IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.12.2021

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

Crl.R.C.No.145 of 2021
and
Crl.M.P.No.3088 of 2021

V. Srinivasan ... Petitioner/Accused No.4

Versus

State rep. by
Inspector of Police,
CBI/BS & FC, Bangalore,
R.C.No.4(E)/2015 ...Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records from the Trial Court and to set aside the order dated 30.09.2020 passed against the petitioner by the learned XI Additional Special Judge for CBI Cases relating to Banks and Financial Institutions, Chennai in Crl.M.P.No.5148 of 2018 in C.C.No.19 of 2016.

For Petitioner : Mr. A.V.Somasundaram

For Respondent : Mr. K. Srinivasan,
Special Public Prosecutor,
for CBI

ORDER

Against the dismissal of the discharge petition, passed by the learned XI Additional Special Judge for CBI cases, relating to Banks and Financial Institutions, Chennai in Crl.M.P.No.5148 of 2018 in C.C.No.19 of 2016, the petitioner/A4 is before this Court with this Criminal Revision Case.

2. The brief facts leading to file this revision reads as follows :

A1, in this case, is one G.R.K.Reddy and A2, Rajini Reddy, who is wife of A1, are Managing Director and Director of one M/s. New Chennai Township Pvt. Ltd., Chennai. A criminal case has been registered by the respondent/CBI, based on a complaint given by the Deputy General Manager, Central Bank of India, on the ground that and A1 and A2 availed 3 loans from the central Bank of India, Industrial Finance Branch, Chennai to the total tune of Rs.193.29 Crores for the purpose of meeting the working capital requirement under lease and rental discounting, Affordable Housing Project to meet a promotional and other expenses of the residential housing. A1 and A2 said to have entered into a lease agreement with one M/s.Exemplarr World Wide Ltd. But, that company, did not occupy the lease hold property. Further A3 in this case, namely, M/s. New Chennai Township Pvt. Ltd., obtained loan projecting the rental dues arising out of the same agreement, thereby mislead the bank. The said lease agreement has been created fraudulently for the only purpose of raising loans. The loan proceeds were utilized mostly for repayment of the earlier loans obtained by them with the Central Bank of India and also with other consortium of Banks led by Indian Bank, which has sanctioned credit facilities for the housing projects. A1 and A2, thereby misrepresented the facts to Central bank of India and diverted the funds for the purpose other than to which the loan was sought and sanctioned. Thus, they cheated the Bank to the tune of Rs.201.40 Crores.

3. The petitioner, who was arrayed as A4 in this case was working as the Assistant General manager of the Central Bank of India at the Industrial Finance Branch, Chennai, dishonestly recommended the above loans without analysing the balance sheets and also not properly conducted the inspection. A1 and A2 conspired with A4, cheated the Bank and thereby A4 committed misconduct by abusing his official position as a public servant and thereby A1 and A2 got the credit facility fraudulently.

4. Based on that, a crime was registered and after investigation, final report has been filed for the offences under Sections 120-B r/w.420 of IPC and Section 13(2) r/w. 13 (1)(d) of Prevention of Corruption Act and the same has been taken cognizance as C.C.No.19 of 2018 by the learned XI Additional Special Judge(CBI cases), Chennai. After filing final report, the petitioner approached the trial Court by way of filing a petition under Section 239 of Cr.P.C. to discharge him from the charges. The Trial Court, by an order dated 30.11.2020, dismissed the same stating that, from the materials available on records, a primafacie case is made out against the petitioner, and there is no reason to discharge him from the charges. Now, challenging the same, present revision has been filed.

5. The learned counsel for the petitioner submitted that the petitioner was working only as an Assistant General Manager in the concerned Branch and based on the sanctioned order issued by the Head Office, inspection has been conducted and after

conducting inspection of the premises, he sent a recommendation pursuant to his official duty. Absolutely, there is no material available on record to show that he had conspired with A1 and A2 and committed fraud and thereby, causing loss to the petitioner.

6. The learned counsel also referring to various statements of witnesses showing that only subordinate officer has conducted inspection and filed a report and based on that, he has made the recommendation.

