IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.20680 of 2016
& Crl.M.P.Nos.9625 and 9626 of 2016

C.S.Balakrishnan ...Petitioner

Vs.

Central Bureau of Investigation,
Anti Corruption Branch, Chennai. ..Respondent

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the proceedings insofar as to the petitioner herein / 3rd accused is concerned, in C.C.No.46 of 2015, on the file of the XI Additional City Civil and Sessions Judge for CBI Cases at Chennai -1 and quash the same.

For Appellant : M/s.R.Ramachandran

For Respondents: Mr.K.Srinivasan, SPP for CBI

J U D G M E N T

The petitioner has filed this Petition under Section 482 of Cr.P.C. to call for the records pertaining to the proceedings passed in C.C.No.46 of 2015, on the file of the XI Additional City Civil and Sessions Judge for CBI Cases at Chennai -1 and quash the same.

2. The case of the prosecution is that a case in Crime No.RC MA1 2014 A 0048 was registered by Central Bureau of Investigation, Anti Corruption Branch, Chennai, on 28.1.2014, based on the written complaint dated 27.11.2014 of Shri Sandipan Das Gupta, Chief Manager, Central Bank of India, Mylapore Branch, Chennai 600 004, alleging commission of offences punishable u/s 120-B r/w 420, 468, 468 r/w 471 IPC, 420 r/w 511 IPC and Section 13(2) r/w 13(10(d) of Prevention of Corruption Act 1988 against Shri.T.S.Sridhar (A-1), the then Chief Manager, Central Bank of India, Mylapore Branch, Chennai, Shri.S.Venkataraman (A-2), Proprietor, M/s.Exim Focus, No.2-C, NRN Compound, Lakshmipuram, New Avadi Road, Villivakkam, Chennai and unknown others and investigated. During the investigation, the role of Shri C.S.Balakrishnan, the then Chief Manager,

Central Bank of India, Mylapore Branch, Chennai, Shri K.Devanathan, the then Asst. General Manager, Central Bank of India, Mylapore Branch, Chennai, Shri A.Krishnamurty, the then Panel Valuer, Central Bank of India, Mylapore Branch, Chennai, came into light and they were added as accused.

3. The allegation in brief is that the accused persons committed criminal conspiracy, cheating, forgery of valuable security, forgery for the purpose of cheating, using a forged document as genuine and criminal misconduct by accused Public Servants in the matter of sanctioning and disbursing of Cash Credit and Packing Credit loans from Central Bank of India, Mylapore Branch, Chennai in respect of M/s.Exim Focus for which, Shri.S.Venkatraman (A-2) was Proprietor during the period from 2011 - 2014 by submitting forged documents, violating the laid down norms, procedures and guidelines of the Bank and thereby causing wrongful loss to the tune of Rs.7.34 crores (approximately) to Central bank of India and corresponding wrongful gain to themselves.

4. However, in favour, the prosecution has filed a charge sheet on 27.11.2015 against 6 accused. The petitioner has been arrayed as 3rd accused in the charge sheet. The Special Court took charge sheet and has taken case on the file in C.C.No.46 of 2015. After taken on file, the trial court has furnished the copies of the documents, filed by the prosecution to the accused including the petitioner under Section 207 of Cr.P.C. Now the case is posted on 16.11.2016 for framing of charges.

5. The learned counsel for the petitioner would submit that the petitioner has filed this petition to call for the records pertaining to the proceedings passed in C.C.No.46 of 2015, on the file of the XI Additional City Civil and Sessions Judge for CBI Cases at Chennai -1 and quash the same. The petitioner is a Branch Manager and he has sanctioned loan to A2 after obtaining valuable security only, thereafter, this has been considered by the Regional Office and Zonal Office also. The petitioner also relied on the statement of Shri Sankha Charan Tudu, who before the CBI during investigation stated that the valuation report dated 08.10.2011 of the Karikili property, was given by A. Krishnamurthy, who was a panel valuer with good reputation. Based on the valuation report made by the panel valuer, the petitioner has sanctioned the loan, this has been considered by the Zonal Office. Further, he would rely upon the guidelines of the Central Bank of India Officers Employees' (Conduct) Regulations 1976 and Central Bank of India Officer Employees (D&A) Regulations Act, 1976, viz., in case of lapses without malafide, the nature of lapse and the quantum of loss due to the lapse will be an important consideration while determining the quantum of punishment; in case of any irregularity is detected

subsequent to the second audit / inspection, the auditors / inspectors concerned will be held accountable and be liable for disciplinary proceedings; in case of Review / renewal of limits subsequently where no irregularities of earlier sanction were recorded, the above provisions will apply to the authority reviewing / renewing the limits. No disciplinary proceedings has been initiated against the petitioner. Therefore, the petitioner is not responsible for the alleged offence.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that though he has not filed counter affidavit for this petition, but the very face of the charge sheet itself shows the commission of offence by those accused / petitioner and he further relied on the para 7 to 11 and 14 of the charge sheet. It clearly stated that involvement of the this petitioner / accused. Therefore once allegation levelled against the accused, shows that there is a prima facie materials available against the accused the case can be proceed against him. A roving inquiry is not required at the stage to find out whether the accused would be ultimately found guilty or not. However, this is not a fit case for exercising under Section 482 of Cr.P.C.

7. Heard both sides.

8. On careful perusal of the affidavit filed by the petitioner and submission made by the counsel for the petitioner and the charge sheet filed by the respondent, under Section 173 (2) of Cr.P.C., this Court has found there is enough materials to implicate the accused in the charge sheet. The regulation referred by the counsel for the petitioner is not applicable to the present case when there is a prima facie materials are against the petitioner. Therefore, this is not a fit case for exercising Section 482 of the Cr.P.C. Since there is enough materials available to show the involvement of the accused in this case. Though the High Court has inherent power and its scope is very vide, it is a rule of practice that it will only be exercised in exception case. Such powers can be exercised to secure ends of Justice and prevent abuse of the process of any court. However, such inherent powers are to be exercised sparingly, carefully and with caution. Considering the said facts and circumstances of the case, this petition is dismissed. Consequently, connected M.Ps. are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

pvs

To

1. The Central Bureau of Investigation,
   Anti Corruption Branch, Chennai.

2. The XI Additional City Civil and Sessions Judge for CBI Cases,
   Chennai -1

3. The Special Public Prosecutor, CBI Cases,
   High Court, Chennai

1 cc to Mr.R. Ramachandran, Advocate, sr. 65688

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