

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.10444 OF 2018

ORDER:

The petitioner in anticipation of likelihood of implicating him as co-accused in Crime No.RC.8/E/2017-CBI/EOW/22-11-2017, Chennai registered for the offences punishable under Section 120-B r/w 420, 467, 468 & 471 IPC from the report of the Deputy General Manager, United Bank of India, South Regional Office, Chennai.

2. It is averred in the report that M/s. DSR Projects Private Limited-A1 entity represented by its Directors D.Krishna Srinu, M.Amruthanath, V.Venugopal Reddi, D.Koteswara babu, P.Vijaya Kumar approached the Bank on 06.07.2011 for sanction of credit facilities to meet their business requirements of infrastructure projects and construction of buildings (Residential/Commercial/Government/ Local Authorities etc), from which the Bank sanctioned overall credit limit of Rs.10.00 Crores comprising of Cash Credit limit of Rs.5.00 Crores and Bank Guarantee limit of Rs.5.00 Crores in August, 2011, based on the recommendation of the Hyderabad Branch Office by the Bangalore Regional Office, which were covered by collateral security of the mortgaged property which is for the Plot situated in Survey No.57/3/1, Shamsheeguda, Kukatpally, Balanagar Mandal, Rangareddy District, Hyderabad, admeasuring 7500 square yards in the name of Mr. Jogipet Bhasker, who is the petitioner from his standing as guarantor. It is further averred that the Bank obtained

legal opinion in respect of the title over the collateral security and from the say of clear and marketable title accepted the same as collateral security by equitable mortgage executed by the petitioner dated 23.09.2011 with personal guarantee in the composite agreement as part of the loan documents which is being mortgaged created based on the strength of the GPA-cum-Sale Agreement dated 30.01.2007 executed by Ch.Surya Prakash Rao in favour of the petitioner-Jogipet Bhaskar with certificate issued by the Deputy Collector and Mandal Revenue Officer, Balanagar Mandal, Rangareddy District of the land belongs to him. The entity failed to pay. Therefrom the account was classified as Non-performing Asset (NPA) in June, 2014 as per the R.B.I. guidelines and the account was upgraded on 11.09.2014 to Standard Asset and again turned to NPA in June, 2015 from the defaults for the outstanding amounts by then was nearly Rs.10.00 Crores and from the borrower not responding including for the notice under Section 13(2) of the SARFAESI Act of July, 2015 to liquidate the same. In the meantime, the Bank received legal notice dated 14.10.2013 from one T.Durga Phani Kumar, Advocate on behalf of Sri Bala Ramakrishna, S/o. late Ch. Surya Prakash Rao, informing Jogipet Bhaskar has no title or interest over the property and on obtaining fresh legal opinion it is came to know of Jogipet Bhaskar is not having marketable title to create equitable mortgage for no Sale Deed in favour of Jogipet Bhaskar, but for GPA-cum-Sale Agreement. The Bank could got information from the Deputy Collector-cum-Tahsildar and the Sub-Registrar Office by addressing letters and came

to know that the said land is a Government land for the entire survey No.57 of Shamshiguda Village, Balanagar Mandal, admeasuring Ac. 274.00 guntas which is with no sub-division like “57/3/1” in the revenue records and thereby, to take action.

3. Learned counsel for the petitioner submits that the petitioner is innocent. On the other hand, the Special Public Prosecutor for C.B.I. submits that it is for the purpose of interrogation of the petitioner from the said information collected of the land is a Government land and it has no marketable interest over the property if at all called. As on date the petitioner is not arrayed as co-accused in the record.

4. Having regard to the above and for none of the offences are punishable above seven years, the C.B.I. officials strictly follow Section 41-A Cr.P.C. and the guidelines of the Apex Court in **Arnesh Kumar Vs. State of Bihar**¹.

Accordingly, this Criminal Petition is disposed of.

Dr. B. SIVA SANKARA RAO, J

12.10.2018
MVA

¹ (2014) 8 SCC 273