7. The trial Court, without considering the same, has mechanically dismissed the petition.

8. Per contra, the learned Special Public Prosecutor, CBI Cases, submitted that the petitioner was working as Assistant General Manager of the Bank, wherein, A1 to A3, produced bogus lease deeds and other documents, obtained loans to the tune of Rs.193.29 Crores. The petitioner/A4, being a Branch Head, has failed to conduct proper pre-sanctioning inspection and financial analysis, recommended for sanctioning above 3 loans. The learned Special Public Prosecutor also referring to the counter affidavit filed by the CBI, submitted that while granting the loan, the petitioner played a major role and he recommended the proposal, for the purpose "to be used for repayment of loan provided by the holding company -M/s. Marg Limited." However, in the sanction letter issued by the Central bank of India, Central Office, Mumbai , the purpose of the loan was mentioned as "to meet the working capital requirements of the company" and the petitioner did not notice the difference. That apart, he has not conducted pre-sanction Inspection for granting Rs.51 crores as Rental Scheme facility while processing the above loan. He also did not conduct pre-disbursal inspection before release of the loans. Likewise, he has committed as many as 19 irregularities while granting loan.

9. He further submitted that the statement of the Gowri Kalyani, who was working as Senior Manager, clearly reveal that only on the instruction of the petitioner, she prepared the documents, which clearly shows that the petitioner in connivance with the main accused, cheated the Bank. The materials available on record, primafacie made out a case as against the petitioner. Considering those circumstances, the trial Court, rightly dismissed the application and there is no irregularity in it.

10. This Court considered the submissions made on either side and perused the materials available on records carefully.

11. The main charge against the petitioner is that the petitioner was working as an Assistant General Manager in the complainant Bank. A1 and A2 are Managing Director and Director

of A3 Company M/s.New Chennai Township Pvt. Ltd. They applied for 3 term loans 1) Lead Rental Discounting to the tune of Rs.44.35 Crores, 2) Affordable Housing Project to the tune of Rs.100 Crores and 3) Lease Rental Discounting to the tune of Rs.48.94 Crores. The charge against the petitioner is that he conspired with A1 and A2 and committed as many as 19 irregularities, that, while submitting report to the Central Bank, he failed to incorporate full details of the credit facilities sanctioned by the consortium of the Banks and he failed to conduct any pre-sanction inspection for granting loan to the tune of Rs.51 Crores as Rental Scheme Facility. Even though the purpose of loan was to meet the working capital requirement of the Company, he has deliberately mentioned the purpose of loan as payment to the holder of the company, who have funded their project. That apart, he failed to conduct pre-disbursal inspection before release of the loan of Rs.44.35 Crores-Lease Rental Discounting facility sanctioned to M/s.NCTPL. While sanctioning Term Loan, he has not recommended for the personal guarantee of A2 and he has also not discussed the reason for not insisting for her personal guarantee. Likewise, as per the prosecution, he has committed as many as 19 irregularities only in order to favour A1 to A3. That apart, from the statement of one Gowri Kalyani, who was working as a senior Manager in the very same bank, prepared everything under the direction of the petitioner and inspection report, is deliberately anti dated. Apart from that, the statement of other official witnesses along with the process note prepared by the petitioner clearly creates a strong suspicion against the petitioner and a primafacie case is made out against the petitioner for framing charges.

12. Considering all the above aspects, this Court is of the considered view that, the trial Court, after considering all the materials available on record, has rightly dismissed the application. Therefore, this Court finds no irregularity or illegality in the order passed by the Trial Court and there is no merit in this Revision and the same is liable to be dismissed.

13. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The XI Additional Special Judge for CBI cases, relating to Banks and Financial Institutions, Chennai.

2. The Inspector of Police,
CBI/BS & FC, Bangalore,

3. The Special Public Prosecutor,
For CBI
High Court, Madras.

+1cc to Mr.A.V.Somasundaram, Advocate, S.R.No.65550

CRL.R.C.145 of 2021

SV(CO)
SU(03/01/2022)