© April 2026 | IJIRT | Volume 12 Issue 11 | ISSN: 2349-6002

Role Of Law Enforcement Agencies in Indian Banking Fraud

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***Abstract*—There are many Law Enforcement agencies, the Central agencies are i.e., National Investigation Agency (NIA), Directorate of Enforcement (ED), Central Bureau of Investigation (CBI) and Narcotics Control Bureau (NCB) apart from other central agencies. There are state agencies i.e., Police, CID etc.**

Role of law enforcement agencies is very crucial in the cases of frauds, which are taking place every day includes detecting, investigating and prosecuting in banking frauds. These agencies are working in coordination with regulatory authorities. One of the major issues in the last one decade that accounts have been declared as Fraud Accounts as per Reserve Bank of India (RBI) guidelines without having thoughts that whether the account is one year old, two year or ten years, but banks immediately declare account as Fraud Account and it have been hand over to Central Bureau of Investigation (CBI) for investing the reasons why/how customers have cheated the Bank. After reporting to RBI and the forensic audit is also carried over by various agencies, banks get rid of recovering the amount from borrower on the pretext that matter reported to CBI. Banks even forget that CBI is law enforcement agency not recovery agency. If we see the big corporates accounts which have been written off and if we hand over to CBI lots many issues will come on surface. So, either all accounts which have been written off should be hand over to CBI or it should the periodicity of account reported to CBI as per the age of accounts. If Customer have been maintaining the accounts properly and serving the interest/ instalments well in time for more than five years or a decade and facilities have been reviewed/renewed during this period then how it is treated a Fraud Account. It shows that the Fraud reporting policy of RBI needs to revisit otherwise any good account/ customer can be classified as Fraud account which will adversely impact the image of Customer, his reputation has also been lost due to wrong exercise of classification as Fraud account. There may be various reasons for classifying account as NPA as prescribed by RBI but accounts need proper and focused application of thoughts/circumstances/reasons by which the account to be classified as Fraud .1.

1. RBI Master Circular No. DBR No. BPBC 2/21.04.048/2015-16 dated July 01, 2015 revised vide Master Circular No. DOR No. str rec. 55/21.04.048/2021-22 dated October1, 2021.

***Index Terms*—RBI, CBI, ED, Police, NPA, Forensic Audit, detection, investigation, embezzlement, depositors, borrowers, frauds, bankers, FEMA. IT Act2002, The Prevention of Corruption Act.**

I. INTRODUCTION:

Law enforcement agencies the account when is reported to Central Bureau (CBI) of Investigation as fraud account as per RBI guidelines then CBI start investigation against the bankers even most of time without investigating or interrogating Borrowers which always demoralizing Bankers as if they have siphoned the money. CBI always asked many questions from the Bankers as if the banker have taken the loan and borrowers are enjoying the benefits of loan taken by them. They need not pay any interest, nor to return the bank's money on the other hand if they spend only 10% of interest amount, they can satisfy the Law enforcement agencies and also can fight the case in the court of law, without spending a single penny from their own capital, that's why borrowers always prefer that as early as the case is filed before the courts any Law Enforcement Agency will not take any action without the permission of courts.

II. DEFINATION

The Law enforcement agencies i.e., CBI, Enforcement Directorate (ED), Police etc. are the agencies who have the responsibility of detecting, investigating and present the outcome of their investigation before the court so that prompt action may be taken in the courts for speedy recovery.

CBI framed many questions, which have spoiled the career and life of many Bankers who have been performed their duties with dedication and honesty for the economic development of Country. It is duty of Banker to take Deposit and give Loans to customers for the development of Economy. If Bankers will not finance to any person/corporate/body then what they do with the Deposits which they have canvassed from the Depositors. The procedure of CBI investigation takes years and by that time the borrowers enjoy the Bank's Money which have been availed y them from the Banks. Even they are not paying that amount to the banks during the pendency of the case and even in most of the cases Bankers also don't focus for Recovery as matter remain pending with CBI or other Law enforcement agencies. Bankers are losing Principal amount and also interest on the Loan amounts. On the other hand, banks have to make up to 100% provisions for NPA Accounts as per RBI guidelines. Bankers have to run from post to pillar to recovery amount, face the court case and also several bankers have to face charge sheet filed by the CBI and other agencies. Bankers have to face the court case and have to defense themselves as well as try to win the case so that bank's money can be recovered.

