Ors

ATUL
KRISHNA
AGRAWAL

Digitally signed by
ATUL KRISHNA
AGRAWAL
Date: 2021.05.31
16:26:06 +05'30'

Page 1 of 4

Sikka Kaamna Greens. The applicant herein, who invested in another project namely Sikka Karnam Greens, is seeking investigation from the IO of this case, on the ground that these are different sister/related companies/ concerns of the accused persons, having related parties transactions and these related companies are either beneficiaries or the conduits or the source of the funds collected from the home buyers. Hence, this application.

There was an issue regarding maintainability of the present application. Since the applicant herein is admittedly neither the complainant or a victim cited in this case nor he is a witness to any fact related to this case, as on date. Moreover no such prayer has been made by the applicant while moving this application, to consider him as such.

Ld. Counsel for applicant stated that the applicant herein is one of the home buyers who invested in the Sikka Karnam Green Projects launched by M/s Sikka Infrastructures Pvt. Ltd and the money collected from him towards purchase of his flat alongwith other home buyers, has been diverted to the sister concerns of the accused persons. Accordingly he is an aggrieved person and so, he is competent to file this application. He has also relied upon judgments of Hon'ble Supreme Court in Sakiri Vasu vs. State of UP and Ors. (2008) 2 SCC 409 as well as on judgment in case titled as Veenu Bhai Hari Bhai Malviya and Ors. Vs State of Gujarat and Ors. AIR 2019 SC 5244. He also argued that court can suo motu on its own, can also monitor investigation.

I have heard on the point of maintainability. I have also perused the record.

At the outset it is pertinent to mention that this FIR has been registered against M/s Kindle Infraheights Pvt. Ltd. and other accused persons, for project Sikka Kaamna Greens and not qua the other SPV. Infact as per the reply filed by IO, the prayer for registration of FIR against M/s Sikka Infrastructures Pvt Ltd for project Sikka Karnam Greens (pertaining to applicant herein), was declined by Ld. ACMM, East, by dismissing the application u/s 156 (3) Cr.P.C. when some other home buyers approached the court and this fact was concealed in this application by the applicant.

FIR No. 118/20 PS EOW Mandir Marg
State vs. Siddharth Vasudev and Ors

ATUL
KRISHNA
AGRAWAL

Digitally signed by
ATUL KRISHNA
AGRAWAL
Date: 2021.05.31
16:26:27 +05'30'

Page 2 of 4

There can be no counter arguments to the fact that any aggrieved person who is not satisfied with the investigation carried out by the IO or aggrieved due to non-registration of FIR, can approach the court seeking appropriate remedy u/s 156(3) Cr.P.C. However, perusal of application filed by the applicant no where shows that the applicant has referred himself as an aggrieved person or has narrated any fact as to how he is aggrieved from defective investigation of the IO, in this case which is with respect to another project of the accused persons. The moot question is that if an accused cheats two different sets of people/victims at different times qua different case properties, by the same ***modus operandi***, can a victim falling in one set of cheated people, claim himself to be aggrieved even qua the other separate case, which does not pertain to cheating with him but with some other persons ?

Furthermore, the applicant has not even sought his inclusion either as a victim or a witness in this case while moving this application considering that he was one of the home buyers in another project of the accused persons. Infact during arguments, Ld. Counsel for applicant admitted that the applicant herein, has not approached any court seeking registration of FIR regarding alleged cheating committed against him, by the sister concern of accused persons and he was not even able to give any reason for not approaching the court till now. Moreover this application has been moved by the applicant purportedly by keeping the complainant/ victims of this case in the dark, who in all probability have no information about filing of this application as this fact is not mentioned in the application. The applicant herein in my considered opinion, has no locus standi to seek investigation to be carried out in a particular manner at his behest and that too at the back of actual victims of this case. Moreover he himself has not disclosed as to how he is an aggrieved person qua the present FIR except that his alleged cheated money may have been utilized by the accused persons qua some of their other projects. Accordingly, the application moved by the applicant stands dismissed for want of maintainability.

However at this stage, it is pertinent to mention here that IO Insp. Vijay Kumar who was present through VC on 29.05.2021 has admitted that he has

FIR No. 118/20 PS EOW Mandir Marg
State vs. Siddharth Vasudev and Ors

ATUL
KRISHNA
AGRAWAL

Digitally signed by
ATUL KRISHNA
AGRAWAL
Date: 2021.05.31
16:27:10 +05'30'

Page 3 of 4

not carried out any investigation with respect to diversion of alleged cheated amount by accused persons. The IO should have diligently conducted investigation with respect to alleged diversion of cheated amount, so as to fully prove the prosecution's allegations of cheating by accused persons and the IO is accordingly directed to do so, expeditiously.

With these observations, present application stands disposed off.

Copy of this order be provided to Ld. Counsel for applicant and one copy be also sent to the IO.

Ld. Counsel for applicant is further directed to file the original application with original vakalatnama as and when the court reopens for regular hearing.

ATUL
KRISHNA
AGRAWAL

Digitally signed by
ATUL KRISHNA
AGRAWAL
Date: 2021.05.31
16:26:56 +05'30'

(Atul Krishna Agrawal)
CMM (East), KKD, Delhi/31.05.2021