IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.01.2022
PRONOUNCED ON : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRL.O.P.NO.29533 OF 2015
AND M.P.NOS.1 & 2 OF 2015

N.Raveendranatha Reddy ...Petitioner / Accused No.6

Vs.

The Deputy Director,
Directorate of Enforcement,
Government of India,
Department of Revenue,
2nd & 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road, Thousand Lights,
Chennai – 600 006. ...Respondent / Complainant

Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.31 of 2015 on the file of the Principal Sessions Court, Chennai and to quash the same.

For Petitioner	:	Mr.N.R.Elango Senior Counsel for Mr.R.Vivekananthan
For Respondent	:	Ms.G.Hema Special Public Prosecutor (ED)

ORDER

P.N.PRAKASH, J.

This criminal original petition has been filed to call for the records in C.C.No.31 of 2015 on the file of the Principal Sessions Court (Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002), Chennai and to quash the same.

2. The brief facts that are required to decide this quash petition are as under:

2.1 One T.D.Naidu approached Raveendranatha Reddy, the then Branch Manager of Andhra Bank, Anna Nagar Branch, for huge loans for starting a Medical College and Hospital sometime in the year 2008. Raveendranatha Reddy, in collusion with T.D.Naidu, in violation of banking norms, appears to have sanctioned a sum of Rs.41 crores and the account became a Non-Performing Asset (NPA).

2.2 Consequently, on a written complaint given by the General Manager of the Andhra Bank, Chennai, the Central Bureau of Investigation (for brevity "the CBI") registered a case in RC-3(E)/2012 on 20.03.2012 for the offences under Sections 120-B r/w 420, 468 and 471 IPC and Section 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988 (for brevity "the PC Act").

2.3 After completing the investigation, the CBI filed a charge sheet in C.C.No.48 of 2013 in the Court of the XI Additional Sessions Judge, (Special Court for CBI Cases), Chennai, against three accused viz., T.D.Naidu (A1), R.Varadarajan (A2) and N.Raveendranatha Reddy (A3).

2.4 Since the case registered by the CBI disclosed an offence under Section 420 IPC, which is a scheduled offence under the Prevention of Money Laundering Act, 2002, (for brevity "the PML Act"), the Enforcement Directorate (for brevity "the ED") registered a case in E.C.I.R.No.13 of 2013 and after completing the investigation, the ED filed a complaint in C.C.No.31 of 2015 in the Principal Sessions Court, (Special Court for the PML Act Cases), Chennai, for the offences under Sections 3 and 4 of the PML Act, against T.D.Naidu (A1), Prabavathy (A2), Tataji (A3), Sonia (A4), Varadharajan (A5) and Raveendranatha Reddy (A6), for quashing which, Raveendranatha Reddy is before this Court under Section 482 Cr.P.C.

3. Heard Mr.N.R.Elango, learned Senior Counsel representing Mr.R.Vivekananthan, learned counsel on record for the petitioner and Ms.Hema, learned Special Public Prosecutor (ED) appearing for the respondent.

4. The gravamen of the allegations of the ED in the complaint is that T.D.Naidu had committed a predicate offence by obtaining huge loans in collusion with Raveendranatha Reddy from Andhra Bank in gross violation of the Rules and had acquired proceeds of crime approximately amounting to Rs.151 crores, which, he has projected as untainted money by purchasing various properties.

5. As regards the allegation against Raveendranatha Reddy in the complaint, it is found in paragraph no.10.6, which reads as follows:

"10.6. Shri N.Raveendranathareddy (A-6 herein) had dishonestly processed & sanctioned the loans based on forged and fabricated documents in the capacity of the then Branch Manager and Branch Head, Andhra Bank, Anna Nagar Branch, as submitted by Shri T.D.Naidu (A-1 herein), and has actually involved himself and knowingly assisted with Shri T.D.Naidu in the process of defrauding the bank and in the activity connected with the proceeds of the crime. Thus, it is very well confirmed that Shri N.Raveendranathareddy (A-6 herein) has indirectly involved and knowingly is a party in the offence of money laundering. Therefore, Shri N.Raveendranathareddy (A-6 herein) has been guilty of offence of money laundering under Section 2(1)(p) r/w Section 3 of the PMLA, 2002."

