IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Decided on: 05.02.2020

1. CRM-M No.27670 of 2018 (O&M)

Ankush Gupta

....Petitioner

Versus

State of Punjab and another

....Respondents

2. CRM-M No.2662 of 2018 (O&M)

Sunil Jain

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Barjinder Singh, Advocate
for Mr. Rakesh Gupta, Advocate
for the petitioner (in CRM-M-27670-2018)

Mr. Suren Uppal, Advocate
and Ms. Sneha Uppal, Advocate
for the petitioner (in CRM-M-2662-2018)

Mr. A.P.S. Gill, DAG, Punjab.

Mr. G.S. Dhaliwal, Advocate
for respondent No.2 (in both the petitions).

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in these petitions filed under Section 482 of the Code of Criminal Procedure (in short 'Cr.P.C.') is for quashing of FIR No.225 dated 18.11.2013 (Annexure P1) registered under Sections 419, 420, 465, 467, 471, 472, 473 read with Section 120-B of the Indian Penal Code (in short 'IPC') at Police Station Division No.5, Civil Lines, Ludhiana, District Ludhiana and all other subsequent proceedings

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arising therefrom along with the report under Section 173 Cr.P.C.

Since there was a stay of further proceedings before the trial Court both these cases are taken up in Urgent List and arguments of counsel for the parties have been heard.

Brief facts of the case are that on a complaint given by one Raminderpal Singh against Manjit Singh, Kamaljeet Kaur, Satpal Singh, Harvinder Singh, Boparai, Ankush Gupta (petitioner herein in CRM-M No.27670 of 2018) and Sunil Jain (petitioner herein in CRM-M No.2662 of 2018), wherein it is stated that the complainant was owner in possession of a 250 sq. yds. plot in Ludhiana, which he has purchased from one Dropti. Later on, he has executed a power of attorney dated 04.01.2008 in favour of one Amarjit Singh and Harvinder Singh.

The complainant further stated that he came to know that the bank officials have visited his house and from them he came to know that someone has availed a loan in his name from Standard Chartered Bank, Centurion Bank of Punjab (now HDFC Bank) by mortgaging his property. It is further stated that an amount of approximately Rs.30 lacs was taken as a loan from HDFC Bank and Rs.29,16,405/- from the Standard Chartered Bank. Both the loans were disbursed on the same day i.e. 29.02.2008. It is further stated that somebody by forging the sale deed and misusing his PAN Card has availed the loan and the matter be got investigated. The police, therefore, registered the present FIR and initial investigation was conducted by the SHO, Police Station Division No.5, Ludhiana which

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was verified by the Deputy Commissioner of Police, Ludhiana on 12.10.2013.

The police, thereafter, completed the investigation and submitted the report under Section 173 Cr.P.C. against 06 accused persons including both the petitioners.

In the report, it is stated that the accused Manjit Singh by posing himself as Raminderpal Singh (complainant) and one unknown lady posing herself as Kamaljeet Kaur (wife of the complainant) submitted a forged sale deed to Centurion Bank of Punjab (now HDFC Bank) and similar set was given to the Standard Chartered Bank for obtaining a mortgaged loan. It is further stated in this report that a Legal Advisor on the basis of a report submitted by one Boparai, Architect made valuation of the house of Rs.57 lacs on 23.02.2008 and a similar report was submitted to Standard Chartered Bank.

It is further stated that the petitioner – Ankush Gupta, being the Assistant Manager of the Standard Chartered Bank in connivance with the accused sanctioned a loan of Rs.30 lacs within a period of 06 days of giving the application dated 08.02.2008 in which the bogus Raminderpal Singh and his bogus wife i.e. some unknown lady posing herself as Kamaljeet Kaur were the applicants. It is also stated that in the same way, both the bogus persons applied for the loan with the Centurion Bank of Punjab and the petitioner – Sunil Kumar Jain, being the Manager sanctioned the loan. It is also stated that the Architect Boparai has given valuation report to both the banks which show his connivance with the accused persons. As per the report under

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Section 173 Cr.P.C., the following documents were recovered or incriminating evidence came against the petitioner along with the other co-accused:-

