IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.660 OF 2018

Nitin Marutirao Kale … Applicant

Vs.

The State of Maharashtra through CBI … Respondent

With
CRIMINAL REVISION APPLICATION NO.661 OF 2018

Nitin Marutirao Kale … Applicant

Vs.

The State of Maharashtra through CBI … Respondent

Mr.K.M. Chakranarayana for the Applicant
Mr.H.S. Venegavkar, for the Respondent

CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: JANUARY 10, 2019

P.C.:

1. These two Criminal Revision Applications are moved against the order dated 20.10.2018 passed by the learned Special Judge, CBI ACB, Pune. Both the matters are taken up together as the issue involved is the same and the accused is one and the same in both the cases i.e., Special Case Nos.82 of 2016 and 83 of 2016, whereby the accused had sought discharge under section 227 of the Criminal Procedure Code.

2. The facts in both the matters are the same. The applicant/accused is prosecuted under sections 420, 468, 471 and 120B of the Indian Penal Code and also under sections 13(2) r/w section 13(1)(d) of the Prevention of Corruption Act. The applicant/accused is not a public servant. He had approached the Bank of Maharashtra for credit facility and loan in the year 2012 by producing certain documents. A loan of Rs.5 crores in favour of one company by name M/s.Kale Infra Projects Ltd. and another loan of Rs.5.5 crores in favour of another company by name M/s.Max Multicon Limited were granted by the bank. The said credit facility and loans were advanced in favour of these two companies which are run by the present applicant/accused. The applicant/accused repaid an amount of Rs.2.5 crores against each loan till March, 2015. However, as the remaining loan amount was not repaid and the account of the company has become an NPA, the prosecution was initiated by the Bank of Maharashtra and the complaint was registered with the CBI and thereafter, the CBI investigated the matter and filed chargesheet in both the cases. Hence, the applicant/accused moved applications for discharge under section 227 of the Criminal Procedure Code. However, the

applications were rejected and hence, he filed these revision applications.

3. The learned Counsel for the applicant/accused has submitted that the applicant/accused has not committed any offence of cheating or forgery. He being a layman, cannot be prosecuted under the Prevention of Corruption Act for the offences under the said Act. He argued that the loan was obtained in the year 2012 and repayment of total Rs.5 crores was made till March 2015. During the pendency of these revisions, a proposal was also given by way of one time settlement to the Bank by letter dated 27.12.2018 and the applicant/accused is ready to pay Rs.7.45 crores against the dues of Rs.9.45 crores. He submitted that no forgery is committed by the applicant/accused and on the point of NA, reports submitted by the concerned officers of the CBI are defective and they are pertaining to some other land in some other village and therefore, the orders of refusal of discharge passed by the learned Special Judge in both the cases are to be set aside and the applicant be discharged.

4. The learned Counsel appearing for the CBI while opposing these applications has submitted that there is sufficient evidence

available before the Court in the chargesheet to frame charge of cheating and forgery against the applicant/accused. The learned Counsel has relied on the statement of one E.H. Zore on the point of production of false reports showing a highly exorbitant valuation of two lands situate at village Jalochi, Taluka Baramati i.e., at Rs.8,45,65,500/- in respect of one land and Rs.9,07,55,200/- in respect of another land, whereas the actual market value was Rs.33 lakhs for one land and Rs.63 lakhs for the other land. He has further relied on the statement of one Hemant Vitthalrao Nikam, who has stated about the forgery of N.A. order No.NA/SR/56/2013. He submitted that on the said number, the NA was issued in favour of one Dilip Vitthal Divekar in respect of the land at Khadki, Daund and on the basis of the said NA order, this fake order dated 4.3.2013 was prepared. These NA orders were used with knowledge by the applicant/accused to obtain bigger loan amounts.

5. Heard submissions. Considering the documents and statements placed before the Court. In view of the submissions made by the learned Counsel for the CBI, I am of the view that there is *prima facie* evidence against the applicant/accused to

frame charges of cheating and forgery, as rightly held by the learned Special Judge that charges under Prevention of Corruption Act against this accused cannot be framed, as he is not a public servant. No illegality is found in the order of the learned Special Judge.

6. Hence, the Revision Applications are dismissed.

(MRIDULA BHATKAR, J.)