6. Apart from the above allegation, there is no other allegation in the complaint as against Raveendranatha Reddy that he had, in any manner, assisted or abetted T.D.Naidu in the commission of the offences under Sections 3 and 4 of the PML Act.

7. For fastening criminal liability under Section 3 r/w 4 of the PML Act, the following ingredients are required to be satisfied:

i. a scheduled offence should have been committed;

ii. proceeds of crime should have been generated by committing the scheduled offence;

iii. proceeds of crime should have been projected as untainted property.

The above view stands fortified by the following observations of the Supreme Court in Nikesh Tarachand Shah Vs. Union of India and Another [(2018) 11 SCC 1] :

"11. Having heard the learned counsel for both sides, it is important to first understand what constitutes the offence of money laundering. Under Section 3 of the Act, the kind of persons responsible for money laundering is extremely wide. Words such as "whosoever", "directly or indirectly" and "attempts to indulge" would show that all persons who are even remotely involved in this offence are sought to be roped in. An important ingredient of the offence is that these persons must be knowingly or actually involved in any process or activity connected with proceeds of crime and "proceeds of crime" is defined under the Act, by Section 2(1)(u) thereof, to mean any property derived or obtained directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence (which is referred to in our judgment as the predicate offence). Thus, whosoever is involved as aforesaid, in a process or activity connected with "proceeds of crime" as defined, which would include concealing, possessing, acquiring or using such property, would be guilty of the offence, provided such persons also project or claim such property as untainted property. Section 3, therefore, contains all the aforesaid ingredients, and before somebody can be adjudged as guilty under the said provision, the said person must not only be involved in any process or activity connected with proceeds of crime, but must also project or claim it as being untainted property. " (emphasis supplied)

8. In this case, Raveendranatha Reddy, who was the Branch Manager of Andhra Bank, appears to have sanctioned the loans to T.D.Naidu in rank violation of the Rules and therefore, he is facing the prosecution along with T.D.Naidu in C.C.No.48 of 2013 before the XI Additional Special Court for CBI Cases, Chennai, for the offences under Sections 120-B r/w 420, 468 and 471 IPC and Section 13(2) r/w 13(1)(d) of the PC Act.

9. There is no shred of material to show that Raveendranatha Reddy, had, in any manner, directly or indirectly, assisted T.D.Naidu in projecting the proceeds of crime (viz., loan amount that was disbursed by Andhra Bank to T.D.Naidu) as untainted money for him to be prosecuted under Sections 3 and 4 of the PML Act.

10. As contended by Ms.Hema, learned Special Public Prosecutor (ED), it is true that this Court has dismissed the quash petition of the co-accused in this case, but, the complaint disclosed specific overt acts against Prabavathy (A2), Tataji (A3), Sonia (A4) and Varadharajan (A5) as to how they had assisted T.D.Naidu in projecting the proceeds of crime as untainted property. However, the case of Raveendranatha Reddy stands on a different footing, inasmuch as, he had only helped T.D.Naidu to get huge loans from the Andhra Bank by abusing his official position and nothing beyond that. Hence, the prosecution of Raveendranatha Reddy for the offence under Section 3 r/w 4 of the PML Act cannot be sustained.

Hence, this criminal original petition stands allowed and the proceedings qua Raveendranatha Reddy in C.C.No.31 of 2015 on the file of the Principal Sessions Court (Special Court for the PML Act Cases), Chennai, stands quashed. Connected M.Ps. are closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

nsd

To

1.The Principal Sessions Judge,
(Special Court constituted under Section 43(1) of the Prevention of Money Laundering Act, 2002),
Chennai.

2.The Additional Sessions Judge,
(Special Court for CBI Cases),
Chennai.

3.The Deputy Director,
Directorate of Enforcement,
Government of India,
Department of Revenue,
2^{nd} & 3^{rd} Floor,
Murugesa Naicker Complex,
No.84, Greams Road, Thousand Lights,
Chennai - 600 006.

4.The Special Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Crl.O.P.No.29533 of 2015

BS(CO)
RVM(11/02/2022)