> *"I) Accused Manjeet Singh s/o Maan Singh r/o B-5/357, Sahnewal, Ludhiana*
>
> *1. Posed as Raminderpal Singh*
>
> *2. Prepared 2 forged sets of sale deeds*
>
> *3. Forged PAN*
>
> *4. Forged ITRs*
>
> *5. Forged Bank Accounts.*
>
> *Sections 419/420/465/467/468/471/472/473 of IPC*
>
> *II) Unknown lady Kamaljeet Kaur*
>
> *1. Posed as wife of bogus Raminderpal*
>
> *2. Forged PAN*
>
> *3. Forged ITRs*
>
> *Sections 419/420/465/467/468/471/120-B of IPC*
>
> *III) Satpal Singh s/o Gurcharan Singh r/o H. No.661 (new 1701), Brown Road, Near PS Div. No.2, Ludhiana*
>
> *1. Made forged copies of sale deeds from original*
>
> *2. Introduction of bogus Raminderpal Singh*
>
> *Sections 420/465/467/468/471/120B of IPC*
>
> *IV) Harvinder Singh s/o Harlal Singh r/o 27 C, Flower Enclave, Near Fullanwal, Ludhiana*
>
> *1. Submitted valuation report of the same property with a diff. of three days, but did not mention it in the report, so have connivance with the accused.*
>
> *Section 120-B IPC*
>
> *V) Gurpreet Singh r/o 120, st. No.2, Dr. Ambedkar Nagar, near Model House, Ludhiana, Relationship Manager, Stand. Char. Bank, Fzr. Gandhi Mkt. Ldh.*
>
> *1. Presentation of loan file*
>
> *2. Did not verify the current ownership, got the file completed within 6 days of loan application dated*

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23.02.2008 and got it disbursed on 28.02.2008.

Section 120-B IPC

VI) ***<u>Ankush Gupta</u>*** *r/o 95B, Hem Bagh Colony, Near Officers Enclave, Patiala, Credit Manager Stan. Char. Bank.*

1. Sanctioned a loan in 6 days on the basis of bogus documents produced by bogus Raminderpal Singh and did not visit the property to verify the ownership proves connivance.

Section 120-B IPC

VII) ***<u>Sunil Jain</u>*** *Credit Manager of that time of Centurion Bank of Punjab, Ferozegandhi Market, Ludhiana.*

1. Sanctioned a loan in 6 days on the basis of forged documents produced by bogus Raminderpal Singh and did not visit the property to verify the ownership proves connivance.

Section 120-B IPC.”

Thus, the police finding sufficient evidence of conspiracy amongst the accused persons submitted the report under Section 173 Cr.P.C.

It is worth noticing that the charges have already been framed against the petitioners on 09.05.2018 and the case is now fixed for prosecution evidence.

Counsel for the petitioner – Sunil Jain (in CRM-M No.2662 of 2018) has argued that he is working in the bank since long and has an excellent record. It is further submitted that there are various stages of sanctioning of the loan which includes Stage – 1, logging of the file in which all the documents are taken, thereafter, at Stage – 2, checking of the documents and verification by the Field Officers

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including civil report, PAN verification, technical report, legal report. At Stage – 3, the sanctioning is done after checking the eligibility and proposal of appraisal and at Stage – 4, the disbursement is made along with verification of all the original documents including the property papers, legal report, technical report and the booklets which are signed by the customers and then the operation team check the file as per the checklist and if everything is found in order, then the disbursement is made. It is further argued that the petitioner being the Manager of the Bank was the sanctioning authority but the documents were checked by the subordinates staff and therefore, he has not done any overt act.

Counsel appearing for the petitioner – Ankush Gupta (in CRM-M No.27670 of 2018) has also made similar arguments that the petitioner – Ankush Gupta, being the Assistant Manager was one of the officer in the chain of sanctioning of the loan at 04 stages and therefore, he cannot be prosecuted under the aid of Section 120-B IPC.

Counsel for the petitioners have relied upon the judgment ***"Central Bureau of Investigation, Hyderabad vs K. Narayana Rao",*** passed by the Hon'ble Supreme Court in **Criminal Appeal No.1460 of 2012 (arising out of SLP (Crl.) No.6975 of 2011**, decided on 21.09.2012, to submit that where the allegations against a practicing Advocate was that he has submitted some false legal opinion to the Bank in respect of a housing loan in the capacity of a penal Advocate, he cannot be held liable for prosecution for giving such an opinion as it cannot be termed as an illegal act by illegal means in the absence of any allegation of conspiracy.

Counsel for the petitioners have further relied upon the

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judgment ***"State of Karnataka vs L. Muniswamy and others",*** passed in **Criminal Appeal Nos.345-346 of 1976**, decided on 03.03.1977, to submit that the Hon'ble Supreme Court has held that if the High Court comes to a conclusion that allowing the proceeding to continue in order to prevent abuse of the process of law, the same can be quashed as no evidence worth prosecuting the accused in the said case had come on record.

Lastly, counsel for the petitioners has also relied upon the judgment ***"Tanuj Sharma vs State of Punjab and another"*** passed in **CRM-M No.24408 of 2010**, decided on 22.03.2012, wherein the Co-ordinate Bench of this Court has quashed the FIR against the bank officials on the basis of an affidavit filed by the Bank itself that they were not required to verify the authenticity of the documents as part of their duty, which was required to be processed at the time of submission of application of loan.

