

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C No.1108 of 2018

in

Crl.M.P.No.12986 of 2018

APC Finance (India) Limited

Rep by its Director

Chitresh Choudhary

.. Petitioner

Vs.

1. State rep by the Inspector of Police

CBI : ACB: Chennai

3rd Floor, Shastri Bhavan,

26, Haddows Road,

Chennai - 600 006.

RC MA1 2016 A 47

2. The Syndicate Bank

Rep by its Chief Manager,

Teynampet Branch,

No. 170, Eldams Road,

Teynampet, Chennai - 600 018.

3. A.Rajendhran

... Respondents

PRAYER: This Criminal Revision petition is filed Under Section 397 and 401 of Cr.P.C to set aside the order dated 31.07.2018 in Crl.MP.No. 1137 of 2018 in RC MA 1 2016 A 47, passed by the 11th Additional Special Judge for CBI cases, Chennai.

For Petitioner : Mr.D.Muthu Kumar for
M/s.Paul & Paul

For Respondent : Mr.K.Srinivasan
Spl. P.P.(CBI Cases)

O R D E R

The Criminal Revision Petition has been filed by the petitioner under Section 397 and 401 Cr.P.C. to set aside the order dated 31.07.2018 in Crl.MP.No. 1137 of 2018 in RC MA 1

2016 A 47, passed by the 11th Additional Special Judge for CBI cases, Chennai.

2.The case of the prosecution is that during the period, September, 2015 to July 2016, Shri V.Rajendran (A1), Sr.Manager, then Branch Manager, Teynampet Branch of Syndicate Bank entered into a conspiracy with Shri A.Raajendher (A2), Proprietor, M/s.BM Cars, Shri P.Raghu Kumar (A3) and Shri P.Babu Reddy (A4) and in pursuance to the same, 61 vehicle loans were sanctioned by the A-1, Shri V.Rajendran to the purported purchasers of cars through M/s.BM Cars. Out of 61 cases, in 48 cases, cars were not delivered and 13 were shown as delivered but no hypothecation done. M/s.BM Cars is a dealer of used Cars. Documents relating to income and other documents were fabricated by the car dealer, Shri A.Raajendher (A2) and two employees of his namely, Shri Raghu Kumar (A3) and Shri T.Babu Reddy (A4) who co-ordinate between the bank officials and the so-called eligible borrowers. The borrowers were brought by the mediators who were also one of the loanees and they were also paid on percentages by the petitioner Shri.Raajendhar, Proprietor of M/s.BM Cars.

3.The learned counsel appearing for the petitioner would submit that based on the complaint given by the respondent, a case has been registered against the petitioner for the offences under Sections 120B r/w 420, 468, 471 and 409 IPC and Section 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1998 in Crime No.1137 of 2018. The property has been seized from the petitioner for non payment of the loan. If the car is allowed to lie idle under the custody of the respondent CBI, it will become national waste. However, this Court shall impose any condition on the petitioner, which is the finance company and the properties shall be returned to the petitioner. Learned counsel on instructions further submit that the petitioner not in position to deposit the value of the amount assessed by the respondent, hence, he requests the Court to pass suitable orders.

4. The learned Special Public Prosecutor (CBI Cases) would submit that income statements, IT returns and form-16 have been fabricated in almost all cases. The bank statements submitted in the loan documents which were not attested by the loanees have also been fabricated in almost all cases. In 58 cases, fake advance paid receipts were issued by Shri A.Raajendher, Proprietor of M/s.BW Cars to cover the margin component. During the custodial interrogation, the accused, Shri A.Raajendher (A2) confessed certain facts and showed the persons / places where the cars (Which were purchased through Syndvahan loan from Syndicate Bank, Teynampet Branch) were kept or handed over. Out of 13 cars, 6 cars were identified and seized through

the recovery proceedings under Section 27 IEA dated 24.02.2018 & 25.02.2018. The Property itself purchased by the commission of offence and it is the crime proceeds and hence it is liable to be seized under Section 102 IPC.

5.The learned Special Public Prosecutor would fairly concede that if the cars lie with the respondent CBI, it would be a national waste and this Court shall permit the CBI to bring the car for public auction and the amount of the cars shall be recovered through public auction and the same shall be deposited in CrI.R.C.No.1108 of 2018 till the disposal of the criminal case.

6.Considering the facts and circumstances of the case, since the borrowers have not come forward to deposit the said amount, I am inclined to grant liberty to the Bank or to the respondent CBI to go for Public Auction and the appropriation amount shall be deposited to the credit of Crime Number till the criminal case is disposed of. The Public Auction can be held after vide publication. The petitioner is at liberty to participate in the Public Auction. This Court further directs the learned Special Judge, CBI cases, Chennai to deposit the auctioned amount into the complainant's Bank in a Recurring Deposit.

7.Accordingly, this Criminal Revision Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

smn/kas

To

1. The 11th Additional Special Judge for CBI Cases,
Chennai.
2. The Inspector of Police
CBI : ACB: Chennai
3rd Floor, Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.
RC MA1 2016 A 47

3. The Syndicate Bank
Rep by its Chief Manager,
Teynampet Branch,
No. 170, Eldams Road,
Teynampet, Chennai - 600 018.

4.The Special Public Prosecutor for CBI Cases,
High Court of Madras
Chennai.

+1 cc to M/s.Paul & Paul, Advocate Sr.No.82208
+1 cc to M/s.K.Srinivasan, Advocate Sr.No.87124

Crl.R.C.No.1108 of 2018

RR(CO)
CSL/23.01.2019



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