III. LITERATURE REVIEW:

The Law Enforcement Agencies particularly CBI and ED derive more power being the Central Investigation agencies, CBI is having this power from PMLA, IPC 1861 and now from BNS 2023 whereas ED has more power derived from Prevention of Money Laundering Act 2002. On the information received from FIU this agency will start investigation from hawala point view that from which source money have been laying in the accounts or cash transaction done through hawala. CBI is the domestic crime investigating agency operate under Ministry of PPG and Pension. FIU provide data of various accounts to these agencies; on the basis of this data, they start the investigation. In case of Fraud accounts which are reporting to CBI after declaring fraud as per RBI guidelines. CBI can start investigation after registering FIR. They will conduct the preliminary inquiry to know facts about the matter. IPC 1861, BNS 2023, The Prevention of Corruption Act 1988, FEMA 1999, The Information Technology Act, 2000 and PMLA Act 2002 are the main source of investigation by the CBI and ED for Internal as well as External Investment in India or abroad. These Law Enforcement agencies keep regular watch on every forex transaction and import export apart from RBI.

IV. DISUSSION

Hence first of all CBI should investigate the borrower immediately and their passport etc. to be taken by them so that in nobody can leave the country without the permission of CBI and Courts if really, they have done frauds with Banks so that amount can be recovered immediately. If the borrowers have really done the fraudulent activities, then many stakeholders will be ruined and it will adversely affect the economy. Bankers should take immediate action so that borrowers cannot fly abroad. The Law enforcement agencies i.e., CBI, Enforcement Directorate (ED), Police etc. also take prompt action so that case may be filed in the courts for speedy recovery. Action should also be taken by agencies for cheating the Banks. It will help to recover the amount and also control the siphoning of money from business. After reporting the account as Fraud, the bankers should start action start action as per guidelines to recover the amount. There are various Early warning signals (EWS) and Bankers have to pay proper attention to these EWS so that the account can be revive and genuine problems can be resolved because account will start giving signals that there are some problems in account and these signals are known as Early Warning signals.

There was a time when Bankers used to discuss with the customer and try to resolve their issues because there are many genuine reasons which are affecting the business. However, if there are genuine reasons and customer are banking since long time so the question of reporting Fraud is not justifiable if the customer has really siphoned/diverted money. If the customer is new and since inception or after few months the account has started giving early warning signals or customer is a willful defaulter. It has also started reflecting in various audit/inspection, or may be old account but have intentionally siphoned the money then it has to be reported as Fraud account immediately. Researcher has also tried to emphasize on various Legal Cases relating to Loans Frauds.

The Banking Fraud which are taking place anytime and anywhere due to increase of use of Technology required training/guidance to the customer so that they should catch into grip of fraudulent person. The users are not well aware of precautions to be taken while using various methods of technology but the fraudulent are well aware of several of all these things and always try to enter in the system or break the security wall so that they can syphon the money as well as data. When the fraudulent commit any type of activity this sound more and if the money have been syphoned then it will not only badly be affecting the Economy but also give bad name to the sector. Banking is backbone of the Economy and frauds in the Banking sector shows that that the money kept in Banks are not safe. Customers will lose trust on these noble organizations which are involved in Nation Developments.

V. CONCLUSION

There are lots many big frauds are taking place since last one decade. If we see the Banking history, we will realize that the frauds are coming up in big way where huge amount of Banking Sector is stuck up which is adversely affecting not only the Banking Sector but also the Economy of the Country. We must always keep in mind that this money belongs to Public who have kept their hard money in the Banks and if such type's fraud will continue in days to come then there will be threat to Banking sector which are already in the process of consolidation, but also to Economy of the country. After most o the Banks are facing cultural integrity, more focus should be given to integrate the culture of other banks employees so that frauds etc. can be checked. Banks should play a vital role in plucking the fraudulent activities. The law enforcement must proactively handle the case so that fraudsters cannot leave the country and siphoned the money. There should some exemplary action so that fraudsters can stopped the thinking of such activities.

AUTHOR CONTRIBUTIONS

KRK was primarily responsible for preparing the original draft of the study. The work relating to conceptualization, selection of methodology, and legal analysis was also carried out by KRK.

RS supervised the research throughout the study. RS also assisted in developing the ethical analysis framework, checked the accuracy of the work, and reviewed the final manuscript before submission.

Funding

This research did not receive any financial assistance from any external agency, institution, or organization. The study forms part of a self-funded PhD research project.

Conflicts of Interest

The authors state that they have no conflict of interest, financial or otherwise, in relation to this study or its findings.

Availability of Data

Generated through publicly available regulatory documents and statutory analysis.

ACKNOWLEDGMENTS

Parul University Institute of Law research facilities.

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