IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Crl.OP.No.6973 of 2021

RBL Bank Ltd
Having office registered Office at
1st Lane, Shahupuri, Kolhapur - 416001, Maharastra State, India.
Having one of the Branch Office at Anand Business Centre,
No.105/56, G N Chetty Road,
T Nagar chennai 600 017.
Represented by its Authorised Signatory
K.Vaithianathan
... Petitioner

Versus

The Joint Director
Central Bureau of Investigation,
Economic Offences Branch,
A Wing, 3rd Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 600 090. ...Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to direct the respondent to register the First Information Report in respect of complaint of the petitioner dated 25.11.2020 and enquire it along with FIR registered in CBI Case No.RC/069/2020/E/0007/CBI/EOB/Chennai, which is pending on the file of the respondent.

For Petitioner : Mr. M.Arunachalam

For Respondents: Mr. N.Srinivasan,
Special Public Prosecutor (CBI)

ORDER

This Criminal Original Petition has been filed by the petitioner, seeking a direction to the respondent to register a first information report on the basis of the complaint dated 25.11.2020 lodged by him and to cause investigation along with the first information report bearing CBI Case No.RC/069/2020/E/0007/CBI/EOB/Chennai, dated 15.12.2020 registered by the respondent in respect of the complaint filed by the State Bank of India against RE Cables and Conductors Pvt. Ltd.

2.The case of the petitioner is that the petitioner is a private bank and it is extending various loans to its prospective customers. During the course of its business the petitioner bank had sanctioned cash credit facilities of INR 35 Crores to RE Cables and Conductors Pvt. Ltd., which is one of the Andhra Pradesh based firms and its Directors viz., Hitesh Ramesh Jain and Ramesh Otarmal Jain are also based at Andhra Pradesh. It is stated that RE Cables and Conductors Pvt. Ltd. have availed cash credit facilities through LC's from various banks to the extent of INR 121.23 Crores and INR 40.69 Crores during the financial year 2016 - 2017 and 2017 -2018 out of which INR 38.42 Crores was diverted by the said company for other use. The further allegation of the petitioner is that the company concealed the advance amount given to related party to the tune of INR 7.50 Crores and prejudicial to the interest of the company and construed as diversion of funds. According to the petitioner, due to the related party transaction, the company could not disclose the transaction in the financial statement as required under the Companies Act. The inventory records were not maintained by the company with appropriate audit evidence to substantiate the existence of inventory available to the petitioner. The petitioner further submits that the auditors could not get the confirmation from the 90 debtors out of 98 debtors and 28 creditors out of 33 creditors, whose addresses were made available by the said company and there is also discrepancies in the ledger account. This act of the company caused financial loss of Rs.35 Crores to the petitioner. Therefore, the petitioner lodged a complaint before the Commissioner of Police, Hyderabad on 25.11.2020, but the same was forwarded to the State Bank of India.

3.According to the petitioner, State Bank of India had already given a complaint against the said company and its directors to the respondent and a case was also registered. Further, the complaint dated 25.11.2020 of the petitioner was also forwarded to State Bank of India and State Bank of India in turn forwarded the complaint by a letter dated 29.12.2020 to the respondent and to receive the complaint of the petitioner, as one of the members of multiple banking arrangement against the company and its directors. However, the complaint given by the petitioner on 25.11.2020 which was forwarded by the State Bank of India on 29.12.2020 has not been taken up for registration of first information report by the respondent, till date. Therefore, the present petition is filed.

4.Now, the petitioner seeks a direction to direct the respondent to register the First Information Report in respect of the complaint dated 25.11.2020 given by him and enquire it along with the complaint of the State Bank of India, in CBI Case No.RC/069/2020/E/0007/CBI /EOB/Chennai, dated 15.12.2020, against the said company.

5.The learned counsel for the petitioner submitted that the petitioner bank has received summons from the respondent u/s 160 of Cr.P.C., as a witness in CBI Case No.RC/069/2020 / E/0007/CBI/ EOB/ Chennai, wherein complaint was registered against RE Cables and Conductors Pvt Ltd., and others for commission of offence under Sections 120B r/w 409, 420, 467, 468, 471 and 477 A of IPC., and Sections 13(2) r/w 13(1)(d) of PC Act, 1988. However, the respondent has not independently registered a complaint against the said company based on the complaint given by the petitioner, which was forwarded by the State Bank of India. Therefore, he filed the present petition before this Court.

6.The learned Special Public Prosecutor submits that there is no joint director of CBI in the office of the Central Bureau of Investigation, Chennai and it is only headed by the Superintendent of Police. He would further submit that the matter was handed over by CBI authorities on the basis of the complaint lodged by the State Bank of India at the earliest point of time on 15.12.2020. He further submit that for the purpose of conducting investigation into the complaint given by the petitioner, the petitioner has to produce the documents as required by the authorities. In fact, the petitioner also appeared before the respondent as per the letter dated 22.03.2021. When the CBI already registered the case against the said RE Cables and Conductors Pvt. Ltd., which is based on Andhra Pradesh, the grievance of the petitioner has to be considered by the authorities based on the material evidence to be produced by the petitioner.

7.The petitioner's request is to direct the respondent to register the First Information Report based on the complaint dated.25.11.2020 and to investigate it along with the complaint lodged before the respondent by the State Bank of India. It is seen that the complaint given by the State Bank of India has been entrusted to CBI for an enquiry and investigation is in progress. While so for taking up the case of the petitioner to be investigated along with the case filed by the State Bank of India, which is being investigated by the CBI, the petitioner has to produce relevant documents for the purpose of conducting investigation. It is open to the petitioner to produce relevant materials before the authorities concerned and it is for the respondent to proceed further in this matter. While so, the direction as prayed for by the petitioner cannot be granted.

8.Accordingly, with the above observations and directions, the Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Director
Central Bureau of Investigation,
Economic Offences Branch,
A Wing, 3rd Floor, Rajaji Bhavan,
Besant Nagar, Chennai - 600 090.

2. The Special Public Prosecutor (CBI),
High Court, Madras.

+1cc to Mr.M.Arunachalam, Advocate SR.No. 22526

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A.SK(29.06.2021)