IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CRIMINAL APPLICATION NO.1620 OF 2022

SURESH TULSIRAM BHALERAO
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
.....
Advocate for Applicant : Mr. Bhale Babasaheb S.
APP for Respondent-State: Mr. M. M. Nerlikar
…..

CORAM : SARANG V. KOTWAL AND
BHARAT P. DESHPANDE, JJ.
DATED : 8th JULY 2022

PER COURT:-

1. Leave to amend. Amendment to be carried out forthwith.

2. This application is filed for quashing of the F.I.R. registered with CBI, ACB, Pune vide C.R. No. RC PUNE/2021/A/0002 under Sections 7 and 7A of the Prevention of Corruption Act, 1988 and 120-B of I.P.C. The other prayer is for direction to respondent No.1 to re-investigate the crime by appointing another investigating officer. The third prayer is for taking suitable action against the investigating officer as she is not properly investigating the crime.

3. We have heard the parties.

4. Learned counsel for the applicant submitted that the Branch Manager of the bank, who was the main offender, is not shown as

accused in the charge sheet which is filed. The offences under sections 7 and 7A of the Prevention of Corruption Act, 1988 are not made out. The investigation is not properly conducted. Unless and until there was involvement of the Branch Manager of the bank, the offence could not have been committed by the applicant alone.

5. Learned A.P.P. opposed this application. He relied on the charge sheet. He submitted that the offence of demand is clearly proved. The applicant was apprehended while accepting two cheques from the complainant. The trap was successful and therefore, there is sufficient material against the applicant. Learned A.P.P. submitted that the accused does not have locus asking for re-investigation. The investigation cannot be directed or transferred at his instance.

6. We have considered these submissions. We have perused the complaint, the charge-sheet, the other relevant documents and the statement of the complainant dated 2.7.2021 which gives clear description of the events.

7. The complainant has mentioned that the applicant was recovery officer of the Union Bank of India, Main Branch, Aurangabad. In November, 2020 he met the complainant outside the bank and asked about his loan proposal. The complainant was interested in getting loan. He used to frequently visit the bank and

had requested the Branch Manager Shri Jha, who was to process and approve his loan. The Branch Manager was not taking further action. The applicant made phone call to the complainant and told him that he had discussed this issue with the Branch Manager Shri Jha. He had conveyed that the loan of Rs.10,00,000/- would get sanctioned but the complainant would be required to pay the subsidy amount of Rs.2,50,000/-. The complainant was not willing to pay that amount. After that, the applicant took the complainant to Shri Jha. It is the complainant's case that the Branch Manager Shri Jha told him that he would disburse the loan of Rs.10,00,000/-, but the complainant would be required to pay Rs.1,00,000/-; otherwise, he would not allow disbursement of the remaining amount of Rs.5,00,000/- to the complainant. The amount of Rs.5,00,000/- was disbursed on 09.03.2021. After that, according to the complainant, the applicant and Shri Jha were continuously demanding Rs.1,00,000/-. The complainant was reluctant to pay the amount. Therefore he approached the C.B.I., A.C.B. Pune. On 2.6.2021, he gave his complaint and thereafter, various procedures were carried out to verify the demand etc. However, there was no progress so far as the demand made by the Branch Manager Shri Jha was concerned, as the demand could not be verified. Finally, a trap was laid on 5.6.2021. The applicant was caught when he accepted the tainted cheques. His fingers also showed the presence of powder while handling the cheques. On this basis, investigation was carried out. Charge-sheet was filed against him. In the statement of complainant and in the trap panchanama, there is reference to a call made to Shri Jha after the trap. However, Shri Jha completely denied having any knowledge about the demand and acceptance. Therefore, the demand could not be proved in the trap as far as Shri Jha is concerned.

8. After the investigation was over, charge-sheet was filed against the applicant under these sections. Thus, there is clear case made out against the applicant. There is sufficient material against him to attract the provisions of the Prevention of Corruption Act and more particularly, Section 7-A of the said Act. Therefore, the proceedings cannot be quashed against him. As far as his prayer for re-investigation is concerned, the applicant does not have any locus to pray that the investigation should be carried out in a particular manner when there is sufficient material in the charge-sheet. In this view of the matter, no relief can be granted in this application. The application is dismissed.

9. It is made clear that if role of any other accused transpires during the trial, the trial court is always empowered to take suitable action in accordance with law.

(BHARAT P. DESHPANDE, J.) **(SARANG V. KOTWAL, J.)**

rlj/