IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1449 of 2018
and
Crl.M.P.No.16910 of 2018

Pramod Chandra Nayak .. Petitioner/Petitioner/Accused

Vs.

The Inspector of Police
SPE / CBI / ACB, Chennai
Cr.No.RC/MA1/2015A 0012 of 2015 ..Respondent/Respondent/Complainant

PRAYER:The Criminal Revision Petition has been filed under Section 397 & 401 Cr.P.C., to set aside the order in Crl.M.P.No.1750 of 2016 in C.C.No.5 of 2016 dated 18.09.2018, on the file of the XI Additional Special and Sessions Judge, Chennai (Bank and Financial Institutions related CBI Cases) and allow the Criminal Revision.

For Petitioner : Mr.R.Shanmugasundaram
Senior Counsel for M/s.K.Rajasekaran

For Respondent : Mr.K.Srinivasan
Spl.P.P. (CBI cases)

O R D E R

The Criminal Revision Petition has been filed under Section 397 & 401 Cr.P.C., to set aside the order in Crl.M.P.No.1750 of 2016 in C.C.No.5 of 2016 dated 18.09.2018, on the file of the XI Additional Special and Sessions Judge, Chennai (Bank and Financial Institutions related CBI Cases).

2.The case of the prosecution is that the petitioner is A1. He was implicated in Crime No.RC/MA1/2015A 0012 of 2015 by CBI, ACB, Chennai on 30.03.2015 based on the complaint preferred by

Shri S.K.Jain, Dy. General Manager, UCO Bank, Zonal Office, Chennai against Shri.Pramod Chandra Nayak, Dy. General Manager, UCO Bank, Zonal Office, Chennai and other Bank officials including the Account holder under Section 120B r/w 420 IPC & Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

3.While the petitioner was working as Deputy General Manager / Zonal Head of UCO Bank, Zonal Office, Chennai from 21.01.2014, granted Temporary Over Drat facility to the tune of 10 Crores in favour of one L.Srinivasan / A3 and the same was placed before the Zonal Level Credit Approval Committee on 27.05.2014. The committee declined the proposal for sanctioning Rs.10 crores Temporary Over Draft in the current account of Shri L.Srinivasan and a decision was taken to refer the matter to UCO Bank, International Department for clarification, as it will not be proper to mark lien on the advance remittance received for export to Iran, a charge sheet was filed and C.C.No.5 of 2016 was assigned.

4.Thereafter, the petitioner filed a discharge application before the XI Additional Special and Sessions Judge, Chennai (Bank and Financial Institutions related CBI Cases) in Crl.M.P.No.1750 of 2016 in C.C.No.5 of 2016 and the same was dismissed on 18.09.2018, against which, the present Revision has been preferred.

5.The learned Senior Counsel appearing for the petitioner would submit that while the petitioner was working as a Deputy General Manager, UCO Bank, the allegation against A1 was he had sanctioned Over Draft against Current Account Credit Balance when the Zonal Credit Committee had declined and Advance Payment of Exports to Iran which was in the current account cannot be taken as security. Based on the recommendation of the Branch, Rs.10 Crores was sanctioned as secured Over Draft against the credit balance of Rs.11 Crores for a period of 90 days with interest at 17%. The loan amount along with interest has already been recovered by the Branch and it is also an admitted fact that there is no loss to the Bank on account of sanction of over draft sanctioned by A1. Other allegations are only against A3 and not against A1.

6.The learned Senior counsel would further submit that the petitioner being the Branch Head, had the power and granted lending as per the draft note of the UCO Bank, Head Office, Risk Management Department, 10, B.T.M.Sarani, Kolkata 700 001 dated 02.12.2013, wherein, the UCO Bank had revised the lending powers of the Branch Head at different levels. The learned counsel would further submit that as per the Revision of Lending powers at different levels, the petitioner had the power to grant loans upto Rs.20 crores. Further, there is no loss to the

Bank by granting over due facility in favour of A3 and there is no evidence available to implicate the petitioner in the above said crime. Hence, praying for setting aside the order passed by the Trial Court and allow this revision.

7.The learned Special Public Prosecutor (CBI Cases) appearing for the respondent would submit that the proposal for sanction of Rs.10 Crores in the current account of Shri L.Srinivasan, the 3rd accused herein was initially placed before the Zonal Level Credit Approval Committee for taking decision whether to grant or reject. Hence, the Temporary Over Draft granted to the 3rd accused is unsustainable one. As there are lot of materials available to implicate the petitioner, this Court cannot conduct a mini trial in the discharge application by appreciating the evidences. Accordingly, prays for dismissal of the Revision.

8.Considering the facts and circumstances of the case and on a perusal of the record, it is seen that when the approval is pending before the the Zonal Level Credit Approval Committee and the same was referred to the higher authorities for appropriate orders, the petitioner has granted a Temporary Over Draft in the current Account of Shri L.Srinivasan, the 3rd accused herein is a triable issue and the same cannot be agitated in the discharge petition. Hence, this Court refrains from giving any opinion on the merits of the case as the same will definitely influence the Trial Court.

9.In view of the above, this Court is not inclined to find any error or infirmity in the order passed by the Trial Court. Hence, the order passed in Crl.M.P.No.1750 of 2016 in C.C.No.5 of 2016 dated 18.09.2018, by the XI Additional Special and Sessions Judge, Chennai (Bank and Financial Institutions related CBI Cases) stands confirmed. Accordingly, this Criminal Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To.

1.The Inspector of Police
SPE / CBI / ACB, Chennai
Cr.No.RC/MA1/2015A 0012 of 2015

2.The XI Additional Special
and Sessions Judge,
Chennai (Bank and Financial
Institutions related CBI Cases)

3.The Public Prosecutor
High Court of Madras
Chennai 600 104.

Copy To:
The Section Officer,
Criminal Section,
High Court, Madras.

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and
Crl.M.P.No.16910 of 2018

MR(CO)
CSL/15.02.2019