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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Crl. Rev. P. No. 258 of 2007

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Reserved on: 14.01.2008
Date of decision: 18.01.2008

S. SWARAN SINGH

...PETITIONER

Through: Mr. V.M. Thareja, Advocate.

Versus

CENTRAL BUREAU OF INVESTIGATION

...RESPONDENT

Through: Mr. R.M. Tiwari, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

1. Whether the Reporters of local papers
may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be
reported in the Digest? No

SANJAY KISHAN KAUL, J.

1. M/s. ZZ Zippers Private Limited applied for a loan of Rs.13.00 lakh to the Punjab & Sind Bank, Rajouri Garden Branch, New Delhi. The application was forwarded to the zonal office for sanction and is alleged to have been sanctioned under the discretionary power of the DGM. However, on 19.12.2001, the Manager at the zonal office intimated by a note annexed that it had come to the knowledge of the bank that the brother and sister-in-law of the Directors of M/s. ZZ Zippers Private Limited are partners in another firm M/s. Pinky Zip against which cases are pending before DRT and thus advise had been given not to release the loan and the title deeds of the property to the Branch Manager.

This note is stated to have been seen by the Senior Manager, DGM and was finally put up to the petitioner who endorsed it as seen on 26.12.2001. The petitioner was the General Manager of the branch.

2. It is the case of the petitioner that the matter in issue is within the powers of the DGM and was not required to be put up before the General Manager. The letter dated 3.1.2002 addressed to the petitioner making a reference to the earlier letter dated 31.12.2001 and the discussion on 1.1.2002 was found neither available in the original records nor carried any posting mark. A meeting was held on 16.1.2002 in the Office of the Zonal Manager, which is alleged to be fabricated as it is the case of the petitioner that he was not present at the meeting and the minutes of the meeting does not bear the signature of the petitioner.
3. The Special Judge vide order dated 17.11.2006 framed charges against the petitioner under Sections 120-B/420/467/468/471 IPC read with Section 13(1)(d) & 13(2) of the Prevention of Corruption Act. This order was challenged by the petitioner by filing the Criminal Revision Petition No.1/2007 where the petitioner pleaded that the plea of the petitioner that the letter dated 3.1.2002 was not even received by the petitioner until 18.5.2002 and thus the assumption on the basis of which the charge was framed against the petitioner of approval of sanctioning of limit on 3.1.2002 as recorded in the minutes of the meeting dated 3.1.2002 are incorrect. The learned single Judge of this Court found that since the trial court had recorded the submissions with regard to the

receipt of the letter dated 3.1.2002 on 18.5.2002 as well as the contention of the petitioner of non-participation in the minutes of the meeting dated 16.1.2002, the order framing charges should have specifically dealt with these aspects. This was so as the order for framing charges is a reasoned one dealing with various contentions. Thus, by the order dated 23.2.2007 the order framing charges was set aside and the Special Judge was directed to consider the question of charges relating the petitioner in accordance with the law.

4. Thereafter on hearing learned counsels for the parties, the impugned order dated 28.3.2007 has been passed framing charges.
5. Learned counsel for the petitioner, once again, referred to the same plea and the manner in which the trial court has dealt with the matter. The trial court found that there were two letters of 3.1.2002 and the first letter (D-45) is the one which dealt with the matter which showed that the party had been allowed to avail the limit as per sanction after discussing with the petitioner. It was this letter which was the subject matter of discussion in the loan committee meeting held on 16.1.2002.
6. The second letter of the same date is also written by the Branch Manager and addressed to the Zonal Manager, stating that the credit limit had been allowed to the party after permission and the action should be confirmed in view of the discussion with the petitioner. The trial court, thus, found that even if this letter had been received by the zonal office on 18.5.2002, the letter clearly

stated that it was with the permission of the petitioner. Mr. Shailender Chawla (PW-21), who is from the zonal office has stated in his statement under Section 161 Cr.P.C. that the matter was discussed in the loan committee meeting held on 16.1.2002 where it was decided to confirm the Branch Manager action and all the members had signed on the last page except the petitioner.

7. The other witnesses of the bank who appeared also supported the stand about the presence of the petitioner at the meeting and the role played by him.
8. The order has to be, in my considered view, appreciated on the touch stone of principles settled by the Apex Court relating to the framing of charges. It is trite to say that no detailed scrutiny of evidence had to take place but there should be material on record, which is sufficient so that the *prima facie* case can be made to proceed against the accused. In fact, in Omwati Vs. State 2001 SCC (Cri) 685 the Apex Court cautioned the High Courts against interference at the initial stage of framing of charges merely on hypothesis imagination and far fetched reasons. This reasoning applies more so where the action is taken under the Prevention of Corruption Act, 1988 as held by the Apex Court in State of MP Vs. Ram Singh 2000 SCC (Cri) 886.
9. Learned counsel for the petitioner, once again, sought to draw the attention of this Court to the material on record including the circular dated 15.11.1999 about the verbal permissions of sanctions and recall of credit facilities where such practice was not

approved of oral instructions. Learned counsel for the petitioner also sought to emphasise that there is contradiction in the statement of PW-21, Shailender Chawla.

10. On hearing learned counsels for the parties, it is obvious that merely because only the note dated 26.12.2001 contains the signature of the petitioner would be no ground not to frame charges against the petitioner. The said documents is one of the documents showing the role played by the petitioner. The evidence of the bank employees shows that the petitioner presided over the meeting of 16.1.2002 though he had not signed the minutes. There is no reason why the name of the petitioner would be so recorded or the witnesses would so depose against the petitioner as there was no animosity. In any case the stage is only of framing of charges and there is sufficient material for the same. It will always be open for the petitioner to establish during the course of trial that he had no role to play. The question of participation in the meeting and the receipt of the letter dated 3.1.2002 has also been dealt with in extenso by the trial court while framing the charges and thus that aspect has also been examined.

11. In view of all the aforesaid reasons, I see no reason to interfere with the impugned order of framing of charges.

12. Dismissed.

JANUARY 18, 2008
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SANJAY KISHAN KAUL, J.