HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.912 of 2016

ORDER:

The present revision is filed under Sections 397 and 401 of Cr.P.C. aggrieved by the order dated 10.02.2016 passed in Crl.M.P.No.3689 of 2014 in C.C.No.603 of 2013 on the file of the II Additional Chief Metropolitan Magistrate, Visakhapatnam, wherein and whereunder an application for discharge filed by the petitioner/accused No.2 was rejected.

The allegations in the charge sheet are as under:

The offence occurred prior to 02.02.2013 at State Bank of India, Gopalapatnam Branch, Visakhapatnam City. In the year 2012, accused No.1 worked as Accountant in State Bank of India, Gopalapatnam Branch and also acted as a Deputy Manager. On 18.04.2012 accused No.1 pledged three spurious gold ornaments i.e. Vaddanam and two Danta Vankis, weighing about 194.20 grams and obtained agricultural gold loan of Rs.2,75,000/- vide A/c No.32290052797 in the name of his wife. On the same day, accused No.1 transferred the loan amount to the account of his wife. On 21.07.2012 accused No.1 pledged ten spurious gold ornaments weighing about 96.70 gms., with the same branch and obtained another agricultural gold loan of Rs.1,92,000/- vide A/c No.32440122985 in the name of his wife. On 29.01.2013, on the instructions of Regional Manager, State Bank of India, Visakhapatnam, LW.4 visited State Bank of India, Gopalapatnam Branch and scrutinized 281 numbers of demand loans/gold loans. LW.4 found that while working in Gopalapatnam Branch, accused No.1 took three agricultural gold loans and two demand loans in his name and in the name of his wife. He also found that the agricultural gold loans were taken by pledging spurious gold ornaments. Insofar as demand loans are concerned, LW.4 noticed that the loan document scripts were not available with the Branch. The act of cheating was immediately informed to the higher authorities, who inturn instructed LW.1 to lodge a report. During the course of investigation, the bank authorities secured a private gold appraiser and also the mediators for testing the gold ornaments. They also found that the gold ornaments ie. Vaddanam and Danta Vankis, which were pledged while obtaining agricultural gold loan A/c. No.32290052797 and four bangles & chain which were pledged while obtaining agricultural gold loan A/c No.32440122985 were spurious. During the course of investigation it was also noticed that accused No.2 being a Senior Special Assistant and Cash Officer verified and appraised the pledged ornaments by certifying them as genuine gold ornaments. The accused No.2, who is the petitioner herein cooperated and facilitated accused No.1 in getting the loans by certifying all the gold ornaments as genuine though five out of ten gold ornaments are spurious. Basing on these allegations a charge sheet came to be filed against the accused, which was taken on file as C.C.No.603 of 2013.

An application for discharge came to be filed by the petitioner/accused No.2 before the trial Court alleging that there is no material to connect him with the crime. It is urged that if there is any conspiracy in the commission of offence, it is between accused No.1 and his wife but the petitioner herein cannot be arrayed as an accused. After considering the rival submissions made, the trial Court dismissed the application holding that there is enough material to proceed against the petitioner. Challenging the same the present revision is filed.

Heard.

Learned counsel for the petitioner while reiterating the arguments which were advanced before the trial Court, contended that the gold ornaments were tested after they were handed over to the party, and hence submits that there is no sanctity to the test conducted to know the genuinity or otherwise of the gold ornaments. He further submits that the petitioner is innocent of the offences alleged and a false case is foisted.

In order to appreciate the same, it would be useful to refer to the statements of the witnesses, more particularly that of Bank Managers, recorded by the police during the course of investigation.

LW.1 was the Branch Manager, State Bank of India, Gopalapatnam Branch. His statement was to the effect that he worked as Accountant for two years and also acted as in-charge Deputy Manager from 26.05.2012 to 06.07.2012. According to him, his job is to manage the branch operations including sanction of gold loan after the appraisal done by the cash incharge. Thereafter, the accountant will sanction the gold loan. He stated that the sanctioned loan will be controlled by the Manager as per the delegation of financial powers and if the loan amount crosses Rs.3.00 lakhs, he has to report to the next higher authority for sanctioning the loan. According to him on 18.04.2013 Smt. B.Sailaja Rani, who is the wife of accused No.1 pledged some gold ornaments and on the same day accused No.1 sanctioned agricultural gold loan to an extent of Rs.2.75 lakhs and immediately thereafter transferred the same to the account of his wife. Similarly on 21.07.2012 the wife of accused No.1 pledged some more gold ornaments and obtained agricultural gold loan of Rs.1.92 lakhs. According to him, on 29.01.2013 the Manager (HR) visited their branch to scrutinise all the demand loans and gold loans taken by accused No.1 and his family members. During the said process he found agricultural gold loans being obtained on some spurious gold ornaments and also with regard to the manner in which the accounts were opened.

LW.2 is working as Senior Assistant in the said Branch during the relevant period. He also speaks about the manner in which the agricultural gold loans were obtained by accused No.1.

Similarly, LW.3, who is working as Passing and Support Officer at State Bank of India, Gopalapatnam from the year 2010 to 2012 2010-2012 speaks about the loans taken by accused No.1 in the name of his wife and also about the transfer of accused No.1 from the branch on 23.07.2012. He stated that after his transfer he came to know that the petitioner obtained gold loans by pledging spurious gold ornaments.

Insofar as the role played by the petitioner is concerned, the statement of LW.1 clearly discloses that the petitioner failed to check the gold properly and security register was also not properly maintained. The statement of LW.3 discloses that the petitioner herein checked the pledged gold ornaments and sent the loan file AGL 12/85 to him for sanction. Since the audit was going on, LW.3 is deputed to look after the work of accused No.1. After two days accused No.1 was transferred to Vepagunta Branch. On 09.11.2012 LW.3

was transferred to VSEZ Branch. Later he came to know that part of the gold which was pledged by accused No.1 while obtaining agricultural gold loan was spurious.

LW.5, who was running Teja Sri Jewellery Works at Ganesh Nagar, Gopalapatnam, stated that he certified the purity of the gold ornaments which were pledged by accused No.1 while taking the above loans. He found that some of the gold ornaments are spurious and some of them are real gold ornaments.

From the above, it is clear that the statement of LW.3 and the material on record clearly disclose that the petitioner herein checked the pledged ornaments and sent the loan file to LW.3 for sanction. Statement of LW.3 clearly show that petitioner appraised and certified the gold ornaments produced by accused No.1 as genuine gold ornaments and sent the loan file to LW.3 for sanction. Along with the charge sheet the prosecution also filed agricultural gold loan forms vide AGL No.12/85, which clearly shows that at the time of sanction of loan, the petitioner was working as Senior Special Assistant in State Bank of India and it was he who appraised and certified the gold ornaments. Since the gold ornaments which were pledged by accused No.1 and appraised by accused No.2 as genuine are spurious, it cannot be said that no *prima facie* case is made out against the accused. For the aforesaid reasons, I am of the view that the order under challenge warrants no interference.

Accordingly, the present Criminal Revision Case is dismissed. Miscellaneous petitions, if any, shall stands closed.

JUSTICE C. PRAVEEN KUMAR

07.04.2016
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