

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C No.1193 of 2018

A. Raajendhar .. Petitioner / 2nd Accused

Vs.

1. The State rep by
The Inspector of Police
CBI/ACB, Chennai
3rd Floor, Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.
RC MA1 2016 A0047. .. Respondent / Complainant

PRAYER: This Criminal Revision petition is filed Under Section 397 and 401 of Cr.P.C to set aside the Judgment in Crl.M.P.No.3326 of 2018 on the file of XI Additional Special Judge, CBI cases, Chennai, in RCMAI 2016 A0047 and to direct the respondent to return the seized Mercedes Benz GLA 200 CDI bearing registration No.TN-13C-9495 in connection with crime No.RCMA1 2016 A0047 on 24.02.2018.

For Petitioner : Mr.D.Arunkumar

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 r/w 401 Cr.P.C. to set aside the judgment made in in Crl.MP.No. 3326 of 2018 on the file of XI Additional Special Judge, CBI cases, Chennai, in RCMAI 2016 A0047 and to direct the respondent to return the seized Mercedes Benz GLA 200 CDI bearing registration No.TN-13C-9495 in connection with crime No.RCMAI 2016 A0047 on 24/02/2008.

2. The case of the prosecution is that the petitioner is A2, the owner of the Mercedes Benz GLA 200 CDI bearing registration No.TN.13C-9495. 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/petitioner), proprietor,

M/s.BM Cars, Shri P.Raghu Kumar (A3) and Shri P.Babu Reddy (A4) and in pursuance of the same, 61 vehicle loans were sanctioned by A1, 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/Petitioner) 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. The ultimate beneficiary is the petitioner Shri Raajendhar, proprietor of M/s.BM Cars. By the illegal acts there is a wrongful loss of Rs.6.72 crores to the syndicate Bank, Teynampet Branch, Chennai.

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 420, 468, 471 and 409 IPC and Section 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1998 in Crime No.RCM 1 2016 A0047. 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 and the property shall be returned to the petitioner. However, learned counsel on instructions would submit that the petitioner is not in a position to deposit the value of the car averred by the respondent. Hence, he request the Court to pass suitable orders.

4. The learned Special Public Prosecutor (CBI Cases) would submit that intially the defacto complainant / Bank advanced a loan for 61 cars by fabricating the documents with M/s.BM Car dealers viz. V. Rajendran, Senior Manager of Teynampet Branch of Syndicate Bank and obtained Rs.6,71,88,000/- (Rupees Six crores Seventy One Lakhs and Eighty Eight Thousand only) through fake documents. Unless the value of the car is paid, the car cannot be returned to the the petitioner.

5. The learned Special Public Prosecutor would fairly concede that if the car lies with the respondent CBI, it would be a national waste and the petitioner not interested to deposit the value of the car in crime No. This Court shall permit the CBI to bring the car for public auction and the amount of the car shall be recovered through pubic auction and the same shall be deposited in CrI.R.C.No.11193 of 2018 till the disposal of the criminal case.

6.Considering the facts and circumstances of the case, since the petitioner has 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 wide 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(CS-VIII)

//True Copy//

Sub Assistant Registrar

smn/kas

To

1. The Inspector of Police
CBI : ACB: Chennai
3rd Floor, Shastri Bhavan,
26, Haddows Road,
Chennai - 600 006.
RC MA1 2016 A 0047
2. The Public Prosecutor
CBI Cases,High Court of Madras
Chennai.

+2 ccs to Mr.R.Arunkumar, Advocate, SR No.82032

+1 cc to Mr.K.Srinivasan, Advocate, SR No.82123

VG-II(co)
ssm(19/12/2018)

Cr1.R.No.1193 of 2018

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