THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Revision Case No.1224 of 2011

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of Cr.P.C., is filed by the petitioner/A.7, challenging the order, dated 15.04.2011, passed in Crl.M.P.No.76 of 2008 in C.C.No.13 of 2002 on the file of Special Judge for CBI Cases, Visakhapatnam, whereby, the application filed by the petitioner/A.7 under Section 239 Cr.P.C. for his discharge, was dismissed.

2. Heard the learned counsel for the petitioner/A.7, the learned Special Public Prosecutor for CBI Cases representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/A.7 would contend that the petitioner/A.7 is not concerned with the car loan sanctioned in favour of A.4. The petitioner/A.7 has not given any quotation for sanction of car loan in favour of A.4. There is no evidence to that effect and there is no record to show the same. The petitioner/A.7 is an innocent person and is falsely implicated in this case. The Court below, without appreciating the evidence on record in proper perspective, erroneously dismissed the subject discharge application of the petitioner/A.7 and ultimately prayed to set aside the order under challenge and discharge the petitioner/A.7 from the subject Calendar Case.

4. On the other hand, the learned Special Public Prosecutor for CBI representing the respondent-State would contend that the petitioner/A.7 was responsible for preparation of quotation. There is

ample record to show the same. The petitioner/A.7 was instrumental in getting the car loan sanctioned in favour of A.4. The Court below had elaborately dealt with the accusations levelled against the petitioner/A.7 and ultimately dismissed the discharge application. There is no infirmity in the same. There are no circumstances to interfere with the order under challenge and ultimately prayed to dismiss the Criminal Revision Case by confirming the order under challenge.

5. In view of the above rival contentions, the points that arise for determination in this Criminal Revision Case is whether the impugned order passed by the Court below is sustainable (or) whether the petitioner/A.7 is liable to be discharged as contended?

6. The case of the prosecution, in brief, is that A.4-M.Sudkahar Rao intended to purchase a second hand Premier-118 Car. In this connection, the petitioner/A.7, who was working as a Computer Clerk in Small Scale Industries Finance Branch of Union Bank of India, Visakhapatnam, with a dishonest and fraudulent intention, issued a quotation in the name of M/s.Subujo Services, Visakhapatnam, showing the value of the said car as Rs.3.25 lakhs. The petitioner/A.7 received an advance payment of Rs.1.25 lakhs from A.4 and requested A.4 to pay the balance Rs.2.00 lakhs. For the said purpose, the petitioner/A.7 also showed the business turnover of Rs.7.50 lakhs between M/s.Subujo Services and M/s.Master Steel Tubes, Visakhapatnam, knowing fully well that M/s.Subujo Services is only a finance firm and does not have any business transactions with M/s.Master Steel Tubes, Visakhapatam. The car loan was sanctioned by A.3-V.Ramakanth, who was officiating as Manager of Small Scale

Industries Finance Branch, Union Bank of India, Visakhapatnam, on 10.02.1999. Further, the accused failed to get the hypothecation in the Registration Certificate of the said car. Thus, the petitioner/A.7 has committed offences punishable under Sections 120-B read with 420, 467, 468, 471 of I.P.C. and Sections 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

7. The main allegation against the petitioner/A.7 is that while he was working as a Computer Clerk in Small Scale Industries Finance Branch, Union Bank of India, Visakhapatnam, he issued a quotation in favour of A.4 for an amount of Rs.3.25 lakhs for purchasing a second hand Premier-118 car, whereas the value of the said car was only Rs.1.25 lakhs. Thereafter, the petitioner/A.7 was removed from service. The petitioner/A.7, being a bank employee, ought not have prepared such quotation to cause wrongful loss to the bank. There are also allegations against the petitioner/A.7 that he acted dishonestly and fraudulently in sanction of subject car loan in favour of A.4. In view of the said allegations, it cannot be said that there are no grounds to proceed against the petitioner/A.7. The truth or otherwise of the allegations levelled against the petitioner/A.7 are required to be established after due trial. The Court below, relying on the decisions of the Apex Court in Nirmaljit Singh Hoon Vs. State of West Bengal[1], Superintendent & Remembrancer of Legal Affairs, West Bengal Vs. Anil Kumar Bhunja and others[2], State Anti Corruption Bureau, Hyderabad Vs. P.Suryaprakasam[3], State of Delhi Vs. Gyan Devi and others[4] and State of Madhya

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[1] AIR 1972 SC 2639
[2] 1979 Crl.L.J. 1390
[3] 1999 SCC (Crl.) 373
[4] 2001 MLJ (Crl.) 117

Pradesh Vs. Sheetla Sahai and others[5], had rightly negated the relief sought by the petitioner/A.7 holding that there is *prima facie* case against the petitioner/A.7. The findings of the Court below are based on record. There is nothing to take a different view. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

8. In the result, the Criminal Revision Case is dismissed, confirming the order, dated 15.04.2011, passed in Crl.M.P.No.76 of 2008 in C.C.No.13 of 2002 on the file of Special Judge for CBI Cases, Visakhapatnam.

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

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Dr. SHAMEEM AKTHER, J

21st August, 2018
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[5] 2010 (1) ALT (Crl.) 10 (SC)