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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2020

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P. (MD) .No.16701 of 2019

and

CRL.M.P (MD) No.9898 of 2019

N.G.Bharathi

.. Petitioner / Accused No.3

Vs.

State Represented by
Central Bureau of Investigation, ACB,
Sastri Bhavan, Chennai.

.. Respondent / Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for records pertaining to the proceedings in C.C.No.13 of 2006 on the file of the learned II Additional District Judge for CBI Cases, Madurai and quash the same as against the petitioner/accused No.3.

For Petitioner : Mr.Y.Krishan
For Respondent : (*)**Mr.N.Nagendran,**
Special Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.13 of 2006, on the file of the learned II Additional District Judge for CBI Cases, Madurai.

2. The petitioner is an accused No.3 in C.C.No.13 of 2006, who is facing trial for the offence under Section 120 (B) r/w 420 IPC and Section 13 (2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 along with eight others.

3.The case of the prosecution is that all the accused entered into criminal conspiracy during the year 2002, to cheat the Punjab National Bank, Sivakasi Branch by obtaining the cash credit facilities.

4. In this case, the petitioner/A3 opened a current account at Punjab National Bank, Anna Nagar Branch, Madurai in the name of M/s.Ragavendra Traders a fictitious firm and the said account was introduced at the instance of A1 and submitted an application for Cash Credit limit for Rs.10 lakhs on 13.05.2002. The petitioner had also furnished collateral security of 85 cents of land situated in R.S.No.35/11A, at Kodikulam Village, Madurai North Taluk. The value of those properties are not adequate to extent of Cash Credit facilities of Rs.10 lakhs and A2 dishonestly obtained valuation reports from one D.V.Balasubramanian as if the value of those



properties is Rs.15,30,000/-.

5. Thereafter, one time settlement was arrived at between the Bank and the petitioner and the Debt Recovery Tribunal, Madurai by judgment dated 17.02.2010 had recorded the terms and settlement between the parties to full satisfaction and relating documents, which was given as security. Further, the Bank had also filed a compromise memo approved by the authorities. The compromise memo as well as the order of Debt Recovery Tribunal have been produced. The Punjab National Bank had issued the letter dated 22.03.2010 stating that the Bank has acknowledged the receipt of Rs.10 lakhs (Rupees Ten Lakhs Only), the compromise amount approved by Bank's authorities.

6. The learned counsel for the petitioner has relied upon the judgment of the Honourable Supreme Court in the case of **CBI, ACB, Mumbai Vs. Narendra Lal Jain and Ors** reported in [2014] 5 SSC 364. The relevant portion of the judgment is extracted hereunder:

"11. In the present case, having regard to the fact that the liability to make good the monetary loss suffered by the bank had been mutually settled between the parties and the accused had accepted the liability in this regard, the High Court had thought it fit to invoke its power under Section 482 Cr.P.C. We do not see how such exercise of power can be faulted or held to be erroneous. Section 482 of the Code inheres in the High Court the power to make such order as may be considered necessary to, inter alia, prevent the abuse of the process of law or to serve the ends of justice. While it will be wholly unnecessary to revert or refer to the settled position in law with regard to the contours of the power available under Section 482 Cr.P.C, it must be remembered that continuance of a criminal proceeding which is likely to become oppressive or may partake the character of a lame prosecution would be good ground to invoke the extraordinary power under Section 482 Cr.P.C."

7. The learned counsel for the petitioner has also relied upon the judgment of the Honourable Supreme Court in the case of **Union of India By Police Inspector CBI Vs. A.G.Ashok**, in Criminal Appeal No.1176 of 2015, wherein the Honourable Apex Court had taken a similar view in that case. Further, the proceedings has to be quashed. In this case, the charges only against 420 of IPC, which is compoundable one. A compromise has also entered between the Bank and the petitioner, seeks for quash the proceedings.

(*) 8. The learned Special Public Prosecutor has submitted that the petitioner is the proprietrix and she has not forged any documents. The petitioner / A3 opened a current account at Punjab National Bank, Anna Nagar Branch, Madurai, in the name of M/s.Ragavendra Traders and submitted an application for Cash Credit



facilities. The petitioner had also furnished collateral security of 85 cents of land situated in R.S.No.35/11A, Kodikulam Village, Madurai North Taluk. He further submitted that the case is advanced stage and this petition need not be entertained at this stage.

9. Considering the rival submissions and also perused the materials on record. It is an admitted fact that the loan amount has been repaid. The collateral security has been discharged and the Bank had filed a memo to that effect and the Debt Recovery Tribunal has also recorded the same. The petitioner is facing trial for offences under Section 420 IPC, which is a compoundable offence.

10. In view of the above and in view of the judgment of Honourable Supreme Court cited above, this Court is inclined to quash the proceedings in C.C.No.13 of 2006 on the file of the learned II Additional District Judge for CBI Cases, Madurai in respect of petitioner/A3 is alone.

11. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

**(*) Amended as per order of this Hon'ble Court
dated 18.02.2020 made in CRL MP(MD).1425 of 2020**

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

To

(*) to be substituted the order already despatched on 24.01.2020

1.The II Additional District Judge for CBI Cases, Madurai

2. Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai.

3. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.Y.KRISHNAN, Advocate (SR-492[F] dated 07/01/2020)

CRL.O.P. (MD) .No.16701 of 2019
and CRL.M.P (MD) No.9898 of 2019
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sma/24/01/2020/3p/6c

TR(19.03.2020) 3p 6c

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