IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.23385 of 2017

Mr.V.Chandra Sekhar,
Assistant General Manager,
Regional Business Office, Region -1,
State Bank of India,
No-86, Rajaji Salai,
Chennai 600 001 .. Petitioner/ De-facto Complainant

Vs.

1) The State Rep by
The Inspector of Police,
CCB, Bank Fraud Wing,
Commissioner Office,
Vepery, Chennai .. 1st Respondent / Complainant

2) The Superintendent of Police,
Central Bureau of Investigation,
Anti-Corruption Brnach,
III Floor, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam,
Chennai 600 006 .. 2nd respondent

This Criminal Original Petition is filed under Section 482 Cr.P.C. to pass an order by transferring the Criminal Case pending in Crime No.269 of 2016 against Smt.Raji Basanth Row from the file of the Inspector of Police, Central Crime Branch, Bank Fraud Wing, Commissioner Office, Vepery, Chennai to the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Shastri Bhavan, 26, Haddows Road, Chennai.

For Petitioner : Mr.L.Poompavai

For Respondents : Mr.P.Govindarajan,
Additional Public Prosecutor

ORDER

The petitioner has come forward with this Criminal Original Petition seeking to pass an order by transferring the Criminal Case pending in Crime No.269 of 2016 against Smt.Raji Basanth Row from the file of the Inspector of Police, Central Crime Branch, Bank Fraud Wing, Commissioner Office, Vepery, Chennai to the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Shastri Bhavan, 26, Haddows Road, Chennai.

2. The petitioner herein is the de-facto complainant in Crime.No.269 of 2016, on the file of the Central Crime Branch-I, Chennai. The complaint has been registered against one Smt.Raji Basanth Row and other unknown persons alleging that Smt.Raji Basanth Row, working as Special Assistant at MRC Nagar Branch, State Bank of India, has misappropriated a total sum of Rs.2,43,67,000/- in connivance with other unknown persons. The complaint dated 16.09.2016 has been taken up for investigation. An additional complaint has also been filed on 18.05.2017 stating that the Bank's internal investigation report reveals a total sum of Rs.3,40,88,405/- has been fraudulently misappropriated from the customers account by Smt.Raji Basanth Row and details containing the list of customers and total amount misappropriated have also been annexed with the said complaint.

3. In the petition, details like name of the bank, name of the account holder, amount and the manner in which the amount alleged to have been misappropriated, have been vividly detailed. Since those details are not very much relevant for the disposal of this application, the name of the customers and amount involved alone is extracted below:

S.No.	Name of the Customer	Amount Involved in Rupees.
1	M/S. The Shrine of St.Thomas Cathedral Basilica	2,25,00,000.00
2	M/s St. Thomas Nursery and Primary School	11,77,000.00
3	Father Louis Mathias	4,50,000.00
4	M/s Society of St. Vincent de Paul	2,40,000.00
5	Jesu Kulandairaj	6,50,000.00
6	Roseline Padmini	1,00,000.00
7	John Gerald Patrick & Fransisca Row	40,23,868.00
8	Philomena J.M.J	36,05,260.00

S.No.	Name of the Customer	Amount Involved in Rupees.
9	Santhome Cathedral education Fund	8,60,000.00
10	Father Joe Balasamy	4,00,000.00
11	Alphonsa Leon	39,121.00
12	A.Sumithra Raj	29,021.00
13	A.Niveetha Raj	14,135.00
	TOTAL	3,40,88,405.00

4. The contentions made by the learned counsel for the petitioner is that as per the Central Vigilance Commission's Circular, dated 12.06.2012, all cases involving bank fraud over and above Rupees 3 crores to Rupees 15 crores shall be investigated by CBI (Anti Corruption Branch), where the bank staff involvement is prima-facie evidence. In this case, though earlier prima-facie materials were available for misappropriation of Rs.2,43,67,000/- and the further evidence reveals that it exceeds Rs.3,40,88,405/-, the investigation shall be transferred from local police namely Central Crime Branch-I Bank Fraud Wing, Commissioner of Police to Central Bureau of Investigation (Anti Corruption Branch).

