IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.13835 of 2014

K.Sidda Reddy,
Deputy General Manager,
State Bank of India Commercial Branch,
1443, Trichy Road, ELGI Building,
Coimbatore - 641 018. ... Petitioner

Vs.

1. State by Inspector of Police,
B-4, Race Course Police Station,
Coimbatore Police Station,
Coimbatore.

2. The Superintendent of Police,
The Banking Securities & Fraud Cell,
Unit of Central Bureau of Investigation Wing,
No.36, Bellary Road,
Ganga Nagar, Bangalore - 32.

3. The Director,
Central Vigilance Commission,
Satarkata Bhavan, A - Block,
GPO Complex, INA,
New Delhi - 110 023. ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to transfer the criminal case pending in Crime No.1264 of 2013, against Lavanya Jewellers from the Inspector of Police, B-4, Race Course Police Station, Coimbatore to the Superintendent of Police, Central Bureau of Investigation, Banking securities and Fraud Cell, No.36, Bellary Road, Ganga Nagar, Bangalore - 32.

For Petitioner : Mr.A.Natarajan,
for Ms.L.Poompavai

For Respondent R1 : Mr.C.Emalias
Additional Public Prosecutor

R2 & R3 : Mr.S.Srinivasan
Special Public Prosecutor

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O R D E R

The complainant in Crime No.1264 of 2013 on the file of B4 Race Course Police Station, Coimbatore, has come forward with this application for transfer of investigation from the first respondent to the second respondent stating that the accused company had borrowed a loan from the bank to the tune of Rs.65 crores. But, he has not repaid the amount regularly and they are absconding. Hence, the complaint has been given on the basis of which a case has been registered before the first respondent. As per the Official Memorandum dated 24.08.2012, since the amount involved is more than 25 crores, the Banking and Securities Fraud Cell of CBI Wing is competent to investigate the matter. Hence, he prayed for transfer of the investigation.

2. The first respondent submitted that the investigation has not been completed and charge sheet is yet to be filed.

3. The learned counsel for the second respondent would submit that for the past two years the first respondent has conducted investigation and there is no necessity to transfer the case at this stage.

4. Considering the rival submissions and on perusal of typed set of papers, it is an admitted fact that on the basis of the complaint given by the petitioner, a case in Crime No.1264 of 2013 has been registered by the first respondent for the offence under section 420 IPC, stating that the accused has borrowed Rs.65 crores, but they have not repaid the same and they have absconded. Hence a case has been registered. In the Official Memorandum, dated 24.8.2012, which was issued on the basis of the Circular No.126 of the Central Vigilance Commission, it has been stated that as follows :

"Central Vigilance Commission vide Circular No.12/06/12, dated 12th June, 2012 (copy enclosed) has enhanced the threshold limit for reporting of Bank fraud cases for investigation by local police/State police and CBI. These limits are as under :-

Cases to be referred to CBI

a) Cases of Rs.3 crore and upto Rs.25 crore where staff involved is prima facie evident : CBI (Anti Corruption Branches)

Where staff involvement is prima facie not evident : CBI (EOW Branch)

b) All cases of Rs.25 crore and above : BS & FC Unit of CBI

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Admittedly, the amount involved in this case is more than 25 crores, i.e., Rs.65 crores. Therefore, BS & FC Unit of CBI has to investigate the matter. Further, it is pertinent to note that the first respondent has not completed the investigation and filed the charge sheet. So far only 7 witnesses have been examined. The accused were arrested and enlarged on bail and nothing has been seized. In this stage, this is a fit case for transfer of investigation to the second respondent as per the Official Memorandum of CBI, dated 24.08.2012 and the Official Memorandum is based on the circular issued by the Central Vigilance Commission.

5. Hence the case in Crime No.1264 of 2013 on the file of the first respondent is transferred to the second respondent for investigation in accordance with law. The first respondent is directed to transfer all the records to the second respondent within a period of 15 days from the date of receipt of a copy of this Order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

vrc Sub Assistant Registrar

To

1. The Inspector of Police,
   B-4, Race Course Police Station,
   Coimbatore Police Station,
   Coimbatore.

2. The Superintendent of Police,
   The Banking Securities & Fraud Cell,
   Unit of Central Bureau of Investigation Wing,
   No.36, Bellary Road,
   Ganga Nagar, Bangalore – 32.

3. The Director,
   Central Vigilance Commission,
   Satarkata Bhavan, A – Block,
   GPO Complex, INA,
   New Delhi – 110 023.

4. The Public Prosecutor
   High Court, Chennai.

+1cc to Ms.L.Poompavai, Advocate, S.R.No.6824

Crl.O.P.No.13835 of 2014

VGI(CO)
CA(12/02/2016)

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