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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3812 OF 2012

Harshit Vanraj Merchant ..Petitioner.
V/s.
The State of Maharashtra and Ors. ..Respondents.

Mr.Pranlalj with Mr.S.Mukri i/b. M/s. India Law for the petitioner.
Mrs.M.M. Deshmukh, APP for respondent-State.
Ms.Rebecca Gonsalves for respondent-CBI.

CORAM : RANJIT MORE AND V.L.ACHLIYA, JJ.

DATED : 7TH DECEMBER, 2015

P.C. :-

1. Heard learned counsel for the petitioner, learned APP for the State and learned counsel for the CBI.

2. The petition is filed for quashing of the proceedings bearing Special Case No.40/2007 pending before the Special Judge for CBI at Greater Mumbai for the offences under section 13(2) read with 13(1) of the Prevention of Corruption Act, 1988 and sections 120B, 420, 467, 468 and 471 of the Indian penal Code.

3. The allegation against the petitioner is that at the relevant time, the petitioner was on the Panel of Syndicate Bank Housing Finance branch as a Valuer. He has issued valuation report in respect of the property without actually inspecting the property

which facilitated the co-accused to secure huge loan from the bank based upon the false and fabricated documents to cheat the said bank.

4. The learned counsel for the petitioner vehemently contended that none of the act alleged against the petitioner amounts to an offence under the Act. The petitioner had issued the valuation report on the basis of the documents produced for his perusal. It is contended that for the purpose of valuation of the property, he was not required to personally visit the property. He further submitted that there was absolutely no *mens rea* on the part of the petitioner in issuing the valuation report. So also, there is no evidence to show that the petitioner had any ill-intention or connivance with the co-accused so as to defraud the bank.

5. Ms.Gonsabvales, learned counsel appearing for the respondent-CBI opposed the petition and contended that the petitioner had filed discharge application before the trial Court. The trial Court has rejected said application after giving an opportunity of hearing to both the parties. The petitioner has not challenged that order. In this background, the learned counsel submitted that the petitioner is not entitled to claim any relief in the instant petition by invoking the inherent jurisdiction of this Court. Learned counsel further submitted that there is ample

material to proceed against the petitioner. In the valuation report, the petitioner has mentioned that he has inspected the property before issuing the valuation report. He has issued the report in respect of a non existing property so as to facilitate the co-accused to practice fraud and secure loan from the Bank.

6. We are of the view that considering the prosecution case against the petitioner and the order of rejection of application for discharge being not challenged, it is not desirable to invoke the jurisdiction under Article 226 of the Constitution of India. It is nowhere the case of the petitioner that entire case against the petitioner is based upon no evidence to proceed against the petitioner. The contention of the learned counsel of the petitioner that the valuation report was issued without any *mens rea* on his part cannot be considered at this stage. Only after assessment of evidence, the trial Court can reach to a conclusion as to whether the petitioner had connived or not with the co-accused in securing the loan and he had any ill intentions in issuing valuation report. In view of this, we are not inclined to entertain this petition. Accordingly, the petition is dismissed. Rule stands discharged.

(V.L.ACHLIYA, J.) (**RANJIT MORE, J.)**