IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.16138 of 2015

M/s.IFIN Securities Finance Ltd.,
(Formerly M/s.Narayan Sriram Investments Private Ltd.,)
Rep.by its. Managing Director,
Mrs.S.Usha ... Petitioner/1st informant

Vs.

1.State By,
Inspector of Police,
Central Crime Branch, Team-I,
Veperry, Chennai-07. ... 1st Respondent/Complainant

2.State By:
Joint Director,
Central Bureau of Investigation,
III Floor, E.V.K.Sampath Building,
College Road, Chennai-600 006.

3.State By:
Additional Director General of Police,
CBCID,
No.220, Pantheon Road,
Egmore, Chennai-600 008. ...Respondents/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the investigation pending on the file of the Inspector of Police, Central Crime Branch, Team-I, Vepery, Chennai in X.Crime No.17 of 2014 to the 2nd Respondent (Viz.) Joint Director of Central Bureau of Investigation, Chennai or to the 3rd Respondent (Viz.) Additional Director General of Police, CBCID, Chennai.

For Petitioner : Mr.K.R.Ramesh Kumar

For R-1 & R-3 : Mr.T.Shunmugarajeswaran, Government Advocate (Crl.Side)

For R-2 :Mr.K.Srinivasan, Special Public Prosecutor (CBI Cases)

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ORDER

This Criminal Original Petition has been filed by the Petitioner/1st Informant, seeking to transfer the investigation in X. Crime No.17 of 2014, pending on the file of the 1st respondent viz., Inspector of Police, Central Crime Branch, Team-I, Vepery, Chennai to the 2nd Respondent Viz., the Joint Director of Central Bureau of Investigation, Chennai or to the 3rd Respondent Viz., the Additional Director General of Police, CBCID, Chennai.

2.The case of the petitioner company IFIN Securities Finance Limited (IFSL) is that it is a company controlled by the Government of India, wholly owned subsidiary of IFCI Financial Services Limited (IFIN) in which Industrial Finance Corporation of India Ltd., (IFCI) holds 95% stake. The company was formerly known as M/s.Narayan Sriram Investments Private Ltd. and after it was taken over by the Government of India, the name of the company was changed as M/s.IFIN Securities Finance Ltd. The main business of the company is Non Banking Financial Services and the company is registered under the Companies Act, 1956. During the course of the business one Mrs.Sripriya, wife of Srikanth had approached the petitioner company for loan assistance to the tune of Rs.5crores to invest and trade in shares and at the time of availing loan, she has made false representations. Believing the said representations made by Mrs.Sripriya to be true and also on the strength of certificate issued by a qualified Chartered Accountant, the petitioner company had processed the loan application and sanctioned the loan for a sum of Rs.5 crores on 28.02.2012. Subsequently, the loan amount of Rs.4,20,00,000/- was released on 12.03.2012 and the balance amount of Rs.78,00,000/- was released on 21.03.2012. Thereafter, Mrs.Sripriya, her husband viz., Mr.Srikanth Parthasarathy and her brother viz., Mr.Srihari have jointly introduced a company called M/s.Sthithi Insurance Service Private Limited stating that the company was represented by its Director, Chairman and the Chief Executive Officer Mr.Sudharshan Venkatraman and Managing Director Ramanujam Sesharathnam. Taking into consideration their qualification, social status, company profile and volume of business projected, the petitioner company has disbursed a sum of Rs.5 Crores to them under Two Loan

Agreements dated 28.06.2011 and 02.07.2012. All the accused have jointly represented that their group company viz., M/s.Zylog Systems Ltd., was having a business turnover of Rs.1,200 Crores per annum and the net worth of the companies were Rs.900 Crores as on 31.03.2012. In support of their representations, the said persons have submitted their Audited Annual Balance Sheet for the year 2010-11 and 2011-12.

3.The borrower company and its Directors and the said Mrs.Sripriya have committed default in repayment of loans, and thereby the petitioner company proposed legal action against the borrowers including the Directors and the person in charge of day to day affairs of M/s.Zylog Systems Ltd. At that point of time, M/s. Zylog Systems Ltd., executed a Deed of Guarantee on 29.11.2012, after passing necessary resolution to that effect. In the said meeting the borrowers had agreed to settle their liability and also provide immovable property to cover the extent of loan outstanding and further it was represented that they have proposed to float Global Depository Receipts (GDR) in Luxembourg Stock Exchange and in the business they can mobilise amount not less than Rs.200 Crores in the companies and thereafter, they have produced certain documents and third party collateral security.