5. On a perusal of the petition and the complaint dated 16.09.2016 and 18.05.2017, in the light of CVC circular dated 12.06.2012, it appears that the Central Vigilance Commission has taken a policy decision to allot responsibility of investigation of financial fraud cases to various investigation agencies based on the gravity of the crime. For easy reference, the said circular is extracted below:-

> "In partial modification of Commission's circular No.30/8/10 dated 17.08.2010, it has been decided to enhance the threshold limit for reporting of bank fraud cases by Local Police / State Police and CBI. Henceforth, following monetary limits would be followed to refer financial fraud investigations to the BS & FC unit of the CBI and the Local / State police:-
>
> Cases to be referred to CBI
>
> a) Cases of Rs.3 Crore and upto Rs.15 Crore:-

- Where staff involvementis prima facie evident	CBI (Anti-Corruption Branch)
-Where staff involement is prima facie not evident	CBI(EOW Branch)
b) All cases of Rs.15 crore and above	BS & FC Unit of CBI

6. A reading of the circular clearly indicates that whenever an involvement of bank staff is prima-facie evidence and extent of fraud is below Rupees 3 crores, then the local police / State police can take up the investigation and if it exceeds Rupees 3 crores but below Rupees 15 crores, CBI, (Anti Corruption Branch) will have jurisdiction over the investigation and if the involvement of the bank staff is not prima-facie evidence, CBI EOW Branch will have jurisdiction. This circular is only recommendatory in nature. It does not prohibits investigation by the local police, in case, where the bank fraud exceeds Rupees 3 crores. It is only the prima-facie evidence available to start with investigation which is relevant. As far as the first complaint dated 16.09.2016 is concerned, the de-facto complainant, namely Assistant General Manager, State Bank of India had prima-facie materials for misappropriation to the tune of Rs.2,43,67,000/-. Based on further internal investigation report, misappropriation in another sum of Rs.97,21,405/- had come to light and same has also been informed to the investigation agency, namely the Inspector of Police, CCB, Bank Fraud Unit, Commissioner Office, Chennai.

7. The learned counsel for the petitioner apprehends that since the named accused Smt.Raji Basanth Row, is a resident of Bangalore and the materials so far available themselves indicate that she has misappropriated and cheated the Bank over Rupees 3 crores, investigation at Bangalore may require and for the said purpose, investigation by premier investigation agency warrants. It is also contended by the learned counsel for the petitioner that the accused persons may find fault with the competency and jurisdiction of the present investigating agency quoting the circular of CBC dated 12.06.2012 and try to escape from the rigour of law.

8. This Court finds some force in the submissions made by the learned counsel of the petitioner, as it is evident from the complaints dated 16.09.2016 and 18.05.2017 lodged by the de-facto complainant that more than Rupees 3 crores of the nationalized bank, namely State Bank of India, has been misappropriated by Smt.Raji Basanth Row and others. Smt.Raji

Basanth Row being a staff of the said Bank, this case as per the circular has to be investigated by the CBI, ACB branch. So, in order to avoid any future dispute regarding the competency of the present investigating agency, it is advisable to transfer the investigation of the case to Central Bureau of Investigation (Anti Corruption Branch).

9. Accordingly, the Criminal Original Petition is allowed. The respondent herein shall hand over all the materials so far collected during the investigation to Central Bureau of Investigation (Anti Corruption Branch) Chennai, to continue the investigation and the CBI (ACB) shall file a final report in accordance with law.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To
1) The Inspector of Police,
CCB, Bank Fraud Wing,
Commissioner Office, Vepery, Chennai

2) The Superintendent of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
III Floor, Shastri Bhavan,
No.26, Haddows Road, Nungambakkam,
Chennai 600 006

+1 cc to M/s.L.Poompavai Advocate sr 77749

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aa04/12/2017