

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.517 OF 2018

ORDER:

This Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 challenging the order, dated 09.01.2018, passed in CrI.M.P.No.1744 of 2017 in C.C.No.4 of 2013 on the file of the learned II Additional Special Judge for C.B.I. Cases, Visakhapatnam, wherein the petition filed by the petitioner, under Section 239 Cr.P.C. to discharge her from main case for the offences punishable under Sections 120-B, 420 and 109 read with 419 I.P.C., was dismissed.

2. Heard Smt M.V.S.S. Naga Sudha, learned counsel for the petitioner, and Sri K.Surender, learned Special Public Prosecutor for C.B.I. Cases, and perused the record.

3. Learned counsel for the petitioner/accused No.20 would contend that absolutely, there is no material to frame charges for the offences punishable under Sections 120-B, 420 and 109 read with 419 I.P.C. against the petitioner/A-20 and proceed with the case; that the Investigating Officer recorded the statements of witnesses to suit the prosecution case suppressing the material facts and important documents; that the petitioner/A-20 is innocent and she did not go to the bank and obtain loan as contended; that the averments in the charge sheet are concocted; that the petitioner/ A-20 did not benefit from the alleged transaction and did not indulge in any corrupt practice and there was no criminal conspiracy by her at any stage; that there is no *prima facie* case to proceed against her and ultimately, prayed to

set aside the order, dated 09.01.2018, passed in Crl.M.P.No.1744 of 2017 in C.C.No.4 of 2013 on the file of the learned II Additional Special Judge for C.B.I. Cases, Visakhapatnam and quash the proceedings against the petitioner in C.C.No.4 of 2013.

4. On the other hand, Sri K.Surender, learned Special Public Prosecutor for C.B.I. cases, would contend that there is ample evidence on record to show that the petitioner/A-20 involved in criminal conspiracy, cheated the UCO Bank, Attili Branch and obtained loan, and for that purpose, documents were also fabricated; that the learned Special Judge had dealt with these aspects elaborately and dismissed the application for discharge; that there are no circumstances to vary with the impugned order and ultimately, prayed to dismiss the revision.

5. Upon hearing the submissions of the learned counsel on both sides, the point that arises for determination is:

“Whether the order, dated 09.01.2018, passed in Crl.M.P.No.1744 of 2017 in C.C.No.4 of 2013 on the file of the learned II Additional Special Judge for C.B.I. Cases, Visakhapatnam is liable to be set aside and the petitioner/A-20 can be discharged in the subject calendar case?”

6. **POINT:-** As per the material placed on record, housing loan was sanctioned in favour of the petitioner/A-20 *vide* loan account No.02290602500098 and in that process, the petitioner/A-20, with the active support of the other accused in this case, fabricated some of the loan documents and took one unknown person – Chalumuri Pydi Raju and made him impersonate as her husband – Miriyala Hari Dayanand and got the loan sanctioned by accused No.1 - Sri Patibandla Innayasi Rao. The loan amount sanctioned

was Rs.9.50 lakhs in the name of the petitioner/A-20. There are also allegations that with the active connivance of other accused, without verifying the person, who impersonated the husband of the petitioner/A-20, the loan was sanctioned. Though the petitioner denied her photo and alleged impersonation relating to her husband and fabricating documents, that can only be established only after due trial. The Special Court for C.B.I. had analysed the entire material on record and held that there was a *prima facie* case against the petitioner and also held that there is material to proceed against the petitioner for the offences punishable under Sections 120-B, 420 and 109 read with 419 I.P.C. The learned Special Judge has also assigned number of reasons to proceed against the petitioner. The learned Judge has held that there is no explanation from the petitioner as to what made her to impersonate somebody as her husband. In view of the same, there is nothing to deviate from the findings recorded by the Special Judge. However, it is made clear that those findings will not have any bearing on the final adjudication of the case. There is no infirmity in the impugned order. The petitioner is not entitled for discharge as contended. The revision is devoid of merit and is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed.

8. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

DR.JUSTICE SHAMEEM AKTHER

Date : 30.08.2018
AMD

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