

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2017

CORAM :

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

CRL.OP. No.15483 of 2014

1. G.V.Pankajam
2. Jayanthi Nagarajan
3. Kaluga Turbo Machinery Pvt.Limited
Rep. By its Director Smt.Jayanthi Nagarajan
Having its Registered Office at No.24/2, Sadullah st,
T.Nagar, Chennai – 600 008. ... Petitioners/A8,A13 & A-33

Vs.

State Rep. By:
Additional Superintendent of Police,
Special Police Establishment, Central Bureau of Investigation,
Anti-Corruption Branch, Shastri Bhavan,III Floor,
Haddows Road, Nungambakkam,
Chennai – 600 006. ... Respondent/complainant

PRAYER:-Criminal Original Petition has been filed under Sections 482 of the Code of Criminal Procedure to call for the records in C.C.No.4 of 2008, on the file of the XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai and Quash the charge sheet in C.C.No.4/2008, on the file of the XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai.

For Petitioners : Mr. K.Suresh Babu

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI

ORDER

This petition has been filed to call for the records in C.C.No.4 of 2008, on the file of the XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai and Quash the charge sheet in C.C.No.4/2008, on the file of the XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai.

2. The case of the petitioners is that the respondent had filed their final report implicating the first petitioner/A8 as the proprietor of M/s.Ushakiran Constructions and friend of Sudha Ramani-A16. She opened a Current Account with Andhra Bank on the introduction of A16 and applied for SOD facility of Rs.15 Lakhs. She produced the collateral security believing the representations of the owner of the said property. She executed composite agreement and demand promissory Note for the SOD complying with Banking formalities. The first petitioner on understanding that there was some lacunae in the collateral security submitted by her to the Bank, had immediately approached the bank and had settled her SOD much before the defacto complainant bank could

even give a complaint to the respondent police. The bank had also confirmed the settlement and closure of the SOD by the first petitioner and had acknowledged receipt of the money from the first petitioner in the case filed by the bank before the Debt Recovery Tribunal II, Chennai in O.A.No.145/2009, The specific allegation against the first petitioner is for an offence u/s.420, 468 r/w.471 IPC. Thus there is no amount due and payable by the first petitioner to Andhra Bank as confirmed by the bank. The petitioner's SOD account with Andhra Bank is independent of the other accounts involved in this case and the petitioners have no relationship or understanding with any other accused in operating this SOD.

3. The respondent had filed their final report implicating the petitioners 2 and 3 in this case. The second petitioner on behalf of the third petitioner applied for SOD of Rs.15 lakhs and introduced A21. The collateral security believing the representations of the owner of the said property was produced by the second petitioner. The second petitioner on behalf of the third petitioner had executed composite agreement and demand promissory note for the SOD complying with banking formalities. The second petitioner on understanding that there was some lacunae in the collateral security submitted by her company to the bank, had immediately approached the bank and had settled her SOD much before the defacto complainant bank could even give a complaint to the

respondent police. The bank had also confirmed the settlement and closure of the SOD by the petitioners 2 and 3 and had acknowledged receipt of the money from them, in the case filed by the bank before the Debt recovery Tribunal II, Chennai in O.A.No.145/2009. The specific allegation against the second and third petitioners is for an offence u/s.420, 468 r/w. 471 IPC. Thus there is no amount due and payable by the petitioners 2 & 3 to Andhra Bank as confirmed by the bank. The petitioners' 2 & 3, SOD account with Andhra Bank is independent of the other accounts involved in this case and the petitioners 2 & 3 has no relationship or understanding with any other accused in operating this SOD. The SOD account of the first petitioner being the Proprietor of M/s.Ushakiran Constructions and SOD Account of the petitioners 2 and 3, represented by its Director and second petitioner had being compromised/closed. The petitioner submits that the civil liability with the defacto-complainant-Andhra Bank had being compromised/closed and the defacto complainant had in their application before the Debt Recovery Tribunal-II, Chennai in O.A.No.145/2009 in para-9 had confirmed the same. The final report of the prosecution only implicates the petitioner for an offence u/s.420, 468 r/w.471 IPC. The petitioner submits that unlike V.M.Ganesan(A1) the petitioners are not made as accused in this case by virtue of being a public servant and thus the provision of Prevention of Corruption Act, 1988 specifically u/s.13(2) r/w.13(1) (d) of

the Prevention of Corruption Act, 1988 is not implicated against these petitioners. The charge sheet is filed against the petitioners before the Trial Judge is only for an alleged offence u/s.420, 468 r/w. 471 IPC. The petitioner is invoking the principles laid down by the Hon'ble Apex Court that the power under Section 482 Cr.P.C., to quash a criminal proceeding is not limited by the provisions of Section 320 Cr.P.C., and even if an offence is not compoundable under Section 320 Cr.P.C., the same would not act as a bar for the exercise of power u/s.482 of Cr.P.C., The petitioner submits that as the dispute between the defacto complainant bank and the petitioners organisation has been settled, the petitioner submits that the petitioner can invoke the provision of 482 of Cr.P.C., as per the principles laid down by the Apex Court.

4. The case of the prosecution is that A1 during the period 13.06.2002 to 29.04.2004, while working as Branch Manager, Andhra Bank, Sowcarpet Branch, Chennai entered into criminal conspiracy, with A4 to A12, A14 and A15 had opened current account in the names of 11 companies/firms, including third petitioner company represented by its Proprietor, the first and second petitioners.

5. These 11 companies/firms including third petitioner company were shell companies, which were not doing business as projected or

informed to the bank. The prosecution also alleges that these companies were floated only for the purpose of obtaining credit facilities from the bank for which as a primary step, they opened current account. The prosecution also states that the current account No.5122 of Usha Kiran Constructions was introduced by A16 in her capacity as Authorised signatory of M/s.Energomasch Power Engineering and Consulting Pvt.Ltd., and current Account No.5115 of M/s.Kaluga Turbo Machinery Pvt.Ltd., was introduced by M.R.Babu in the capacity of Authorised signatory of M/s.Conveytech Plants and Equipments Pvt.Ltd. The said 11 account holders including the petitioner firm, applied for working capital limits in the form of Secured Overdraft (SOD) to the tune of Rs.15\ lakhs each against fabricated title deeds as collateral security. The prosecution alleges that such overdraft was obtained to help M/s.Bhagyanagar Solvents Extractions Pvt.Ltd., The Approved Valuer Mr.L.N.Rajagopalan A13 gave false valuation report without identifying the properties and its ownership in respect of the above six properties. Similarly, the bank's panel Advocate S.Sampath Kumar (deceased) also gave false legal opinion on these documents without verifying the genuineness of the documents from the Revenue Office. A1 abused his official position and accepted the forged collateral security documents, false legal opinion of Late.S.Sampath Kumar, Advocate, False valuation report of A13 and also submitted false valuation report of Manager on the properties and

sanctioned SODs. The loan became bad debts as it was not settled. After the transfer of the Manger A1, efforts were made by his successor to recover the loans, through the collateral securities pledged to the bank, during which time it was found that these property documents were forged, the owners are different and not free from encumbrances, hence were not realizable. Head Office of Andhra Bank, Hyderabad ordered an inspection of these accounts and in the course of inspection it was found that the persons who mortgaged these properties were not existing in the address furnished to the bank or elsewhere and properties were not existing in the address furnished to the bank or elsewhere and properties mortgaged are not available as per the title deeds furnished to the Bank and were false and forged, and the firms/companies were not functioning in the address furnished to the bank. Due to the above said reason, they found that the loan proceeds cannot be realised. Role of the first petitioner A8 is that she is proprietor of M/s.Ushakiran Constructions and firend of A16. She opened account on the introduction of A16 and applied for SOD facility of Rs.15 lakhs. She introduced V.Loganathan (deceased) as "M.Sundaresan" as one of the partners of the firm. She produced the same property documents on forged stamp paper showing that "M.Sundaresan" is the owner of the property. She executed composite agreement and demand promissory note for the SOD and diverted the SOD proceeds to the account of M/s.Charlie and Ram Power Ltd., of which

A4 Babu is the Director. The role of the second petitioner is that she is the Director of M/s.Kaluga Turbo Machinery Pvt., Ltd.,- A3. She applied for SOD of Rs.15 lakhs and was introduced A21 and made him one of the Directors of the company. She offered the same set of forged property document showing "Ramalingam" as the owner of the property offered as collateral security. She executed demand promissory note, general form of guarantee and also submitted forged auditor's certificate. She diverted Rs.9 lakhs out of Rs. 15 lakhs sanctioned to the account of M/sCharlie and Ram Power Ltd., of which A4 is the Director.

6. From the above narrated facts of the petitioners as well as respondent, it is to be noted that the first petitioner is the proprietor of M/s.Ushakiran Constructions and wife of one V.Gopalakrishna. The second petitioner is one of the Directors of the third petitioner Company and the wife of one S.Nagarajan and third petitioner is private limited company represented by its Director, second petitioner herein. The petitioners are arrayed as A8, A13 and A33 respectively. Against 33 Accused who are facing prosecution for an alleged offences u/s120 B, 420, 468 r/w. 471 IPC and Section 13(2) r/w.13(1)(d) of the Prevention and Corruption Act, 1988. The specific allegation against the petitioner are for offences u/s420, 468 r/w. 471 IPC. Based on the complaint from M.Anjaneya Prasad, Deputy General Manager, Andhra Bank, Zonal Office , TTK Road,

Chennai, the respondent has registered a case in RC.No.2(A) of 2006 for various offences u/s.120 B, 414, 420, 467, 468 r/w. 471 IPC Section 13(2) r/w. 13 (1) (d) of P & C Act, 1988 and upon the completion of the investigation, the respondent had filed the charge sheet before the XI Additional City Civil & Sessions Judge, CBI cases, relating to the Banks and Financial Institutions. The respondent in support of the prosecution case had relied upon 65 witnesses and 659 documents. No sanction was taken by the prosecution since V.M.Ganesan (A1) being dismissed from services as a public servant with effect from 28.02.2006 and since he no longer enjoys the status of a public servant, the prosecution had not obtained sanction order to prosecute V.M.Ganesan (A1). Therefore, the prosecution had not obtained the sanction order for A1. The trial court had taken the cognizance of the offence in C.C.No.4/2008 on the file of the XI Additional City Civil & Sessions Judge, CBI cases relating to Banks and Financial Institutions. During the pendency of the criminal case, the petitioners have filed this Criminal Original Petition before this court to quash the case in C.C.No.4 of 2008 on the file of the XI Additional City Civil & Sessions Judge, CBI cases relating to Banks and Financial Institutions.

7. The main contention raised by the learned counsel for the petitioners is that the Hon'ble Apex Court in various judgments had

held that the High Court may quash the criminal proceedings even in its view, the case of the compromise between offender and victim, the possibility of conviction is remote and in this case, the borrowers settled the loan even prior to filing of the FIR i.e., on 06.01.2016 and since it is a loan transaction, the complainant is the Deputy Manager, Andhra Bank, Zonal Office, TTK Road, Chennai. Based on his main complaint, CBI registered the case. But the amount was settled prior to filing of FIR and there is no dues with the bank, since this matter between the bank and its borrowers settled even on the date of filing of the complaint, no case is made out.

8. The learned counsel for the petitioners has made a submission based on the Hon'ble Supreme Court decisions. The necessity in filing the present quash has arose because unlike any heinous and serious offences of mental depravity in so far as the petitioner are concerned, the gravamen of the charge is that the petitioners had submitted some fake property document to the defacto complainant bank and had obtained an Over Draft facility of Rs.15 lakhs each. The petitioner had chosen to settle the amount due to the defacto complainant bank much before registering the FIR. The petitioner submits that even before the complaint could be given to the respondent by the defacto complainant, the petitioners had independently chosen to settle the dues but had failed to

receive back the documents given as collateral after having compromised/closed the civil liability with the defacto complainant-Bank. He has placed reliance on the following judgments:

(i) CDJ 2012 SC 482: Jayrajsingh Digvijayasingh Rana Versus State of Gujarat & Another.

(ii) CDJ 2012 SC 647: Gian Singh Versus State of Punjab & Another.

(iii) CDJ 2012 SC 168: CBI, ACB, Mumbai Versus Narendra Lal Jain & Others.

(iv) CrI.RC.NO.734/2013 dated 29.04.2014 V.R.Usha Vs.Inspector of Police, CBI/BS & FC, Bangalore.

As per the decisions of the Hon'ble Apex Court, since the loan amount has been settled with the bank, the court can quash the proceedings against these petitioners.

9. Learned Special Public Prosecutor would submit that the petitioners who are arrayed as A8, A13 & A33 along with others stood charged for the offences punishable under Sections 120-B, 420, 468 r/w. 471 IPC and Section 3(2) r/w. 13(1) (d) of the Prevention of Corruption Act, 1988. The petitioners conspired with others cheated Andhra Bank, Sowcarpet Branch, Chennai and in pursuance of the same, opened the current account in the name of 11 companies and the same was floated

by A3 to A16. But actually the said companies were not doing business as projected. These companies were floated only for the purpose of obtaining credit facilities from the bank. This petitioner along with others forged property documents in the bank and introduced A20 who does not have landed property of her own. She was impersonated and signed the guarantee agreement and other bank documents for sanction of SOD limit of Rs.15 lakhs to the company. The petitioner/A3 had impersonated and cheated the bank and hence, subsequent re-payment of the loan will not take away the offence. He would submit that the Hon'ble Supreme Court has held in the case of **Narinder Singh & Others Vs. State of Punjab & Another** reported in **CDJ 2014 SC 248** wherein certain guidelines have been given which reads as follows:

31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in

those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the

accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is

going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under [Section 482](#) of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under [Section 482](#) of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under [Section 307](#) IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under [Section 307](#) IPC and

conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

10. Learned Special Public Prosecutor appearing for the respondent would further submit that eventhough they have settled the loan amount before filing of FIR and charge sheet, they fall under the clause (III) of the above guidelines given by the Hon'ble Supreme Court in **Narinder Singh & Others (supra)**. Therefore, this Criminal Original Petition is not liable to be quashed.

In this case, the main contention of the learned counsel for the petitioners is that they have settled the amount much earlier before lodging of the complaint itself. The trial court has not properly appreciated and accepted the decisions referred by him before the trial court in the case of **Harmanpreet Singh Ahluwalia and others Vs.State of Punjab and others** reported in **(2009) 7 SCC 712. and SVL.Murthy Vs. State rep. By CBI Hyderabad** reported in **AIR 2009 SC 2717**. As per the latest decisions of the Hon'ble Supreme Court, mere repaying the amount/settling the amount will not take away the offence committed by the petitioners. Therefore, the contention raised by the petitioners is not sustainable. The reliance has been placed on the judgments in the case of **Central Bureau of Investigation Vs. Maninder Singh** reported in **(2016) 1 SCC 389** and **State of Tamilnadu Rep. By**

Inspector of Police, Central Crime Branch Vs. R.Vasanthi Stanley and another reported in **(2016) 1 SCC 376**. He referred to para-18 of the judgment in **Central Bureau of Investigation Vs. Maninder Singh** which reads as follows:

18. In the recent decision in *Vikram Anantrai Doshi*, this Court distinguished *Nikhil Merchant* case and *Narendra Lal Jain* case where the compromise was a part of the decree of the court and by which the parties withdrew all allegations against each other. After referring to various case laws under subject in *Vikram Anantrai Doshi* case, this Court observed that cheating bank expositis fiscal impurity and such financial fraud is an offence against the society at large, in para 26, this Court held as under: (*Vikram Anantrai Doshi* case).

"26. ...Be it stated, that availing of money from a nationalized bank in the manner, as alleged by the investigating agency, vividly expositis fiscal impurity and, in a way, financial fraud. The modus operandi as narrated in the charge sheet cannot be put in the compartment of an individual or personal wrong. It is a social wrong and it has immense societal impact. It is an accepted principle of handling of finance that whenever there is manipulation and cleverly conceived contrivance to avail of these kind of benefits it cannot be regarded as a case having overwhelmingly and predominantly of civil character. The ultimate victim is the collective. It creates a hazard in the financial interest of the society. The gravity of the

offence creates a dent in the economic spine of the nation. The cleverness which has been skillfully contrived, if the allegations are true, has a serious consequence. A crime of this nature, in our view, would definitely fall in the category of offences which travel far ahead of personal or private wrong. It has the potentiality to usher in economic crisis. Its implications have its own seriousness, for it creates a concavity in the solemnity 1 Page 11 that is expected in financial transactions. It is not such a case where one can pay the amount and obtain a "no due certificate" and enjoy the benefit of quashing of the criminal proceedings on the hypostasis that nothing more remains to be done. The collective interest of which the Court is the guardian cannot be a silent or a mute spectator to allow the proceedings to be withdrawn, or for that matter yield to the ingenuous dexterity of the accused persons to invoke the jurisdiction under Article 226 of the Constitution or under Section 482 of the Code and quash the proceeding. It is not legally permissible. The Court is expected to be on guard to these kinds of adroit moves. The High Court, we humbly remind, should have dealt with the matter keeping in mind that in these kind of litigations the accused when perceives a tiny gleam of success, readily invokes the inherent jurisdiction for quashing of the criminal proceeding. The court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge comes to his aid and the said experience should be used with care, caution,

circumspection and courageous prudence. As we find in the case at hand the learned Single Judge has not taken pains to scrutinize the entire conspectus of facts in proper perspective and quashed the criminal proceeding. The said quashment neither helps to secure the ends of justice nor does it prevent the abuse of the process of the Court nor can it be also said that as there is a settlement no evidence will come on record and there will be remote chance of conviction. Such a finding in our view would be difficult to record. Be that as it may, the fact remains that the social interest would be on peril and the prosecuting agency, in these circumstances, cannot be treated as an alien to the whole case. Ergo, we have no other option but to hold that the order of the High Court is wholly indefensible".

Further the reliance has been placed on the decision in the case of **Gian Singh Vs. State of Punjab and Another** reported in **(2012) 10 SCC 303**. The relevant portion of the judgment is extracted hereunder in para 61 of the judgment which reads as follows:

"61. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under [Section 320](#) of the Code. Inherent power is of wide plenitude with no statutory

limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like *Prevention of Corruption Act* or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the

compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

11. On careful perusal of the entire records placed before this court and also considering the serious nature of the allegation and considering the submission made by both the learned counsel and also authorities submitted by both the learned counsel, it is clearly seen that the petitioners themselves admitted that they availed the bank loan and subsequently, they re-paid the amount. The only contention raised by the petitioners is that even much prior to register the FIR, they repaid the entire loan amount and therefore, as per the Judgments of the Hon'ble Supreme Court (supra) this case in C.C.No.4 of 2008 on the file of the XI

Additional Special Judge for CBI cases relating to Banks and financial Institutions, Chennai has to be quashed.

12. In this case, the charges against these petitioners along with other accused A3 to A13 are under Sections 120 B, r/w.420, 419, 467, 468 and 471 IPC and Sections 13(1) r/w. 13(1) (d) of Prevention of Corruption Act, 1988 and substantiate offence under Sections 420 and 468 r/w. 471 IPC.

13. The allegation against the first petitioner herein is that she is the proprietor of M/s.Ushakiran Constructions and friend of A17. She opened account on the introduction of A17 Sudha Ramani and applied for SOD facility of Rs.15 lakhs. She introduced A.20 V.Loganathan as "M.Sundaresan" as one of the partners of M/s.Ushakiran Constructions. She produced the same property documents on forged stamp paper showing that "M.Sundaresan" is the owner of the property. She executed composite agreement and Demand Promissory Note for the SOD and diverted the SOD proceeds to the account of M/s.Charlie & Ram Power Ltd., of which A4 Sri Babu is the Director.

14. The allegation against the second petitioner herein is that she is the Director of M/s.Kaluga Turbo Machinery Pvt.Ltd, (A33). She applied

for SOD of Rs.15 lakhs and introduced A22 R.Muthukrishnan as "Ramalingam" and made him one of the Directors of the company. She offered the same set of forged property document showing "Ramalingam" as the owner of the property offered as security. She executed Demand Promissory Note, general form of guarantee and also submitted forged auditor's certificate. She diverted Rs.9 lakhs out of Rs.15 lakhs sanctioned to the account of M/s. Charlie & Ram Power Ltd., of which A4 is the Director, A13 Smt.Jayanthi Nagarajan is reported to be abroad along with her family.

15. The allegation against the third petitioner herein is that A29 to A33 are all private limited companies and legal persons. They are represented by the Directors who are already cited as accused. These companies had availed SOD by producing forged documents.

16. After framing of such serious charges of forgery, the petitioners want the proceedings to be quashed on account of settlement with the Bank. The inherent power of this Court u/s.482 Cr.P.C., should be sparingly used. In this case, the offence was committed with a deliberate design with an eye of personal profit regardless of consequences of the society at large. Under these circumstances, the petitioners pray to quash the proceedings merely on the ground that the accused have

settled the amount is not sustainable. In the light of the above discussion, considering the facts and circumstances of the case and serious nature of the offence, this court is not inclined to quash the proceedings.

In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

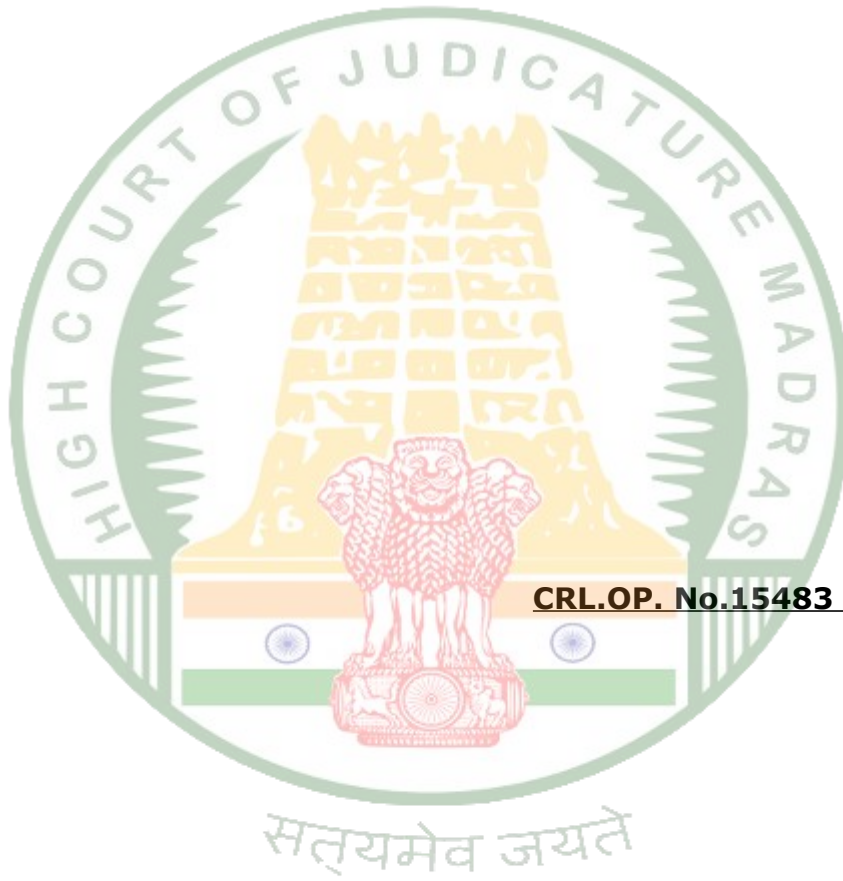
02.08.2017

Index :Yes/No
Speaking / Non-speaking order
gv

To

1. The Additional Superintendent of Police,
Special Police Establishment,
Central Bureau of Investigation,
Anti-Corruption Branch,
Shastri Bhavan,III Floor,
Haddows Road, Nungambakkam,
Chennai – 600 006.
2. The XI Additional City Civil & Sessions Judge,
CBI Cases relating to Banks and Financial Institutions,
Chennai.
3. The Public Prosecutor,
High Court, Madras,
Chennai.

P.VELMURUGAN.,J.
Gv



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