IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.644 of 2016

B.R.Lakshmanan ... Petitioner

Vs.

1. The Central Bureau of Investigation
   Head of South Zone,
   Chennai.

2. The Inspector General of Police,
   West Zone,
   Coimbatore.

3. The Inspector of Police,
   District Crime Branch,
   Nilgiris District.

4. The Deputy General Manager
   State Bank of India,
   Coimbatore.

5. The Chief Manager
   State Bank of India,
   Udhagamandalam Branch,
   The Nilgiris-646 001. ... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure seeking for a direction to the 1st respondent herein to register a complaint given by the petitioner dated 29.03.2015 to 1st respondent and investigate the matter.

For Petitioner	:	Ms.Kanimozhi Mathi
For R1	:	Mr.K.Srinivasan Special Public Prosecutor (CBI)
For RR2 & 3	:	Mr.R.Ravichandran Government Advocate
For RR4 & 5	:	Ms.S.R.Sumathy

O R D E R

The petitioner has filed this petition under Section 482 of the Code of Criminal Procedure seeking for a direction to the 1st respondent herein to register a complaint given by the petitioner dated 29.03.2015 to 1st respondent and investigate the matter in accordance with law.

2.Heard Ms.Kanimozhi Mathi, learned counsel appearing on behalf of the petitioner, Mr.K.Srinivasan, learned Special Public Prosecutor(CBI)appearing on behalf of first respondent, Mr.R.Ravichandran, learned Government Advocate on behalf of second and third respondents and Ms.S.R.Sumathy, learned counsel appearing on behalf of fourth and fifth respondents.

3.Learned counsel for the petitioner would submit that originally, the petitioner's father Mr.B.Raman had borrowed a sum of Rs.4,00,000/- from the 5th respondent-State Bank of India, Udhagamandalam Branch, The Nilgiris by mortgaging his agricultural property and paid the equated monthly installments, till his demise, in the year 2008. After that, the loan was not paid. Learned counsel for the petitioner would further submit that Dr.H.Shiva Kumar, the cousin of the petitioner, with an intention to grab the property mortgaged with bank, colluded with the agri-field officer-Mr.Vinoth, made the bank to initiate proceedings under the SARFAESI Act. Aggrieved by this, the petitioner is before this Court by invoking Section 482 of Criminal Procedure Code for a direction to the first respondent to register a complaint given by the petitioner dated 29.03.2015.

4. Mr.K.Srinivasan, learned Special Public Prosecutor (CBI) appearing for the first respondent would submit that this issue falls under the category of civil remedy and the matter is already pending before the Debts Recovery Tribunal at Coimbatore. Learned Special Public Prosecutor (CBI) has filed a counter which reads as follows:

> "The Respondent No.1 submits that as per the instructions communicated in Central Vigilance Commission Circular No.12/06/12 dated June 12,2012, the threshold limit for reporting of Bank fraud cases by local Police/State Police and CBI was enhanced and accordingly, only the cases where the monetary limits over Rs.3.00 crores to be referred to CBI, and the cases where the monetary limits below Rs.3.00 crores to be filed with the local police only. Pursuant to the instruction of the Central Vigilance Commission vide its circular dated June 12,2012, Policy Division of Central Bureau of Investigation had also communicated the same matter to all the concerned vide its circular No.21/21/2004-PD/2620 dated August 24,2012."

5. The learned Special Public Prosecutor (CBI) would further submit that since the matter is between the customer and the bank and also now pending before the Debts Recovery Tribunal, Coimbatore, invoking Section 482 of the Code of Criminal Procedure and giving direction to the first respondent-CBI, does not arise.

6. Ms.S.R.Sumathy, learned counsel appearing on behalf of the fourth and fifth respondents -Bank would submit that they have filed an appeal under SARFAESI Act before the Debts Recovery Tribunal and the case is also pending; it is purely a civil liability and this Court cannot invoke its discretionary power under Section 482 of the Code of Criminal Proceedure.

7. It is an admitted fact that the father of the petitioner borrowed some amount from the 5th respondent-State Bank of India,Udhagamandalam Branch,The Nilgiris,by mortgaging his agricultural property. According to the petitioner, his father borrowed only Rs.4,00,000/- and mortgaged the property and the interest is also very low. But, now the respondents 4 and 5-Bank say that he borrowed a sum of Rs.8,00,000/- and for the rest of payment due, they seized the mortgaged property under SARFAESI Act, in connivance with the Bank Officers and one Mr.Vinoth, agri-field officer. According to the respondents 4 & 5-the Bank Officers, the petitioner borrowed Rs.8,00,000/- only and also he had not repaid the amount in full and hence they initiated proceedings under SARFAESI Act, against which, they preferred an appeal in SARFAESI Application No.173 of 2014 and the bank has filed Original Application before the Debts Recovery Tribunal, Coimbatore i.e. O.A.No.205 of 2015 and the same are pending.

8. Considering the facts and circumstances and since the matter is pending before the Debts Recovery Tribunal, it would not be proper for this court to analyze the case of the petitioner. Though, this Court has inherent power and the scope is very wide, it is rule of practice that it will only be exercised in exceptional cases. It is well settled that the inherent powers under Section 482 of Code of Criminal Procedure can be exercised only when no other remedy is available to the litigant and not in a situation where a specific remedy is provided by the statute. Under the said circumstances, this petition does not fall under exceptional cases. Therefore, this Court is not inclined to entertain the petition under Section 482 of Code of Criminal Procedure and this petition is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Central Bureau of Investigation
   Head of South Zone,
   Chennai.

2. The Inspector General of Police,
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5. The Chief Manager
   State Bank of India,
   Udhagamandalam Branch,
   The Nilgiris-646 001.

6. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.Kanimozhi Mathi, Advocate, S.R.No.64895

Crl. O.P. No.644 of 2016

SS(CO)
CA(15/12/2016)