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.16698 of 2019
and
CRL.M.P(MD)No.9899 of 2019

N.G.Bharathi .. Petitioner/ Accused No.7

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.16 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.7.

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

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.16 of 2006, on the file of the learned II Additional District Judge for CBI Cases, Madurai.

2. The petitioner is an accused No.7 in C.C.No.16 of 2006, who is facing trial for the offence under Section 120 (B) r/w 420, 468 r/w 471 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 in the name of M/s.Vinayaga Corporation, Sivakasi and Karthick Trading Company, Sivakasi and not using the funds for the business purpose. They have been dishonestly and fraudulently projecting the business by trading Dhal and Pulses. They have also been mentioned the business premises at 61, APSR Street, Sivakasi, whereas no such business activity was reported to be functioned there.

4.Further, A4 had submitted an application for Cash Credit limit for Rs.10 lakhs on 10.07.2002 and opened Current Account No.53

in Punjab National Bank, Sivakasi on 19.07.2002 by depositing Rs.5,000/- in the name of M/s.Vinayaka Corporation, during which period A1 and A2 were working as Manager and Officer respectively in that Branch. Further A-4 dishonestly and fraudulently offered the property consisting of Housing plots at Survey No.254/1, 259/1 and 257 at Telungupalayam Village, Coimbatore as third party collateral security for the cash credit facility.

5. In this case, A-9 dishonestly gave an inflated valuation report dated 20.07.2002 for the said properties valuing it at Rs/40.27 lakhs whereas the actual value of the property is Rs.10.06 lakhs. Based on the inflated valuation report, by not obtaining the balance sheet and not ensuring and availability of margin, and by abusing his official position, dishonestly sanctioned the Cash Credit limit of Rs.10 lakhs to M/s.Vinayaka Corporation for trading in Dhalls and pulses. Further, to the said conspiracy, after the sanction of the cash credit facility to M/s.Vinayaka Corporation, A-4 dishonestly and fraudulently issued three cheques in favour of M/s.Bharathi traders for Rs.64,350/-, Rs.48,960 and Rs.65,510/-.

6.The said M/s.Bharathi traders is represented by A-6, namely, Madanlal and the petitioner/A7, who are not dealing in trading of Dhalls and Pulses, but, had received the cheques issued by A4. A4 had also made cheque payments to others, thereafter, received the cash from them, not paid the Bank its dues. For the above offence, a case came to be registered.

7.The contention of the learned counsel for the petitioner is that the petitioner is only a sleeping partner along with her brother-in-law/A6. She had also produced partnership deed, dated 27.02.2002. As per partnership deed, the petitioner is only a sleeping partner the other partner her brother-in-law/A6 looked after the entire day-to-day activities of the partnership firm.

8.In this case, the petitioner's husband is accused No.3. As far as the petitioner is concerned, there was no overt act as against her, except being partner of M/s.Bharathi Traders. The petitioner has not participated in any of the business activities or approached the Bank. Since the loan had been defaulted and payments not paid, the case has been initiated, as regards this petitioner she is a female member of the family for sentimental reasons, she has been shown as partner.

(*)9.The learned Special Public Prosecutor submitted that the petitioner is the partner of M/s.Bharathi traders. She had not presented any forged documents and not made any representation. He further submitted that the case is in advanced stage and this petition need not be entertained at this stage.

10.Considering the rival submissions made on either side and also considering the fact that the petitioner is being a women, who is arrayed as accused, in the individual capacity. The firm M/s. Bharathi Traders is not an accused There is no specific overtact as against the petitioner. This Court is inclined to quash the proceedings in C.C.No.16 of 2006 on the file of the learned II Additional District Judge for CBI Cases, Madurai, in respect of petitioner/A7 is alone.

11. In view of the above, 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)No.1428 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-491[F] dated 07/01/2020)

CRL.O.P.(MD).No.16698 of 2019
and
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07.01.2020

SMA/24/01/2020/3P/6C

TR(19.03.2020) 3P 6C