ASKM010018382024

IN THE COURT OF ADDL. SESSIONS JUDGE, NO. 5, KAMRUP (M), ASSAM.

Presiding Officer:-

Smti. D. Boro, AJS
Addl. Sessions Judge No. 5,
Kamrup (M), Guwahati.

Sessions Case No. 93 / 24.

Date	Order	Signature
08-08-25	**1.** Accused Partha Bharadwaj is produced from Central Jail, Guwahati through VC and is remanded back to jail till next fixed date. **2.** Accused persons viz. Mrinal Kr. Saikia and Niajul Islam Talukdar is absent with step vide petition No.1360. **3.** Accused persons viz. Khusdeep Bansal and Harish Bansal is absent with step vide petition No.1352. **4.** Accused Partha Bharadwaj is not represented by any Counsel. **5.** Ld. Counsel for the informant is present. **6.** Today is fixed for C/C and order	

	on petition No.425. **7.** Ld. Counsel for accused persons viz. Khusdeep Bansal and Harish Bansal has submitted that he will submit on C/C after disposal of petition No.425. **8.** Perused the Case Record. It appears that petition No. 425 was filed on 29/03/2025 by accused persons viz. Khusdeep Bansal and Harish Bansal u/s 193 (9) of BNSS praying for an order directing the Investigating Authority for further investigation of the case. **9.** It is stated in the petition that charge-sheet No. 02/2024 dated 09/02/2024 was submitted u/s 120(B) / 255/ 256/ 257/ 259/260 /406/417/419/ 420/463/465/466 /467/468/471/472/474/506 IPC read with section 7(1)/7(2) of State Emblem of India (Prohibition of Improper use) Act, 2005 against the accused persons namely Partha Bharadwaj, Mrinal Kr. Saikia and Niajul Islam Talukdar respectively.	

	Subsequently, supplementary charge-sheet No. 02A/2024 dated 02/05/2024 was submitted u/s 120 (B)/417/419/420/406/465/467/468/471 IPC read with section 7(1)/7(2) of State Emblem of India (Prohibition of Improper use) Act, 2005 against the petitioner accused persons namely Khusdeep Bansal and Harish Bansal. **10.** Thereafter another supplementary charge-sheet being No. 02B /2024 dated 15/10/2024 was submitted u/s 120(B) /417 /419/ 420 /406 /465 /467 /468 /471 IPC read with section 7 (1)/7 (2) of State Emblem of India (Prohibition of Improper use) Act, 2005 against the accused persons namely Sankar Patsaria @ Umesh Patsaria, Shaswat Singh Bundela, Dilip Singh Bhagel, Pallavi Thakuria and Dewa Prakash Bhagawati respectively. **11.** After perusal of the documents furnished u/s 207 Cr.PC, the accused petitioners could observe that no investigation as regard to the false	

	supply of goods were made on that angle which has caused serious prejudice to the accused petitioners. It is apparent that the investigating officer is not bringing out the truth rather; they are protecting the informant who is the fictitious and false purchaser of goods. **12.** On causing an enquiry by the present accused persons, it comes to the light that Sabarwal Trading India Private Limited (STIPL) along with its Directors is the mastermind perpetrator of the crime. The said fictional crime was perpetrated with the sole intention for booking a financial loss of 59 crores in the financial year 2023-24. The said scheme was implemented with the web of closely linked companies/firms, who were created for the sole purpose of orchestrating this fraud. The fraud includes creation of sale of goods only on paper devoid of actual delivery of the goods. The GST of almost all the companies	

	stands suspended and the physical presence are in contravention to the records does not exist in the registered address. Furthermore, a thread which runs across all entities is that they are in unrelated business. **13.** The sequence of transactions of the alleged procurement by the STIPL from companies in L1 and L2 from L3 and L3 from L4 in furtherance of the alleged scam committed at the instances of one Mr. Partha Bharadwaj. The entire sequence of transactions is an outcome of fraud on the strength of the fake GST bills to manufacture a loss at the STIPL balance sheet. Most of the companies are ghost companies who were existent for a short period of time and their transactions were limited to this alleged transaction. However, the investigating authority failed to investigate or record against the same in this regard and thereby rising serious questions on the conduct of the investigation.	

14. On making an enquiry, the accused petitioners came to know from the GST records of the connected companies involving the transactions, it clearly transpires that all the transactions of L1, L2, L3 and L4 companies connected to the informant company was specific only to the tender period not before tender period and thereafter.

15. In the FIR, the STIPL has specially mentioned that first sample of school bags were approved on 22/10/2022 by Matak Council, whereas from GST details it is clearly evident that the informant along with L1, L2, L3 and L4 companies had started purchasing schoolbags from 07/10/2022 which clearly shows the malafide intent of STIPL to manufacture bogus bills in their books of accounts. The informant company had started purchasing the schoolbags even before the approval of the same was made, which clearly show that all is not in accordance with law.

16. Another aspect of consideration is that the price on the tender documents of the STIPL shows that certain quotations were taken from small/big vendors for supply of these items i.e. mosquito net, schoolbags and blanket and the average rates of the items came at ₹ 1 50, 350 and 450 respectively, whereas the tender price was Rs.950, 1560 and 1600 respectively. The informant had purchased these items in its own books at an average 10% less than inflated tender price. Therefore, this transaction of the informant clearly establishes the fact that the purchases were made in a bogus manner at a higher price.