4.Based on the strength of collateral security, the petitioner company has totally disbursed an amount of Rs.12 Crores to the Hayagriva Advisory Services run by Sripriya and others and M/s.Zylog Systems Ltd., run by Sudharsan Venkatraman and others. Later, during verification, it came to light that the borrowers have involved in the illegal trading of their own shares and cheated the company. Further, the documents furnished as collateral security were also found to be forged one and that it had been given to them in violation of the prohibitory order issued by the State Government of Karnataka. The petitioner company initially lodged a complaint before the Commissioner of Police, Chennai on 06.08.2013 and since no action was taken by the 1st respondent, the petitioner company was forced to approach the Chief Metropolitan Magistrate Court, Egmore, Chennai. The complaint was filed under Section 200 Cr.P.C., and the same was forwarded to the 1st respondent under Section 156 (3) Cr.P.C., for registration of the case for further enquiry and based on the directions, a case was registered by the 1st respondent on 10.01.2014 in X.Crime No.17 of 2014 against Mrs.Sripriya and 14 others for offence under Section 409, 420 and 120 (b) IPC.

5.Despite, sincere efforts taken by the petitioner company, the 1st respondent did not proceed further with the investigation and thereby, the petitioner company was constrained to send a complaint to the 2nd respondent viz., Central Bureau of Investigation, Economic Offences Wing, Besant

Nagar, Chennai on 21.12.2014. While so, when the petitioner company approached the 1st respondent, during the course of enquiry, the petitioner company and the 1st respondent came to understand that the accused have involved in similar kind of offences. The accused had involved in bank fraud cases in similar manner in respect of which, 4 cases were registered against them based on the complaints given by various banks. The CBI had conducted proper investigation and final report has been filed against the accused before the concerned jurisdictional Courts. The 1st respondent also insisted that, it would be better that the complaint of the petitioner company was also investigated by the CBI. Meanwhile, the petitioner company also thought it fit to withdraw the complaint which was pending on the file of the 1st respondent so that it could be transferred and handed over to the concerned CBI wing for investigation. Meanwhile, the petitioner company received a communication from the Economic Offences Wing of CBI, Besant Nagar, Chennai-90, dated 12.01.2015, seeking reply for certain queries. In the very same letter, the Economic Offences Wing of CBI, Chennai had stated that since a case in Crime No.17 of 2014 was already registered by the 1st respondent, they have not conducted any enquiry in the matter and that no correspondence in this regard was being entertained by the Economic Offences Wing of CBI. The petitioner company was put to a precarious and uncertain situation and the complaint was neither before the 1st respondent/State Police nor before the CBI and thereby, the present petition has been filed seeking for transfer of investigation.

6. Heard the learned Counsels on either side and perused the materials on record.

7.The 1st respondent has filed the Status Report. The crux of the Status Report is that, based on the complaint a case in Crime No.17 of 2014 was registered against Sripriya and 14 others for offence under Sections 409, 420 & 120 (b) IPC. During the course of investigation, the then Sub Inspector of Police examined 3 witnesses and recorded their statements and also collected the relevant documents viz., copy of E.C and the documents relating to properties in Survey No.200/1,2,3,4, Doc.No.690/12 in Mysore, Karnataka and the Copy of the Gift Deed bearing Doc.No.505/6162 from the SRO, Sunguvarchatram and certain other documents from SRO, Mysore, Karnataka for investigation purpose. Since at a later point of time, the petitioner had sent a letter of withdrawal to the 1st respondent dated 08.03.2016, based on a resolution passed by the company, the 1st respondent has not continued with further investigation.

8.Learned counsel appearing for the petitioner company would submit that the petitioner company is a Government Company and that due to the fraud committed by the accused, the

Government Company has suffered huge loss of public money to the tune of Rs.12 Crores. The accused persons have also cheated certain other banks in a similar manner and 4 other similar cases have been registered, based on the complaints given by the Banking Institutions to the CBI. The CBI has also completed investigation and filed final report and the case is now pending for trial. Learned counsel would further submit that the nature of the transactions needs special assistance and only a specialised agency like CBI would be able to understand the complicated issues involved and unearth the criminality committed by the accused and a detailed investigation involving forensic audit is required in this case. He would further submit that taking into account, the earlier letter given by the petitioner seeking for withdrawal of complaint from the 1st respondent agency, the 1st respondent has also not proceeded any further in this case. He would submit that the accused have acted in a particular modus operandi and the CBI has already investigated cases involving such modus operandi and filed the final report and it would be appropriate that the case is transferred to the CBI, the investigation will be conducted in an efficient and expeditious manner.

