

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved For Order on : 28.03.2019

Order Passed on : 26/04/2019

CR.M.P. No. 93 of 2006

Chandra Prakash Soni, S/o. Sadan Lal Soni, aged about 52 years, R/o. House No.27/98, New Shanti Nagar, Raipur, Tahsil and District – Raipur (C.G.)

---- Petitioner

Versus

State of Chhattisgarh, Through : P.S. Kanker, District – Kanker (C.G.)

-----Respondent

For Petitioner	: Mr. Pawan Kesharwani, Advocate
For Respondent/State	: Mr. H.S. Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

C A V ORDER

26/04/2019

1. This petition has been filed under Section 482 of Cr.P.C. for quashment of FIR No.5/2005, registered in Police Station – Kanker, District – Kanker and Criminal Case No.232/2005, pending before the Court of Special Judge (FTC), Jagdalpur.
2. Petitioner was posted as Branch Manager, Central Bank of India, Branch – Dhaneli Kanhar. This petitioner had bonafidely after

following the procedure and completing formalities had sanctioned and granted loan to the borrowers Munnu Ram and Sonu Ram for purchase of tractor. Thereafter, the tractor was purchased by them. The said tractor met with an accident and thereafter in the investigation of accident case, one Bramhadev Mishra was found in possession and using that tractor, which was in the name of Munnu Ram and Sonu Ram. There is no allegation that loan was fraudulently sanctioned in favour of Munnu Ram and Sonu Ram.

3. In the complaint made by the Munnu Ram and Sonu Ram to Thana AJAK, Kanker, copy of which is attached in the petition, it is clearly mentioned that complainants were present in the bank to affix their signature on documents of finance, though there is allegation that they were pressurized, threatened and deceived by the main accused Brahmadev Mishra. Therefore, it is not a case that the petitioner sanctioned the loan in favour of some impersonator, as there was no forgery of the documents. Therefore, the petitioner was not in a position to know of any internal agreement between the Munnu Ram, Sonu Ram and Brahmadev Mishra.
4. The matter was also investigated by CBI and no material was found against this petitioner. Therefore, it is prayed that the petition be allowed and the FIR and the entire criminal proceedings initiated against the petitioner be quashed.

5. State counsel opposes the petition. It is submitted that the petitioner is the person, who had entered into conspiracy for sanctioning loan in favour of Munnu Ram and Sonu Ram, who had no intention for taking any such loan and the presence of co-accused Brahmadev Mishra at the time completing formalities, indicates that the petitioner was having full knowledge of the criminality of the transaction, this petitioner completed the formalities and sanctioned the loan, which shows his involvement, therefore, he is not entitled for any relief and the petitioner be directed to appear before the Court and face trial.
6. I have heard the learned counsel for the parties and perused the documents placed on record.
7. On perusal of the documents present in the record, I am of this view that Munnu Ram and Sonu Ram personally appeared in the bank for completing formalities for sanctioning of loan and the loan agreement is between the bank and Munnu Ram and Sonu Ram and not with other co-accused Brahmadev Mishra. Munnu Ram and Sonu Ram and Brahmadev Mishra have different arrangement and agreement between them. The co-accused Brahmadev Mishra has been tried and acquitted by the Court below. The petitioner in the capacity of Branch Manager of the concerned Branch of the bank was in a position to grant and sanction loan and there is no specific allegation in the case against the petitioner that he has manipulated or forged any

documents and further, that he was a party to the commission of offence of cheating and conspiring for the same also requires specific evidence in this regard. Therefore, after fully considering the submissions and the documents filed along with the petition, I am of this opinion that continuance of criminal prosecution against the petitioner would be mere abuse of process of law.

8. Therefore, considering the facts of this case, it would be in the interest of justice to quash the proceeding of Criminal Case No.232/2005, pending before the Special Judge (FTC), Jagdalpur arising out of Crime No.05/2005, registered in Police Station – Kanker, District – Kanker (C.G.).
9. In the result, the petition is allowed and the proceedings of Criminal Case No.232/2005, arising out of the Crime No.05/2005, registered in Police Station – Kanker, District - Kanker, pending before Special Judge (FTC), Jagdalpur is hereby quashed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge