IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.23009 of 2019

M/s. Convey Plants and Equipments Pvt. Ltd.,
No.7, Shivprasad Society,
Ponmala Pune Singhagad Road,
Pune 411 030,
represented by its authorised signatory
Ashok Kondey ... Petitioner

Vs

The Additional Superintendent of Police,
Central Bureau of Investigation,
Anticorruption,
Chennai ... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.4 of 2008 pending on the file of the XI Additional City Civil and Sessions Court for CBI Cases against the petitioner's company (A-23) and quash the same.

For Petitioner : Mr. M. Rajendiran

For Respondent : Mr.K. Srinivasan,
Special Public Prosecutor,
CBI Cases

ORDER

The petitioner has filed this Crl.O.P., seeking to to call for the records in C.C.No.4 of 2008 pending on the file of the XI Additional City Civil and Sessions Court for CBI Cases against the petitioner's company (A-23) and quash the same.

2. The petitioner is the authorised signatory of M/s.Convey Plants and Equipment Private Limited. The company is arrayed as A-23 in C.C.No.4 of 2008 which is pending trial on the file of XI Additional City Civil and Sessions Court, CBI Cases, Chennai.

3. The case of the prosecution in short is that during the period 13.6.2002 to 29.2.2014, A1- V.M.Ganesan, while working as a Branch Manager, Andhra Bank, Sowcarpet, Chennai entered into criminal conspiracy with the other accused persons A2 to A27 and in pursuance of the said Criminal conspiracies, 11 accounts were opened in the name of various companies and using the accounts, the key-conspirator namely A.Subramaniam-A2 had benefited by sighphoning out the funds of the Bank through these companies. These companies are shell (name sake) companies which are not doing business as projected to the Bank. These companies were floated only for the purpose of obtaining credit facilities from the Bank, they opened current accounts and these accounts were opened by A4 to A12, A14 and A15 in the name of the following companies duly permitted by A1.

S.No.	Name of the firm/company	A/c.No.	Opened on
1	Convey Tech Plants & Equipments Pvt. Ltd.,	5026	11.07.2003
2	Akhilapriya Hotels and Resorts Pvt. Ltd,	5048	09.09.2003
3	Suasa Projek Infrastructure Development Co. Pvt. Ltd	5064	08.10.2003
4	Vishnu Bio-fuels	5081	24.11.2003
5	Ramanathan Bio-fuels	5088	04.12.2003
6	Sri Fabrications	5096 & 5102	12.12.2003
7	Mandovi Fibres	5114	22.01.2004
8	Kaluga Turbo Machinery Pvt.Ltd.	5115	22.01.2004
9	Medi Needs	5120	03.02.2004
10	R.K. Consultants	5121	03.02.2004
11	Usha Kiran Constructions	5122	06.02.2004

4. Investigation revealed that A1 allowed Clean Bill Purchase facility indiscriminately to the companies/firms floated by A2 and others, as a result of which, six cheques purchased for a total amount of Rs.56.98 lakhs were outstanding

in the accounts of four firms. The details of which are given below;

CBP No.	Date	Purchased from	Drawer	Amount (in lacs)	Returned on	Adjusted on
548	27.10.2003	M/s.Thermodyne	M/s.Crem Power	9.58	12.11.03	07.01.04
549	27.10.03	M/sConveytech Plants & Equipments Pvt.Ltd.,	M/s.Crem Power	9.65	12.11.03	31.12.03
591	10.11.03	M/s.Energomasch Power Engineering & Consulting Pvt.Ltd	M/s.Lakshmi Agro Expo	9.70	17.12.03	17.01.04
592	10.11.03	M/s.Sri Satyanarayana power Pvt.Ltd.	M/s.Lakshmi Agro Expo	9.90	17.12.03	10.01.04
600	12.11.03	M/s.Sri Satyanarayana Power Pvt.Ltd	M/s.Lakshmi Agro Expo	9.00	05.01.04	29.01.04
681	17.12.03	M/s.Energomasch Power Engineering & Consulting Pvt.Ltd	M/s.Lakshmi Agro Expo	9.15	05.01.04	12.02.04
		Total		56.98		

The petitioner company is shown involved in one such transaction. On further investigation, charge sheet came to be filed against A1 to A27, in which A4 one Mr. Babu is shown as Director of M/s.Convey Plants and Equipment Pvt Ltd, Pune-A23 with effect from 14.3.2003. Thereafter the said Babu passed away and hence the trial court on 24.08.2016 sent notice to one Chhaya Gulab Ghule and Nirupama Achyut Gokhale, Directors in Pune to represent the A23 company. The said persons approached this Court in Crl.O.P.No.23663 of 2016 to quash the issuance of notice against the petitioners and this court, by order dated 11.11.2016 dismissed the quash petition directing the petitioners to address their grievances on the notice before the trial court. Pursuant to which, the petitioner company had passed a resolution dated 4.7.2019 authorising one Mr. Ashok Konde, son of Gopal Konde to represent the company A-23. The said Ashok Konde has filed the above quash petition.

5. The contention of the petitioner is that even as per the charge sheet, it is only A4 Babu who created forged documents and projected as though he is the authorised person to deal with petitioner and he had created documents for opening the account in facilitating the transactions of A2. As far as the petitioner company is concerned, they are based in Pune and they have no business transactions or any dealings with other accused. Infact, their name has been falsely projected by A4 Babu by creating forged documents. Hence he sought to call for the records in C.C.No.4 of 2008 pending on the file of the XI Additional City Civil and Sessions Court for CBI Cases against the petitioner's company (A-23)

6. The learned Special Public Prosecutor, CBI Cases, on instructions, submitted that he had verified the contention of the petitioner and it is found during investigation, the Investigation Officer had not made any verification with regard to petitioner company registered office at Pune and nobody from there were examined. Further it is the case of the prosecution that A4 had falsely projected that he is an authorised person to deal with petitioner company and he had only created the documents in opening the account in facilitating A2 to divert the funds of the Bank.

7. Further it is submitted that from the statement of one G.Thanasekaran @ G.Dhanasekaran, who is examined as witness, reveals from the investigation that it is A4 Babu who had used the name of A-23 company and A23 company at Pune is no way involved in any of the transactions of the case. In view of the same, the petitioner's prayer can be considered.

8. Considering the submissions and materials produced before this court, this Court finds that the contention of the petitioner is genuine. The petitioner company is based at Pune and the petitioner had no business or any transactions with A2 or his got up companies in the transaction involving in the above case.

9. Since A4 had furnished A-23/petitioner's company name, without the knowledge of the petitioner company, the petitioner could not be found fault with. In view of the same, the quash

petition against A23 is allowed. All further proceedings against the petitioner company in C.C.No.4 of 2008 pending on the file of the XI Additional City Civil and Sessions Court for CBI Cases is quashed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To
1.The Additional Superintendent of Police,
Central Bureau of Investigation,
Anti-corruption,
Chennai

2. The Special Public Prosecutor,
CBI Cases.

Copy to

The XI Additional City Civil and Sessions Judge,
CBI, Chennai.

+1cc to Mr.K.Srinivasan, Advocate Sr.86787
+1cc to Mr.Rajendiran, Advocate Sr.87435

Crl.O.P.No.23009 of 2019

mg[co]
srg 25/11/2019