9.Learned Government Advocate (Crl.Side) appearing for the 1st and 3rd respondents would submit that the 1st respondent was proceeding with the investigation however, since a request was made by the petitioner not to proceed with the investigation and seeking for withdrawal, the 1st respondent has not proceeded any further and thereby, the respondents cannot be held responsible for the delay.

10.At this juncture, the learned counsel for the petitioner company would submit that the letter of withdrawal was based on a resolution. The Board resolution was made with the intention to see that the case was withdrawn from the file of the 1st respondent and transferred to the file of CBI and that the intention of the petitioner company was only to transfer the case to the file of the Economic Offences Wing of CBI, Chennai so that a better and efficient investigation can be done in a specialised manner.

11.Mr.K.Srinivasan, learned Special Public Prosecutor (CBI Cases) appearing for the 2nd respondent would submit that the petitioner company had earlier given a complaint to the 1st respondent State Police and it had been registered in Crime No.17 of 2014 and it was an impediment for the CBI to take up the subsequent complaint given by the petitioner on a subsequent date on 23.12.2014. The Economic Offences Wing of CBI, Chennai had sent a reply as early as on 12.01.2015, asking for certain queries and also expressing their inability to take up the case for investigation, due to the pendency of the investigation in Crime No.17 of 2014, on the file of the 1st respondent. However, he would submit that the accused in similar modus operandi have cheated several other banks and in respect of complaints given by other banks, the CBI, Bangalore has registered cases against number of other accused who are also accused in Crime No.17 of 2014. He would further submit that in respect of similar complaints, the investigation has been completed by CBI and the final reports have been filed and the case is pending trial before the jurisdictional Courts. He would submit that in the event of any direction being issued by this Court to the Economic Offences Wing of CBI, Chennai, they are bound to comply with the order and are ready to continue with the investigation in Crime No.17 of 2014 which is now pending on the file of the 1st respondent.

12.The complaint of the petitioner company had been registered by the 1st respondent in X.Crime No.17 of 2014, for offences under Sections 409, 420 and 120(b) IPC. Though, the case had been registered as early as on 10.01.2014, there had not been much progress in this case. However, it is submitted by the 1st respondent that since a letter of withdrawal was given by the petitioner company, they did not proceed any further. However, it is submitted by the petitioner company that the letter of withdrawal was given only with an intention to get the case transferred to the file of the Economic Offences Wing of CBI, who are the specialised investigating agency, so that efficient and expeditious investigation will be done and it is not the intention of the petitioner company to totally withdraw the complaint. Further, it is also stated that the Economic Offences Wing of CBI, Chennai being a specialised Wing is the appropriate investigating agency who could be able to unearth the criminality involved in this case and to bring the offenders. In similar matters, the CBI had investigated and filed the final reports against the accused, based on the complaint given by the various other banking institutions in respect of cases where similar modus operandi has been adopted by the accused. It is a case where a Government of India Company has been cheated and public money to the tune of Rs.12 Crores has been looted by the accused. In the opinion of this Court, the Economic Offences Wing of CBI being a specialised agency would be the appropriate agency to investigate the case further in an efficient manner since they have the expertise.

13.In view of the above, the 1st respondent is directed to forward the FIR in X.Crime No.17 of 2014 along with the materials collected so far to the Head of the Branch, Economic Offences Wing, Central Bureau of Investigation, Rajaji Bhavan, Besant Nagar, Chennai-90 within two weeks from the date of receipt of the copy of the order. In turn, the CBI, Economic Offences Wing, Chennai, shall proceed with the further investigation of the case in accordance with law and file final report as expeditiously as possible. The complainant company along with their legal team shall furnish the details to the CBI, Chennai.

14.With the above directions, the Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Central Crime Branch, Team-I,
Veperry, Chennai-07.

2. The Joint Director,
Central Bureau of Investigation,
III Floor, E.V.K.Sampath Building,
College Road, Chennai-600 006.

3.The Additional Director General of Police,
CBCID,
No.220, Pantheon Road,
Egmore, Chennai-600 008.

4.The Economic Offences Wing,
Central Bureau of Investigation,
Rajaji Bhavan, Besant Nagar, Chennai-90

5.The Public Prosecutor,
High Court of Madras,
Chennai.

+2cc to M/s.K.R.Ramesh Kumar, Advocate SR.18089

Crl.O.P.No.16138 of 2015

rk[co]
srg 14/07/2021