IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.11.2018

DELIVERED ON : 22.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.11494 of 2010
and
M.P.No.1 of 2010

K.V.Narendran
S/o.Bhaskaran ...Petitioner

vs

1.State by
Sub-Inspector of Police,
Central Crime Branch,
Egmore, Chennai - 8.

2.The Chief Manager,
Corporation Bank,
No.77, 1st Avenue, Indira Nagar,
Adayar, Chennai - 20. ... Respondents

(R2 impleaded as per order in Crl.M.P.No.5727 of 2017 in Crl.O.P.No.11494 of 2010 dated 07.09.2018)

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for records in C.C.No.3705 of 2007 on the file of learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.S.Shanmugavelayutham,
senior counsel for Mr.B.L.S.Prasad

For Respondents: Mrs.V.Saratha Devi,
Government Advocate [Crl.side] [R1]
Mr.S.Sethuraman [R2]

O R D E R

Petitioner seeks quash of proceedings in C.C.No.3705 of 2007 on the file of learned XI Metropolitan Magistrate, Saidapet, Chennai.

2. Petitioner is the sole accused in C.C.No.3705 of 2007 on the file of learned XI Metropolitan Magistrate, Saidapet, Chennai, for offences u/s.420, 465, 468 and 471 IPC. The case is now pending trial before CCB & CBCID Special Court at Allikulam. The de facto complainant, who is the Chief Manager of the Corporation Bank, Chennai, has preferred a complaint informing that on 11.10.2004, petitioner approached one Sreedharan, the then Chief Manager and represented that he is running a company under the name and style M/s.Frontline Cargo Movers and opened a current account bearing No.1426 and also deposited Demand Drafts of Royal Bank of Canada for 3,68,258 Canadian dollars corresponding to Indian value of Rs.98,22,650/-. Pursuant thereto, the amount was credited to the account of the petitioner and the petitioner has withdrawn amounts on various dates. Subsequently, the de facto complainant's Bank came to know that the Demand Draft was forged and at that point of time, there was only an amount of Rs.17,65,000/- left in the account of the petitioner. Despite several reminders, petitioner had failed to repay the amount to the bank and hence, the complaint.

3. Heard learned senior counsel for petitioner, learned Government Advocate for first respondent and learned counsel for second respondent.

4. Learned senior counsel for petitioner submitted that the petitioner is the proprietor of M/s.Frontline Cargo Movers and he is the freelance Consultant in the field of export and import of food grains and other commodities. During the month of October 2004 M/s.OAONE INC represented by its agent, a Malaysian, by name Kennyko approached the petitioner to coordinate/liaison with various agencies in South India having adequate stocks of high quality rice conforming to international norms. A company at Canada agreed to remit a portion of the import value of the grain as advance. One Edward Jones, Proprietor of OAONE INC, dispatched a Demand Draft bearing No.366276769 dated 30.09.2004 for the value of Canadian dollars of 2,68,258 drawn on Royal Bank of Canada. On receipt of the same, petitioner presented the same for collection in the de facto complainant's bank Indra Nagar Branch, Chennai, where the petitioner had its current account. The bank, in turn, presented the Demand Draft for collection to the corresponding Foreign Bank as per RBI rules and guidelines and thereafter, the amount was credited to the account of the petitioner. Though there is no concrete evidence on the part of the Bank to prove any discrepancy or overwriting in the Demand Draft, they took some time to credit the amount in the petitioner's account. Owing to such delay, petitioner was unable to keep up the commitment with the dealers of rice. Petitioner believes that Edward Jones of Canada, who has issued the Demand Draft, would have altered the figures to show that he was remitting huge amount as advance and

hence, petitioner has preferred a complaint against him. Learned senior counsel submitted that as a counter blast, the present complaint has been preferred. The Bank had processed the Demand Draft as per the guidelines of RBI and petitioner has only utilized the amount which was lying in his account and hence, it could not be said that the petitioner has intention to cheat right from the beginning.

5. Learned Government Advocate appearing for first respondent submitted that on the basis of the complaint given by the de facto complainant's Bank, a case was registered in Crime No.587 of 2005 on the file of first respondent and after examining LWs.1 to 6 and collecting relevant documents and upon completion of investigation, a charge sheet was filed informing commission of offences u/s.420, 465, 468 and 471 IPC. Learned Government Advocate submitted that there are sufficient materials to proceed against the petitioner and the petitioner has to prove his innocence during trial. Submitting as above, learned Government Advocate prayed for dismissal of the present petition.

6. Learned counsel for second respondent submitted that the petitioner had cheated and misappropriated the funds of the bank to the huge extent of Rs.98,28,656/-. Further, the petitioner had given an undertaking to the bank wherein he had sought time and promised to repay the wrongly credited amount based on the forged Demand Draft. Petitioner himself admitted to the presentation of the forged Demand Draft and also availing credit on the same. Further, the Statement of Accounts would establish that amount has been credited to his account and the same had been withdrawn, deposited to the account of his creditors and housing loan. As on the date of the complaint, he has to pay the Bank a sum of Rs.17,65,000/-.

7. This Court has considered the rival submissions and perused the materials on record.

8. It is found that the petitioner himself had admitted about depositing of the Demand Draft which was found to be a forged one. Based on the said Demand Draft, huge sums had been credited to petitioner's account and from the Statement of Accounts it is seen that amounts have been credited to his creditors and the petitioner is liable to the Bank. On perusal of the statement of witnesses and documents, this Court finds that there are enough materials against the petitioners.

The Criminal Original Petition is dismissed. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The XI Metropolitan Magistrate,
Saidapet,
Chennai.

+1cc to Mr.S.Sethuraman, Advocate Sr.28076

Crl.O.P.Nos.11494 of 2010

srg 8/5/2019