IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.16441 of 2021

M/s. Anand Agency,
Sole-proprietorship firm,
Rep., by its proprietor,
Mr.J.Paramanandam ... Petitioner

Vs.

1. The Joint Director and Head of Zone, (CBI)
   Chennai Zone,
   III Floor, E.V.K., Sampath Building,
   College Road,
   Chennai - 600 006.

2. The Superintendent of Police,
   Central Bureau of Investigation,
   Anti-Corruption Bureau,
   Shastri Bhavan, Chennai - 600 006. ... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the respondents to take on record the complaint dated 10.02.2021 filed by the petitioner and register a preliminary case (PE) as against the officials of Indian bank namely Mr.Gajapathirajan, then General Manager, Mr.Dahodwala, then Assistant General Manager, Mr.Adhikesavan, then Chief Manager, Mr.Ramesh, then Chief Manager and other officials of the Indian Bank, ARMB Branch, Chennai.

For Petitioner : Mr. Sarath Babu
for M/s. N.R.R. Arun Natarajan

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

O R D E R

This petition is filed under Section 482 of criminal procedure code, to direct the respondents to take on record the complaint dated 10.02.2021 filed by the petitioner and register a preliminary case as against the officials of Indian Bank namely Mr.Gajapathirajan, then General Manager, Mr.Dahodwala, then Assistant General Manager, Mr.Adhikesavan, then Chief Manager, Mr.Ramesh, then Chief Manager and other officials of the Indian Bank, ARMB Branch, Chennai.

2. The case of the petitioner in brief, is, as follows:-

2(i) Petitioner is a proprietorship firm and Mr.J.Paramanandam is the sole proprietor. He was engaged in supply of construction materials. In 1988, petitioner approached the Indian Bank, Dr.Radhakrishnan Branch, Chennai for availing financial facilities for business purpose. On 14.11.1988, Indian Bank issued a sanction ticket for sanctioning the overdraft facility of Rs.20,00,000/- to the petitioner. On 23.04.1990, petitioner approached for enhancement of overdraft limit from Rs.20,00,000/- to Rs.1,40,00,000/- and that was sanctioned by the Indian Bank. Indian Bank directed the petitioner to create equitable mortgage in favour of the Indian Bank in respect of six properties. One of the properties given as security is the land measuring 41.33 acres situated at J.P.Greenland, Sendamangalam Village, Sriperumbudur Taluk. It was valued at Rs.65,16,000/- in 1990. The present value is 124 Crores.

2(ii). In addition to the creation of equitable mortgage in respect of the six properties, Indian Bank obtained a signed demand promissory note on 27.07.1990 from J.Paramanandam for a sum of Rs.1,40,00,000/-. The amount sanctioned by Indian Bank was Rs.17,98,000/- as against the promised sum of Rs.1,40,00,000/-. Since Indian Bank did not disburse the sanctioned overdraft limit, the petitioner was unable to service the limited loan facility. Indian Bank filed application in O.A.No.491 of 1999 before the Debts Recovery Tribunal, for recovering a sum of Rs.5,51,39,473.88/- from the petitioner. A demand notice under Section 13(2) of the SARFAESI Act was issued on 19.02.2004 followed by possession notice dated 16.02.2005. Indian Bank took symbolic possession of four properties out of the six properties given as security. Senthamangalam property was not included in the possession notice.

2(iii). On 24.05.2005, a meeting was held among petitioner, Mr.Dahodwala, AGM, Mr.Adhikesavan, Chief Manager and one Mr.Ramadoss Rao participated in the meeting. Dahodwala and

Adhikesavan informed petitioner that Ramadoss Rao was willing to purchase Senthamangalam property and out of the sale proceeds of the Senthamangalam property, the petitioner can settle the dues of Indian Bank and take back the original title deeds of the five other properties, given as security. Senthamangalam property was not included in the possession notice with the malafide intention. Had it been included in possession notice, the property would have been sold only in the public auction. The said Dahodwala and Adhikesavan entered into a criminal conspiracy to sell Senthamangalam property to Ramadoss Rao without the consent and knowledge of the petitioner. Petitioner issued a notice on 27.05.2005 to the Chairman and Managing Director of Indian Bank. The proposal of one time settlement of Rs.1,00,00,000/- was made. Dahodwala and Adhikesavan informed him that the offer will be positively considered and directed him to enter into an agreement with Ramadoss Rao for selling the Senthamangalam property.

2(iv). The memo of understanding dated 15.08.2005 was executed with Ramadoss Rao for selling the Senthamangalam property. Dahodwala instructed Ramadoss Rao to deposit a sum of Rs.10,01,000/- in the 'No-Lien Account of M/s.Anand Agency deposited in Indian Bank, ARMB Branch, Ethiraj Salai, Chennai to show his bonafide. Accordingly, Mr.Ramadoss Rao deposited a sum of Rs.10,01,000/-. Dahodwala by letter dated 15.10.2005 declined to accept the compromise proposal offered by the petitioner to pay Rs.1 crore and as it was informed that, he revise offer with substantial improvement. Petitioner expressed his inability to improve the one time settlement proposal. Dahodwala informed petitioner to submit the revised one time settlement offered for Rs.1,48,00,000/- on condition that the petitioner enters into a sale agreement with Ramadoss Rao for the sale of Senthamangalam property. Petitioner submitted a letter dated 01.02.2006 with a revised one time settlement proposal agreeing to pay Rs.1,48,00,000/-.

2(v). A sale agreement was entered into with Ramadoss Rao on 03.02.2006. Rs.10,01,000/- deposited by Ramadoss Rao was withdrawn by him during November' 2005. In the letters dated 17.11.2005, 21.11.2005, 20.01.2006 and 23.01.2006, Dahodwala requested petitioner to improve the one time settlement offer. Dahodwala and Adhikesavan colluded with Ramadoss Rao and allowed Ramadoss Rao to operate the bank account of the petitioner and withdrew Rs.10,01,000/- deposited in the No-Lien Account. Petitioner was informed through letter dated 15.05.2006 that Indian Bank will agree for one time settlement if the petitioner pays Rs.6,29,60,000/-, This letter was issued by Mr.C.Gajapathirajan, General Manager of Indian Bank. Indian Bank is trying to unjustly enrich at the cost of the petitioner. Dahodwala and Adikesavan colluded with Ramadoss Rao made him to enter into the sale agreement with Ramadoss Rao only to prevent the petitioner from approaching the third party for selling Senthamangalam property.

2(vi). On 14.07.2009, the Debts Recovery Tribunal - 1, issued a Debt Recovery Certificate in D.R.C.No.102/2009, with a direction to pay a sum of Rs.11,08,51,875.29/-. On 05.09.2011, Mr.S.Ramesh, Chief Manager of Indian Bank issued a letter calling upon the petitioner to pay Rs.6 crores as full and final settlement. Out of which, Rs.3 crores was to be paid by the petitioner and Rs.3 crores was to be paid by Ramadoss Rao. On payment of Rs.3 crores by the petitioner, the title documents for 5 properties will be released to the petitioner and on payment of Rs.3 crores by Ramadoss Rao, the original title document of Senthamangalam property will be released to him. Petitioner's son Anand Babu came forward to settle the dues and issued a letter dated 03.11.2011 and a sum of Rs.2 crores deposited by him may be appropriated to the dues. Indian Bank appropriated Rs.2 crores deposited by the petitioner's son Anand Babu, but Indian Bank did not return the title documents of the mortgaged properties.

2(vii). Anand Babu filed W.P.No.31087/12 before this Court and this Court passed an order on 12.04.2013, it is observed as follows:-

> "8. We are very much surprised with regard to the other stand of the Learned Counsel appearing for the respondent bank stating that the petitioner does not have any locus standi to file this Writ Petition. Having accepted the offer, having appropriated the money given by the petitioner and then the Petitioner seeks to act upon the other portion of the offer, the Respondent bank taking a stand that the Petitioner does not have to locus standi to seek this relief is unacceptable. If the offer made by the Petitioner has been turned down, this stand of the 1st respondent bank can be accepted. But, in the present circumstances this stand of the respondent bank is totally unacceptable.
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> 9. Under such circumstances, this Writ Petition is disposed of by directing the Respondent bank to refund a sum of Rs.2 crores which they have accepted by the offer made by the Petitioner with interest at the rate which they fixed for fixed deposit from the date of appropriate till the date of payment. The said payment shall be made within a period of four weeks from the date of receipt of a copy of this order. No costs."

