IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1039 of 2016
and Crl.MP.Nos.8684 & 8685 of 2016

Annamalai Krishna Reehana,
Chairman & CEO of Montis Aviation Academy Pvt. Ltd.
& Reefas Aviation Consultants Pvt. Ltd.
No.1, East Road, First Floor,
West CIT, Chennai - 35.
... Petitioner/Petitioner/Accused No 2

Vs

State represented by
The Inspector of Police,
Central Bureau of Investigation
BS & FC Bangalore.
... Respondent/Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w. Section 401 of the Criminal Procedure Code to discharge the petitioner from the alleged offences u/s.120B r/w section 409, 420, 471 of IPC and section 18(ii), r/w.13(I)(D) of the Prevention of Corruption Act as made in Charge Sheet/ final report No.08 of 2009 dated 17.11.2009 in C.C.No.41 of 2009.

For Petitioner :Mr.S.R.Sundaram
For Respondent :Mr.K.Srinivasan
Special Public Prosecutor of CBI Cases

ORDER

This criminal revision petition is filed to discharge the petitioner from the alleged offences u/s.120B r/w section 409, 420, 471 of IPC and section 18(ii), r/w.13(I)(D) of the Prevention of Corruption Act as made in Charge Sheet/ final report No.08 of 2009 dated 17.11.2009 in C.C.No.41 of 2009.

2. The case of the prosecution is that Mr.S.Durai the then Branch Manager of SBI, Saligramam branch had fraudulently sanctioned three Demand loans aggregating to Rs.6 crores to the University of Madras, by fraudulently creating duplicate term deposit advices and using them as genuine and by using the demand loan documents said to have been signed by the Vice

Chancellor. Whereas the loan documents are to be executed by Registrar of University of Madras along with one of the designated officials, to be accompanied by proper resolution from the University of Madras. Further, instead of crediting the loan proceeds to this petitioner's account i.e., University of Madras, the proceeds were disbursed by way of two Bankers Cheques favouring Airports Authority of India and another Bankers Cheque favouring M/s.Reefas Aviation Consultants Pvt. Ltd., represented by Smt.Reehana (Petitioner/A2), indicating the utilisation of the funds received from the bank and A2 and A3 had given cheques to the Bank towards the repayment of funds received. However these cheques when presented in the bank, they were returned unpaid on account of insufficient fund. Since University of Madras has denied of availing any loan by pledging their deposit receipts and the documents are not executed by the competent persons authorised by University of Madras, the Bank is likely to incur loss to the extent of Rs.6,09,20,388/- with interest as on 31.12.2008.

3. The petitioner/accused filed a discharge petition before the trial Court. The trial Court dismissed the discharge petition filed by the petitioner and hold that there are prima facie materials available to proceed against the petitioner/A2. Aggrieved by the order passed by the trial Court the present revision has been filed before this Court by the petitioner.

4. The learned counsel for the petitioner would submit that the loan sanctioned by A1 who is the Branch Manager, State Bank of India, Saligramam Branch, Chennai and he sanctioned loan only to the company, this petitioner/A2 is an independent and individual person. The petitioner/A2 has not taken any loan in individual capacity. Loan was obtained only by the company and the loan was sanctioned by A1 to the Company. The petitioner/A2 is not benefited anything out of the loan and she is not beneficiary and she has no role to play in this loan sanctioned process. The Airport Authority of India has allowed the petitioner's company to set up a flying school in Pondicherry and land was also allotted to her. But the said act shall have no connection with the alleged criminal conspiracy with A1. There is no loan to the Government, if at all any claim, only the company alone is liable to pay the amount, this petitioner has nothing to do with the loan transaction. The prosecution let the officials of the university and other persons who had actively involved in this case. There is no materials against this petitioner to face the trial. The trial Court had failed to consider all these facts and mechanically dismissed the petition. Therefore the order passed by the trial Court is liable to be set aside and the revision has to be allowed.

