(2010) 09 DEL CK 0290

Delhi High Court

Case No: Writ Petition (Criminal) 1350 of 2010

Monisha Gupta		APPELLANT
	Vs	
State and Another		RESPONDENT

Date of Decision: Sept. 16, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 102
- Penal Code, 1860 (IPC) - Section 120B, 406, 409, 420, 468

Hon'ble Judges: Sanjiv Khanna, J

Bench: Single Bench

Advocate: Vijay Aggarwal and Atul Sharma, in W.P. Criminal 1350 and 1351/2010, Jayant Bhushan and Nitesh Jain, in W.P.Crl. 1351/2010, for the Appellant; Meera Bhatia, ASC, Roshan Kumar and I.O. C. Singh, PS-EOW, Pinaki Misra Bina Gupta, Ankur Saigal and Ashok K. Sharma, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Sanjiv Khanna, J.
The petitioners herein are shareholders in Sunair Hotels Ltd. FIR No. 90/2000 police station Connaught Place was registered on 14th February, 2000 and is subject matter of charge sheet, which is pending before the trial court. Mr. S.P. Gupta, Mr. Kaveen Gupta and Mr. Vipul Gupta are facing prosecution in the said charge sheet under Sections 420/406/409/468/471/477A and 120B Indian Penal Code.

2. Economic Offences Wing, Crime Branch by their letter dated 1st March, 2004 informed the Managing Director of Tourism Finance Corporation of India that 2,09,91,600 shares of Sunair Hotels Ltd., which were deposited with them as security, are a case property in the said case and these cannot be liquidated and dealt with.

3. Now an application has been filed on behalf of the complainant M/s VLS Finance Ltd. on whose behest FIR No. 90/2000 was registered, with a prayer that the case property

and the derivative contraband are liable to remain seized and no one can use the same except in accordance with the direction of the court. Prayer is made that the accused should be restrained from using the said shares or deriving any benefit or advantage thereof in any manner. A prayer has been also made for directions to be issued u/s 102 of the Code of Criminal Procedure to the Investigating Officer.

4. No order or direction has been passed on the said application and the application is still pending consideration before the learned trial court. In the meanwhile the accused have filed an application before the trial court challenging the maintainability of the said application filed by the complainant. In the order dated 3rd September, 2010, it has been observed by the learned trial court that the question of maintainability of the application filed by the complainant will be dealt with during the course of arguments on the application filed by the complainant. Part arguments have been heard and the application has not been disposed of.

5. It will be appropriate if the petitioners herein approach the trial court raising all contentions as raised in the present petitions, including the contention that they have right to be heard. If any such application is filed, the same will be considered in accordance with law. It will be open to the respondent-complainant to raise all contentions with regard to maintainability, locus standi and on all other aspects. Parallel proceedings without any order by the trial court deciding any lis/dispute are not justified and required.

The petitions are disposed of. This Court has not expressed any opinion on merits.

Dasti under signature of the Court Master.