17. Various complaints has been made before the DCP, Crime, Guwahati, Assam as well as to the GST and Income Tax department against the informant and his company regarding his fraudulent activities, misuse of Assam Government stamps, misuse of Assam

Government stationery, creation of fake and bogus companies with no physical presence, evasion of taxes both GST and income tax. However, the state authority has not taken any action against the informant and his company till date. The informant along with its intricate web of companies is the real perpetrator of crime and with a malafide intention they have wrongly implicated the present accused petitioners in the instant case.

18. The whole investigation of the case and the charge-sheet submitted by the investigating authority against the present accused petitioners is based on false and concocted story made out by the informant. Further, the charge-sheet filed by the investigating authority is a masterpiece of deliberate omission and commission, failing to establish even a prima facie case against the accused petitioners while consciously ignoring the mountain of evidence

	pointing to a systematic fraud perpetrated through an intricate web of companies connected to the informant's firm STIPL. Therefore, the investigation done by the investigating authority is incomplete, shabby and the same is malafide one. This is a fit case to pass an order directing the investigating authority to conduct further investigation to dig out the actual fact and truth for the ends of justice. **19.** The true facts of the case is that on 23/09/2022, a memorandum of understanding was executed between the STIPL and Matak Autonomous Council, Assam wherein purchase order were issued by Matak Autonomous Council, Assam in favour of STIPL valued at ₹ 1,105,000,000 and ₹ 313,200,000 respectively. Thereafter, between October 2022 to December, 2022 STIPL performed part of the purchase orders amounting to Rs.63,59,88,000/- raising approximately 168 tax	

	invoices to Matak Autonomous Council. In the above transactions the present accused persons had absolutely no role and they were not the signatories of these documents nor did they receive any financial benefit from the above transactions. However, on 10/10/2023 the informant with ill motive lodged a false and frivolous FIR against the accused persons which was maliciously registered as CID PS Case No.16/23 u/s 120(B) /225 /256 /257 /259 /260 /406 /417 /419 /420 /463 /465 /466 /468 /471 /472 /474 /506 IPC read with Section 7(1)/7(2) of State Emblem of India (Prohibition of Improper Use) Act, 2005. **20.** During the investigation of the case, the investigating authority did not find any incriminating material against the accused persons despite multiple searches, no evidence whatsoever of any financial benefits to the accused. Further, the investigating authority has not found	

	any document bearing the signature of the present accused persons connected to the offences, linkage of money trial of the accused along with other accused persons and no direct or circumstantial evidence of conspiracy. However, the investigating authority without any single iota of evidences filed the charge-sheet illegally against the accused persons overlooking the real culprit of the crime. **21.** Hence, it is prayed to pass the necessary order directing the investigating authority to further investigate the matter for the ends of justice. **22.** I have already heard the Ld. Counsel for accused persons viz. Khusdeep Bansal and Harish Bansal and the prosecution on petition No.425. **23.** The Ld. Counsel for the accused persons viz. Khusdeep Bansal and Harish Bansal had brought the notice of this court to para no. 16.12 of the	

	Charge-sheet No.02 dated 09/02/2024 where under heading "Further investigation" it is written that "the investigation about the notes of the remaining FIR named accused persons and other accused persons is now under process……." **24.** According to the Ld. Counsel, the petitioner/accused persons are not praying for re-investigation on its own, the investigating authority has itself mentioned in the charge-sheet that further investigation is going on. As it is already written in the charge-sheet that further investigation is going on, hence the court may forward the instant petition to the investigating authority for looking into the matter raised by the petitioner/accused persons. **25.** This is a case where the informant Sri Kamal Sabharwal has lodged an FIR at CID police station on 10/10/2023 to the effect that the accused persons had committed offence for cheating by impersonation	

	as a public servant, forgery of valuable security and counterfeiting seals and such documents with the dishonest intention to misappropriate funds of ₹63 Crore of M/S Sabharwal Trading India Pvt. Ltd. in complete criminal breach of trust and other penal offences in conspiracy in the name of Matak Autonomous Council. Hence, this case. **26.** On the said FIR, CID PS Case No.16/23 has been registered. The investigation authority after investigation submitted three nos. of charge-sheets so far. This is a case where investigation is initiated on FIR by the complainant and the investigation authority on finding materials filed charge-sheet against the accused persons. **27.** If the informant or his company has committed any offence against the petitioner accused persons, then the petitioner accused persons may lodge separate FIR/complaint against him. But this case is not the right	

	place to agitate the grievance, if any of the petitioner/accused persons against the informant or his company. This court being a trial court after filing of the charge-sheet has nothing to do with the investigating authority. If the investigating authority is doing further investigation, that part is also not a concern of the trial court. This court is of the considered opinion that the trial court is not to direct the investigating authority to further investigate into any matter on the prayer by the accused persons. Accordingly, the prayer for further investigation is rejected. **28.** Petition No. 425 was filed on 29/03/25 is disposed of. **29.** Fix: 22-08-25 for production for C/C.	Addl. Sessions Judge No. 5, Kamrup (M), Guwahati.