

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 875 of 2014

- Ashok Kumar Tiwari S/o. Late Hari Prasad Tiwari Aged About 63 Years R/o. Madhatal, Hari Singh Colony, Jabalpur, P.S. Jabalpur, Civil & Rev. Distt. Jabalpur (M.P.)

---- Petitioner

Versus

- State Of Chhattisgarh Through: SHO, P.S. Sakti, Civil & Rev. Distt. Janjgir-Champa (C.G.)

---- Respondent

For Petitioner	:	Ms. Sharmila Singhai, Advocate.
For State/respondent	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

31/07/2017

Heard.

1. Petition under Section 482 of Cr.P.C. has been brought to exercise the inherent jurisdiction to quash the criminal proceeding against him. It is submitted by the counsel for petitioner that one Sirdhari S/o Jeth Ram Gond impersonating as Milan Singh applied for Kisan Credit Card Loan of Rs.50,000/- to State Bank of India, Janjgir Branch-Sakti. Co-accused Teejkunwar Patel the then, Sarpanch identified the co-accused Sirdhari as Milan Singh. On the basis of which the present petitioner, who was working in the capacity of Branch Manager as well as Field Officer of the State Bank of India, Sakti, sanctioned the loan in favour of the accused Sirdhari, who represented himself as Milan Singh. While sanctioning the loan, it was the duty of the petitioner to visit and verify the information given by the loan applicant, but he failed to do so and the loan was sanctioned in the year, 2007. The loan advanced to Milan Singh was not repaid, for which notice was issued to the borrower, on which information was received that Milan Singh had expired in the year, 2005. Lakhan Singh Markam, the Field Officer in SBI, Sakti lodged FIR in PS-Sakti, on the basis of which the case was registered, investigated and charge-sheet has been filed against the petitioner

and other co-accused persons.

2. It is submitted by counsel for petitioner that petitioner was acting in the capacity of Field Officer as well as Branch Manager and sanctioned the loan in favour of the applicant, who represented himself as Milan Singh, without verifying the information and the details given by him. Further, he submitted that from the whole contents of the charge-sheet, there is no iota of evidence that petitioner had been or could have been beneficiary of any wrongful gain from this transaction, at the most, it can be held that petitioner committed dereliction of duty which amounts to misconduct and had to deal with departmentally. The negligence committed by the petitioner does not amount to commission of any offence. Hence, he has been wrongly incorporated as an accused in this case. Prayer has been made to quash the criminal proceedings so far it relates to the petitioner.
3. Learned counsel for State has submitted that FIR has been lodged by mentioning the name of petitioner and it has been stated by the witnesses examined in the investigation that petitioner has co-operated co-accused persons in commission of offences of fraud and forgery. Hence, the grounds raised in this petition can be raised in the trial for defence, hence, this petition is without substance.
4. Both the parties are heard and perused the material on record.
5. The FIR dated 3.4.2014 does not specifically mention any act on the part of the petitioner, the witnesses in the case have stated that petitioner never came on investigation on the field and sanctioned the loan inadvertently. None of the witness has made any direct allegation against the petitioner that he was a party to the fraud and impersonation committed by the co-accused persons. It is alleged that the accused Sirdhari impersonated as Milan and co-accused Teejkunwar in the capacity of Sarpanch identifying him as Milan Singh and helped in the commission of that offence. There is no statement on record to make out that petitioner in any respect was involved in the commission of offence of impersonation and fraud. Reliance has been placed on the judgment of ***Rishi Pal Singh Vs. State of U.P.*** reported in **2014(7) SCC 215**, in which it has been held that on going through the complaint and the material, it appears that the Branch Manager of the bank has violated the instructions which amounts to dereliction of duty.
6. There is nothing to suggest from the material on record that the loan papers etc.

prepared by the petitioner can be regarded as forged by the petitioner. The loan paper was prepared and the loan was sanctioned in the name of deceased person to the accused Sirdhari because of negligence and dereliction of duty committed by the petitioner. Petitioner was negligent in not verifying the correctness of the entries of loan application and inadvertently believed that the impersonator was the actual person, and it also appears that he himself was the victim of fraud and cheating by impersonation. Hence, the act of the petitioner is not covered of any of the offences under Sections 419, 420, 467, 468 & 471 of IPC. Hence, continuation of this proceeding would certainly amount to abuse of process of law.

7. In view of above, the petition is allowed. The proceeding in criminal case initiated on the basis of Crime No.130/2014 of P.S.-Sakti, District-Janjgir-Champa, so far, it relates to the petitioner Ashok Tiwari is quashed. The criminal proceeding against the remaining accused persons shall continue in accordance with law.
8. Accordingly, this petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha