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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(CRL) 2378/2015, Crl. M.A. Nos. 18057-59/2015, 988/2016, 3293-94/2016, 4432/2016, 10674/2016, 1062/2017, 2155/2017 & 4231/2017

NARESH KUMAR ..... Petitioner

Through : Petitioner in person.

versus

SANJAY SHARMA & ORS. ..... Respondents

Through :Mr. Sanjay Lao, ASC with Mr. Siddharth Sindhu, Adv. & SI Nitin Nawani, P.S. Pahar Ganj for the State

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

<u>O R D E R</u>

% 17.03.2017

By this writ petition under Article 226 of the Constitution of India, petitioner has assailed the order dated 1st October, 2015 passed by the learned Additional Chief Metropolitan Magistrate – 2, Central District, Delhi (ACMM), whereby petitioner’s complaint against the officials of Kangra Cooperative Bank Ltd. has been dismissed. Learned ACMM has held that no sufficient ground was there to proceed against the accused persons.

Legal remedy of revision was available to the petitioner but the same has not been invoked, therefore, I do not find any justification to entertain the writ petition, against a judicial order.

Be that as it may, even on merits, I do not find any jurisdictional error in the impugned order. Petitioner had alleged in the complaint that he was working in the Kangra Cooperative Bank Ltd., Pahar Ganj branch, New Delhi at the relevant time. He was in need of a loan for his personal requirement. He consulted accused no. 1 (respondent no. 1), in this regard. On the asking of accused no. 1 he filled up the form and handed over to him. After a long time, all the accused persons entered into a criminal conspiracy to cheat the complainant and many others and opened fictitious accounts by forging various documents, sanctioned fictitious loans and got them disbursed for their personal benefits. One such account bearing current account no. 2027 was opened in the fictitious name of M/s. Ravindra Electronics and funds were withdrawn. Accused no. 1 also got sanctioned a loan of ₹38,000/- to the petitioner and credited it in the said account and used the same thereby, depriving the petitioner of the said money. No cheque book was issued to him in respect of the said account and every time the loose cheques were used for withdrawal. Accused persons had cheated the bank and misappropriated the public funds.

Trial court has noted that petitioner, in the pre-summoning evidence, had not led cogent evidence including documentary evidence to support his allegations, inasmuch as Shri Ravinder Kumar, in whose name alleged account no. 2027 was opened was not examined. The allegations were vague and not supported by any document. Photocopies of the documents were filed but most of these pertained to the departmental disciplinary inquiry and imposition of penalty on the petitioner and employees, pertaining to the lapses committed by them.

From the arguments advanced and the material placed on record, it emerges that petitioner was working with Kangra Cooperative Bank Ltd. as a Cashier. He was dismissed from the service on 21st May, 2000, after holding an inquiry. Petitioner has challenged his termination before the Labour Court and the said proceedings are still pending. On the complaint of Bank, FIR No. 202/2001 under Sections 420/468/471 was also registered at Police Station Pahar Ganj against the petitioner. Trial is stated to be pending. Only thereafter, petitioner filed an application under Section 156(3) Cr.P.C. against the bank officials wherein he levelled similar allegations. Pursuant to the directions of learned Metropolitan Magistrate, Delhi, FIR No. 212/2003 under Sections 420/468/471/34 IPC was registered at Police Station Pahar Ganj. However, after the investigation, cancellation report was filed as during the investigation, nothing was found against the bank officials. During the investigation of the FIR, statement of Ravinder Kumar was recorded, who stated about the opening of the account by him. Only after cancellation report was filed, it appears that learned ACMM proceeded to record pre-summoning evidence. Learned ACMM on appreciation of pre-summoning evidence, has held that no, prima facie, case was made out for summoning the accused persons. Accused persons could not have been summoned only on the vague and wild allegations of the petitioner, not supported by any documentary evidence. Prima facie, complaint also appears to had been filed to harass the bank officials by the petitioner, only after his termination and registration of a case against him on the complaint of the bank.

For the foregoing reasons, writ petition is dismissed. Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

MARCH 17, 2017
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