2(viii). Indian Bank preferred an appeal before the Hon'ble Supreme Court in S.L.P(C) No.20164/2013 challenging the order passed in W.P.No.31087/2012 and that was dismissed on 03.11.2017. Despite the dismissal order, Indian Bank did not refund the sum of Rs.2 crores along with the accrued fixed deposit interest. The contempt petition was filed in Cont.P.No.1587/2019 against the Indian Bank for wilful disobedience. During the pendency of contempt petition, Indian Bank paid a sum of Rs.4,09,29,849/-. Indian Bank went out of the way to ensure that the Senthamangalam Property was sold to Ramadoss Rao and also ensured that the property was handed over to Ramadoss Rao. Petitioner preferred a complaint against the Indian Bank before National Commission for Scheduled Caste and the order was passed on 13.11.2019 by the National Commission for Scheduled Caste to handover the case to CBI, for further action. So far no action has been taken by CBI. The criminal acts of the Indian Bank will be brought to light only after a thorough investigation. Therefore, this petition.

3. Heard, the learned counsel for the petitioner and the learned Special Public Prosecutor (CBI cases) appearing for the respondents.

4. The status report filed by CBI dated 28.01.2022 deals with a issue involved in this case, extensively. It is seen from the status report that proceedings had been initiated against the petitioner for non payment of loan. The title deed of Sendamangalam property was released to Ramadoss Rao, pursuant to the sale agreement between the borrower and Ramadoss Rao and on the basis of decree for specific performance passed in A.S.No.708 of 2008 and A.S.No.946 of 2009 and W.P.No.23405 of 2009 and M.P.Nos.1 & 2 of 2008 and M.P.No.1 of 2009. There are also orders passed in Review Petition Nos.809 to 813 of 2011 on 10.03.2011 in Civil Appeal Nos.9821-9822, 9824 to 9825 & 9826 of 2010 by the Hon'ble Supreme Court of India and order dated 14.12.2011 passed in I.A.No.1507/2011 in RA.No.28 of 2011 by DRAT, Chennai.

5. It is also seen that the issue of handing over the title deeds pertaining the Sendamangalam property had attained finality by higher Judicial authority i.e., the Hon'ble Supreme Court of India as per the decision in the year 2011 itself. It is also evident from status report that from the scrutiny of the documents collected and verification conducted, reveal that there is no lapse/misconduct on the part of the bank official. Allegation of releasing the title documents pertaining to Sendamangalam property to Ramadoss Rao was done in obedience to the orders of the Hon'ble Courts, including the order of this Court. Sendamangalam property was one of the property offered as collateral securities by the petitioner and it was

appropriated for the failure of the petitioner in repaying the loan amount. Therefore, there is no ground for prosecuting the bank officials for the alleged criminal conspiracy, cheating etc.

6. Thus, consideration of the submission of the learned counsel appearing for the petitioner, the learned Special Public Prosecutor for the respondents, the records and also status report, shows that the petitioner has mortgaged 6 items of properties and he was not able to repay the loan amount despite giving opportunities for settling the loan amount. One time settlement was offered. A sale agreement was executed with Ramadoss Rao and he enforced the sale agreement by filing a suit for specific performance and got a decree in his favour. There are other litigations and the matter went up to Hon'ble Supreme Court. The materials placed before this Court clearly shows that the Bank authority had acted in accordance with law only with a view to recover the loan due to the bank. Therefore, the respondents rightly concluded that there is no case made out for proceeding against the bank officials for alleged offence of criminal conspiracy, cheating etc. The respondents communicated to the petitioner, almost the result of the enquiry through the letter dated 28.01.2022.

7. Therefore, this Court is of the considered view that petitioner's requests for direction to the respondents to take on record a complaint dated 10.02.2021 filed by the petitioner and register as preliminary case against the Indian Bank officials namely Mr.Gajapathirajan, then General Manager, Mr.Dahodwala, then Assistant General Manager, Mr.Adhikesavan, then Chief Manager, Mr.Ramesh, then Chief Manager and other officials of the Indian Bank, ARMB Branch, Chennai, cannot be granted. Accordingly, this criminal original petition stands dismissed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Director and Head of Zone, (CBI)
   Chennai Zone,
   III Floor, E.V.K., Sampath Building,
   College Road,
   Chennai - 600 006.

2. The Superintendent of Police,
   Central Bureau of Investigation,
   Anti-Corruption Bureau,
   Shastri Bhavan, Chennai - 600 006.

3. The Public Prosecutor,
   High Court of Madras.

Copy to:

The Debts Recovery Tribunal,
Chennai.

Crl.O.P.No.16441 of 2021

PL (CO)
PR (10/03/2022)