5. The learned Public Prosecutor would submit that the petitioner/A2 is the Managing Director of the Company and

actively participated in the company and there is allegations levelled against this petitioner and charge sheet have also been filed. There are materials to show that the petitioner/A2 had actively involved in the loan transaction and also there are prima facie materials to proceed against the petitioner/A2. The oral evidence given by LW17 and LW19 the officials of Indian Bank, T.Nagar branch will prove that as per the resolution the account of M/s.Reefas Aviation Consultants Pvt. Ltd., maintained at Indian Bank was operated by the petitioner/A-2 only. The witnesses listed in the charge sheet also have spoken about the involvement of this petitioner in the offence. Further he submitted that the oral evidence given by LW17 and LW19 officials of Indian Bank, T.Nagar branch, Chennai would prove that as per the resolution, the account of M/s.Reefas Aviation Consultants Pvt Ltd., maintained at Indian Bank and was operated by the petitioner/A2 only.

6. The learned Public Prosecutor further would submit that the D-85, D-85(a) to D-85(i) are the documents of M/s.Reefas Aviation Consultants Pvt. Ltd., such as current account opening form, resolution and certificate of incorporation etc., which contains the alleged signatures marked as Q 53 to Q 56, Q61, Q 63 to 63 purported to be signed by the petitioner/A2 as Shri Kathiresan, were sent to GEQD Hyderabad to find the authorship of the signatures. However GEQD Hyderabad vide letter dated 19.11.2009 (LD-338) confirmed that the signatures in question which was signed as Shri Kathiresan was not actually signed by Shri. Kathiresan. In other words, it is forged. The said Kathiresan and the petitioner/A2 are the only two Directors of M/s.Reefas Aviation Consultants Pvt. Ltd. If the signature of one of the two Directors is forged by anyone, then the suspicion of the forgery will automatically goes towards other Director i.e., the petitioner/A2. Though GEQD Hyderabad did not give any specific opinion about the authorship of the forgeror, but it is the fact that amount transferred in the account of M/s.Reefas Aviation Consultants Pvt. Ltd., was utilised by the petitioner A2 only which indicates that the signature in question was forged/ caused to forged by the petitioner/A2. Moreover the oral evidence given by LW23 and LW24 would establish that the signatures in question were forged by the petitioner/A2 only. Therefore there are prima facie materials to proceed against the petitioner.

7. Heard the rival submissions on both sides.

8. On perusal of the records placed before this Court such as grounds raised in the criminal revision, counter filed by the respondent, order passed by the trial Court in M.P.1173 of 2014 dated 09.12.2015 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai in C.C.No.10282 of 2014 and also on carefully reading of the charge sheet and the list of witnesses and documents annexed with that, it shows

that it is an admitted fact that this petitioner is the Managing Director of the M/s.Reefas Aviation Consultants Pvt. Ltd., and on perusal of the charge sheet it shows that there is an allegation levelled against this petitioner/A2 also and the list of witnesses and documents annexed shows that there are prima facie materials to proceed against the petitioner/A2.

9. This Court finds that there are incriminating materials available against the petitioner to frame the charges. No doubt, in the criminal cases, the benefit of doubt always goes in favour of the accused. But at the stage of framing charges under Section 239 of Cr.P.C., the benefit of doubt goes in favour of the prosecution. Even a suspicion drawn on incriminating materials is enough to frame a charge against the accused. At this stage, this Court can have the impression that the petitioner might have committed the offence and probative value of the materials cannot be tested.

10. In a case instituted upon police report, the Court is required at the time of framing of charge, to confine its attention to the documents mentioned in Section 173 Cr.PC only. Ordinarily, the documents filed by the defence cannot be considered in framing charge. In fact, the hearing provided to the accused Under Section 239 and 227 of Cr.PC., is only in regard to the record of the case produced by the prosecution and the documents submitted therewith. Further, the Court is not expected to go into the probative value of the materials on record, nor required to discuss every material placed before it by the police along with the charge sheet. At the time of framing the charges, it is not for the Court to determine whether a particular witness is unreliable.

11. In the light of the above decision there is no perversity or infirmity in the order passed by the trial Court, therefore there is no reason to interfere with the order passed by the trial Court and is liable to be dismissed.

12. In the result this criminal revision petition is dismissed. Consequently, Connected miscellaneous petitions are also closed

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1. The Additional Chief Metropolitan Magistrate,
   Egmore, Chennai 8.

2. The Inspector of Police,
   Central Bureau of Investigation
   BS & FC Bangalore.

3. The Public Prosecutor,(CBI Cases)
   High Court, Madras.

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NRJK(CO)
SP(03/08/2017)