IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Criminal Revision Case No.298 of 2013

Between :-

Juluri Lakshmaiah and another .. Petitioners

And

State of A.P.,
Rep.by its Spl.P.P.,
CBI, High Court of A.P.,
Hyderabad .. Respondent

DATE OF JUDGMENT PRONOUNCED: 24th July, 2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copies of Judgment may be marked to Law Reporters/Journals Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.298 of 2013

ORDER:-

This Criminal Revision Case is filed by the petitioner/A.8 and A.9 under Section 397 read with 401 Cr.P.C., questioning the correctness of the order of the learned I-Additional Special Judge for CBI Cases, Hyderabad, in Crl.M.P.No.1481 of 2008 in C.C.No.20 of 2007, dated 19-10-2012.

2. The facts, in brief, are that the petitioners/A.8 and A.9 filed a petition under Section 239 Cr.P.C., for discharging them for the alleged offences punishable under Sections 120-B, 420 and 471 IPC., and under Section 13(2) r/w 13 (1)(d) of Prevention of Corruption Act, 1988. By impugned order, the learned trial Judge held that the material placed on record is sufficient for framing the charges and there were no grounds to discharge the petitioners/A.8 and A.9 and consequently dismissed the petition. Hence, the revision.

3. The contention of the learned Counsel appearing for the petitioners/A.8 and A.9 is that a bare perusal of the charge sheet does not disclose that the petitioners/A.8 and A.9 have committed any act whereby they are said to have committed the acts of cheating as alleged by the Investigating Agency. He further contended that the material placed on record does not, *prima facie,* show the involvement of the petitioners/A.8 and A.9, hence, the learned trial Judge ought to have discharged the petitioners, but erroneously dismissed the petition.

4. On the other hand, learned Special Standing Counsel for CBI

submits that if the entire charge sheet and the material produced along with that is perused, *prima facie*¸ it is made out that there was a deep-seated conspiracy in between all the accused including A.8 and A.9 and the matter of conspiracy can be deciphered only during the course of trial whereby it can be brought on record as to what is the specific role played by the accused. Learned Standing Counsel further submits that there is a specific allegation against the petitioners/A.8 and A.9 facilitating the acts of all the accused in cheating the bank in obtaining loan based on false, fabricated and fictitious documents. The learned trial Judge has rightly considered the material on record and dismissed the petition, which does not warrant any interference.

5. The non-petitioners - A.1 to A.3 are the bank officials of the Indian Overseas Bank, and the other accused including the petitioners/A.8 and A.9 are connected with M/s.Pragathi Industries, Teja Industries and Jai Ganesh Machinery and Equipment. The allegation is that all the accused conspired together to cheat the Indian Overseas Bank, Main branch, Hyderabad and in furtherance of their conspiracy they have used forged documents for processing the loan applications and thereby caused monetary loss to the Bank to an extent of Rs.25,26,020/-.

6. The main contention of the prosecution as per the averments of the charge sheet is that A.8 is the close associate of A.4 and it is A.8 who is instrumental in arranging the false alleged documents, he being a LIC Agent by profession and that basing on such false alleged documents, the loan application was processed and loan amount was disbursed in favour of Pragathi Industries. It is also alleged that it is A.8 who has encashed the cheques across the counter and handed-over the amount to the non-petitioner/A.4 who arranged false documents on behalf of the borrowers. Document No.73 consists of original cheques said to have been issued in favour of A.8 to withdraw the amount from Vijaya Bank and those

cheques are in the handwriting of the non-petitioner/A.4. Witness Nos.7 and 18 are listed to speak about these aspects. A *prima facie* perusal of these documents show that there is sufficient material for framing the charges against the petitioner/A.8.

7. Insofar as the petitioner/A.9 is concerned, he is an Office Assistant of A.4 against whom there are serious allegations. The allegations are that A.4 has withdrawn about Rs.17,00,000/- with the assistant of A.9 and the Bank Officials – A.1 to A.3 and it is A.9 who encashed the cheques across the counter, which were in the handwriting of A.4. The documents that are relied upon are document bearing Nos.22, 23, 24, 39, 40 and 62 and the listed witnesses No.3, 9 and 18 are shown by the prosecution to speak against the petitioner/A.9.

8. The learned trial Judge has considered the material on record in proper perspective and held that there is sufficient material to frame the charges against the petitioners/A.8 and A.9 and consequently dismissed the petition. Having perused the contents of the charge sheet and the material placed on record, the said order does not, in any way, suffer from any irregularity or illegality warranting interference. There is *prima facie* evidence against the petitioners/A.8 and A.9 for framing the charges and hence the revision is liable to be dismissed.

9. In the result, the Criminal Revision Case is dismissed and the learned trial Judge is directed to proceed with the trial of the case, however, without insisting for the presence of the petitioners/A.8 and A.9 for each and every adjournment, unless the same is necessary for any specific purpose.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.Jaiswal, J

July, 2015

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