Counsel for the State, on the basis of the affidavit of the Assistant Commissioner of Police (West) Ludhiana has, however, has opposed the prayer on the ground that before registration of the FIR, a preliminary enquiry was conducted by Incharge, Economic Offences Wing, Ludhiana in which it was found that one Manjit Singh has prepared 02 fake sale deeds of the property of the complainant and by impersonating himself as the complainant – Raminderpal Singh and by producing an unknown lady Kamaljeet Kaur, in place of his wife and thereafter forging the other documents like PAN Card, Aadhar Card, etc. applied for loan in Centurion Bank of Punjab (now HDFC Bank)

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and the Standard Chartered Bank. Both the banks granted loan of Rs.28.50 lacs hurriedly within a period of 06 days and the amount was disbursed to the aforesaid Manjit Singh and Kamaljeet Kaur.

It is further stated that during the enquiry, it was also found that the petitioners being the bank officials, in connivance with the said person has sanctioned the loan without verification of the documents, which were fake.

A rejoinder was also filed on behalf of the petitioner – Sunil Jain in which the details of the enquiry given in the affidavit of the Assistant Commissioner of Police (West) Ludhiana, was denied and it was denied that the petitioners were not the In-charge to verify the documents or the antecedents of the customers, who had obtained the loan and, therefore, they cannot be held liable for prosecution.

Separate reply has been filed on behalf of respondent No.2 and in the said reply, it is stated that both the petitioners on the basis of the fake sale deed and PAN Card and Aadhar Card, etc, have wrongfully and illegally sanctioned the loan of approximately Rs.30 lacs in favour of the co-accused. The Bank did not made any verification by visiting at the spot or even verifying the same from the occupant of the property as well as the other documents attached with the loan file.

It is also stated that the loan was granted in a haste and the factum of conspiracy is a matter of evidence which can only be decided by leading the evidence.

After hearing the counsel for the parties, I find no merit in

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the present petitions as the present case is not covered by the ratio of law laid down in ***"State of Haryana vs Bhajan Lal",*** **1992 Supp (1) Supreme Court Cases 335,** for the following reasons:-

> ***(a) On a bare perusal of the FIR, which was registered after a due enquiry conducted by the Economic Offences Wing, it is found that all the accused persons in conspiracy with each other has sanctioned the loan of Rs.30 lacs each from the 02 banks with regard to the same property and on the same day, on the basis of evaluation report submitted by same Architect. The loan was sanctioned within a span of 06 days as there is nothing on record to show that the Bank had verified the title of the property or by visiting the spot verified the ownership or possession over the property and everything was done on papers. Even, no verification was made whether Manjit Singh is in fact is Raminderpal Singh, the owner of the property and Kamaljeet Kaur is the wife of Manjit Singh. Thus, it is apparent that on the basis of fake document and 02 fake persons both the petitioners in capacity of the Managers of their respective banks have sanctioned the loan within 06 days and disbursed the same to fake persons, therefore, on the face of it, it cannot be said that no offence is made out.***
>
> ***(b) The judgment relied upon by the petitioner in K. Narayana Rao's case (supra) is distinguishable as it was a case relating to an Advocate who had given a legal***

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opinion to the Bank during the process of granting of the housing loan and the Hon'ble Supreme Court has held that by mere giving a legal opinion in the absence of any conspiracy with the concerned Advocate, he cannot be prosecuted.

Similarly, the facts of the case in L. Muniswamy and others' case (supra) are distinguishable as the Hon'ble Supreme Court has found that no evidence has come on record to prosecute the accused in the said case.

Even the judgment passed by the Co-ordinate Bench of this Court in Tanuj Sharma's case (supra) is distinguishable as in the said case, the FIR was quashed on the basis of the affidavit given by the bank exonerating the accused, who was the employee of the said bank.

In the present case, neither any affidavit is given by the bank exonerating any of the petitioner nor any affidavit of the Bank has been filed that the fake loan obtained on the property of the petitioner has been waived off and the property of the complainant is declared free from all encumbrances.

(c) The argument raised by counsel for the petitioners that the loan file is processed through various channel i.e. Stage – 1 to Stage – 4 and the role of the petitioner was only at Stage – 3 is also a fact to be established during the evidence as the entire process was

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completed within a span of 06 days and as per the affidavit of the Assistant Commissioner of Police (West) Ludhiana, no verification was done at the spot and even, no verification was done whether the customers i.e. Manjit Singh and Kamaljeet Kaur are, in fact, genuine or fake persons and therefore, on the face of the FIR, it cannot be said that no prima facie offence is made out against the petitioners.

(d) There are disputed facts on the basis of which, the present FIR is sought to be quashed, as noticed above, therefore, no ground of quashing is made out.

In view of the above, finding no merit, the present petitions fail and are accordingly ***dismissed***.

Nothing observed herein shall be construed as an expression of opinion on merits of the case.

(ARVIND SINGH SANGWAN)
JUDGE

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No

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