

IN THE COURT OF THE LIX ADDL.CITY CIVIL
& SESSIONS JUDGE, BANGALORE CITY
(CCH-60)

Dated this the 8th day of January 2021

PRESENT

SRI N. SUBRAMANYA, M.Com., LL.B.,
LIX ADDL.CITY CIVIL & SESSIONS JUDGE
BANGALORE CITY

P.C.R.No.66/2020

COMPLAINANT: Insolvency and Bankruptcy Board of
India, 7th Floor, Mayur Bhawan,
Shankar Market, Connaught Circus,
New Delhi – 110 001.

Through:
Sunil Kumar,
S/o Sh. Dharampal,
Aged 40 years,
Deputy General Manager,
7th Floor, Mayur Bhawan,
Shankar Market, Connaught Circus,
New Delhi – 110 001.

(Rep.by Spl.P.P., K.M. Madaiah)

-Vs-

ACCUSED: 1. Prakash Kumar Singh,
Ex-Director,
M/s. Sovereign Developers
and Infrastructure Private Limited,
R/o S-2, S-3, No.99, Aditi Silver
Residency, 4th Cross, AGS Layout,
Opp. SBI Bank, Dollars Colony Branch,
New BEL road,

Bengaluru – 560 054.

2. Deepakk Kumar,
Ex-Director,
M/s. Sovereign Developers
and Infrastructure Private Limited,
R/o S-2, S-3, No.99, Aditi Silver
Residency, 4th Cross, AGS Layout,
Opp. SBI Bank, Dollars Colony Branch,
New BEL road,
Bengaluru – 560 054.

ORDERS ON TAKING COGNIZANCE

The complaint is filed under Section 236 read with Sections 68, 70, 74 and 235A of Insolvency and Bankruptcy Code, 2016 and Sections 190, 193, 200 of Cr.P.C., 1973.

2. In the complaint it is stated that the accused are the suspended Directors of M/s. Sovereign Developers and Infrastructure Private Limited, (Corporate Debtor) who are the accused in this case. The complainant is a Statutory Body established under the Code with objectives and reorganization and insolvency resolution of corporate persons, partnership firms and individuals for maximization of value of assets to promote entrepreneurship, availability of credit and balance the interests of all stakeholders etc.,

3. The Corporate Insolvency Resolution Process (CIRP) was initiated by Phoenix ARC (Financial Creditor of the Corporate Debtor) by an order of N.C.L.T., Bengaluru. The RP vide letter dated 05.05.2020 and 11.07.2020 informed the complainant that ex-directors have contravened various provisions of the Code. The Corporate Debtor had entered into a Joint Development Agreement with land owners with respect to the project. But due to dispute between them there was Arbitrary award to pay Rs.5.4 Crores to the Corporate body against which both have challenged in A.S.178/2018 and later compromised the matter and land owners agreed to pay in all Rs.10.50 Crores to the Corporate body and accused have received several D.D.s and undated cheques.

4. It is further alleged that the CIRP initiated proceedings against the Corporate Debtor and the Corporate Debtors were restrained in law from maintaining or operating accounts or undertaking any actions. But the accused though not entitled to represent the Corporate Debtor in the compromise Petition have proceeded in the matter and collected

D.D.s and cheques which were required to have immediately handed over to the IRP but they have failed to hand over the same inspite of calling upon them. The RP have intimated all the banks in case of any cheques, drafts are deposited and they are able to retrieve six DDs. and two cheques and they were revalidated in the account of RP for the purpose of CIRP. After an enquiry it revealed that accused illegally encashed one of the DD for Rs.30,00,000/-. The accused with malafide and fraudulent intention of depriving the creditors of their rightful claim did not hand over the instruments to the IRP/RP, with further intention to defraud the creditors of Corporate Debtor. For their illegal gains further illegally opened the bank account in the name of Corporate Debtor to deposit said D.D. and to withdraw the amount of the same. The accused are called upon to extend co-operation in furnishing the records and documents, but they have not co-operated as per the assurance given by them. Hence, the accused have committed the offences under the said Code Punishable for Concealment of property under Section 68 and 74 and Contravention of Section 70 for not handing over the D.D.s and cheques to the IRP and for

misconduct in course of corporate insolvency Resolution Process under Section 70, 235A read with Section 19 of the Code for not furnishing the information and non-co-operation and misconduct in course of CIRP. Hence, prayed to take cognizance and to proceed with the case to enquire the matter and to punish the accused for the above offence.

5. The complainant has produced all the relevant documents at Annexure 'A' to 'P' which clearly discloses the prima facie proof of all the material ingredients in the complaint.

6. Having heard in detail and perusal of entire materials on record, there are prima facie sufficient materials against the accused to proceed with. The complainant had complied with all the provisions and ingredients for taking cognizance of the complaint under Section 236 of Insolvency and Bankruptcy Code, 2016. This Court being a Special Court established under Chapter XXIII of the Companies Act, 2013 is also empowered to deal with the offences under the said Code. Further the complainant is a Government Authority and exempted from personal attendance before this Court. The complainant has

filed this complaint in writing and also fulfilled all the essential ingredients for initiation of the proceedings against the accused.

Hence, I proceed to pass the following:

ORDER

Cognizance for the offence under Section 236 read with Sections 68, 70, 74 and 235A of Insolvency and Bankruptcy Code, 2016 and Sections 190, 193, 200 of Cr.P.C., 1973 is taken against the accused No.s 1 and 2.

It is ordered to register Spl.Criminal Case against the accused No.s 1 and 2 for the above said offences in Register No.III.

Issue summons to the accused No.s 1 and 2 for the above said offences for their appearance on 22.02.2021.

(Dictated to the judgment-writer, transcribed by her, corrected, signed and then pronounced by me in the open court on this the 8th day of January, 2021).

(N. Subramanya)
LIX Addl. C.C. & Sessions Judge,
Bengaluru CITY.

PCR.No.66/2020

Order pronounced in the open court [vide separate orders]
with the following operative portion:

ORDER

Cognizance for the offence under Section 236 read with Sections 68, 70, 74 and 235A of Insolvency and Bankruptcy Code, 2016 and Sections 190, 193, 200 of Cr.P.C., 1973 is taken against the accused No.s 1 and 2.

It is ordered to register Spl. Criminal Case against the accused No.s 1 and 2 for the above said offences in Register No.III.

PCR.No.66/2020

Issue summons to the accused
No.s 1 and 2 for the above said
offences for their appearance on
22.02.2021.

(N. Subramanya)
LIX Addl. C.C. & Sessions Judge,
Bengaluru CITY.