



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/09/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.5965, 15129 and 15656 of 2021
and
Crl.MP(MD)Nos.3428, 8097 and 8438 of 2021

M.S.Gnaneshwaran	: Petitioner in Crl.OP(MD)No.5965 of 2021/A2
N.S.Krishnakumar	: Petitioner in Crl.OP(MD)No.15129 of 2021/A4
N.S.Madanlal	: Petitioner in Crl.OP(MD)No.15656 of 2021/A5

Vs.

1.The Inspector of Police, SPE CBI ACB, Chennai.	
2.The Senior Regional Manager, Punjab National Bank, Regional Office, Kailasapuram, Trichy-620 014.	: Respondents

Prayer: Criminal Original Petitions are filed under Section 482 Cr.P.C., to call for the records in CC No.13 of 2006 on the file of the II Additional District Court for CBI cases at Madurai and quash the same against the petitioners.



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For Petitioners : Mr.R.Singaravelan
Senior counsel
for Mr.D.Selvanayagam

For 1st Respondent : Mr.C.Muthu Saravanan
Special Public Prosecutor
for CBI

For 2nd Respondent : Mr.Ananth C Rajesh

COMMON ORDER

These criminal original petitions are filed seeking quashment of the case in CC No.13 of 2006 on the file of the II Additional District Court for CBI case at Madurai.

2.The case of the prosecution is that A1 was working as Branch Manager in Punjab National Bank from 30/03/2002 to 31/03/2003. During the above said tenure, the private persons A2, A3, A6 to A8 entered into a criminal conspiracy with A1 to cheat the Punjab Nation Bank. In pursuance of the above said conspiracy, A3 namely N.G.Bharathy opened a current account in the name of M/s.Ragavendra Traders, which is a fictitious company. On 23/04/2002 by creating forged documents, they obtained Cash Credit facilities to the value of Rs.10,00,000/-. The entire amount was withdrawn through several persons, during the period 13/05/2002 to 06/07/2022 by A2 namely Gnaneswaram, by obtaining sanction from A3-N.G.Bharathy in blank cheques in



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favour of M/s.Ragavendra Traders. For the purpose of availing the above said Cash Credit facilities in the name of fictitious company, in the stock statement the property has been shown as if it is having value of Rs.15,30,000/-.

3. Similarly in pursuance of the above criminal conspiracy, A4 namely N.S.Krishnakumar similarly opened current account in the fictitious name called 'M/s.Vignesh Enterprises, on 23/04/2002 by creating documents and showing the escalated value of the property, created document as if the above said company is doing business, obtained valuation report from inflated figures. Again, A2 obtained the signature of A4 in the blank papers in the name of the above said enterprises and A2 withdrew the entire Cash Credit facility to the tune of Rs.8,00,000/-.

4. In pursuance of the above said conspiracy, A5/N.S.Madanlal has also obtained Cash Credit facility in the name of the company called M/s.Madhu Mitra Trading Company, a fictitious one. On 22/03/2002, by creating similar false records and producing inflated value of the property, availed loan facility of Rs.8,00,000/- and again, A2 obtained signature of A5 in blank cheques and withdrew the money.



5. Similarly, A6-Rajesh also obtained a similar account in the name of M/s.Raja Traders, a fictitious company, on 23/08/2002 by similar *modus operandi*. They already obtained facility to the value of Rs.10,00,000/-. Again A2 obtained signature of A10 in blank cheques and withdrew the money. Similarly, A7 also obtained credit facility in the name of one M/s.United Traders, a fictitious company, on 06/08/2002 for the very same *modus operandi*. They availed the Cash Credit facility to the value of Rs.10,00,000/-. A2 by similar process, withdrew the money.

6. Similarly A8-G.Pitchaimani also obtained the current account facility in the name of one M/s.Sree Meenakshi Automobiles, a fictitious firm, on 02/12/2002 and availed Cash Credit facility to the tune of Rs.10,00,000/- by the very same *modus operandi* and again A2, by employing the very same process, withdrew money. On the basis of the complaint given by the Bank Manager, investigation was undertaken and finding that all those persons involved in the above said criminal conspiracy to cheat the bank.

7. Final report was filed stating that they have cheated the Punjab National Bank to the value of Rs.65,25,092/- as on 31/03/2004. So all the accused persons



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have been charged for the offences under sections 120-B r/w 420 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. Now the charges were framed against all the accused persons and the trial is underway. As on date, the Investigating Officer was about to be cross examined by some of the accused persons.

8. When the matter was thus standing before the trial court, the Bank initiated proceedings for recovering the debts by filing TA Nos. 303, 322, 325 and 324 of 2007 in O.A.No. 333 of 2007 before the Debts Recovery Tribunal-III, Chennai, for recovering the above said Rs. 65,25,092/- with interest.

9. A compromise was reached between the parties, by which Rs. 13,50,000/- was settled towards full and final settlement and the above said amount was also paid on various dates. On the basis of the above said statement, the above said TAs also settled.

10. In the light of the above said development, A3 and A8 filed petitions in Cr1.OP(MD)Nos. 16701 of 2019 and 525 of 2020 seeking quashment of the proceedings. Those petitions were allowed on 07/01/2020 and 18/02/2020. The



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present petitions have been filed by A2-Gnaneswaran, A4-Krishnakumar, A5-Madhesh stating that they are also similarly placed that of A3 and A8. So the quashment, which was ordered in the above said criminal original proceedings may also be extended to these petitioners also.

11.The learned counsel appearing for the petitioners would rely upon the various judgments starting from:-

(1)B.S.Joshi and others Vs. State of Haryana and another (2003)4 SCC 675;

(2)Nikhil Merchant Vs. Central Bureau of Investigation and another [(2008)9 SCC 677];

(3)Gian Singh Vs. State of Punjab and another [(2012)10 SCC 303)];

(4)(Central Bureau of Investigation, ACB, Membai Vs. Narendra Lal Jain and others [(2014)5 SCC 364];

(5)[(2019)9 SCC 148 Satishchandra Ratanlal Shah Vs. State of Gujarat and another);



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(6) *C.B.I, New Delhi Vs. B.B.Agarawal and others, etc*; AIR 2019 SUPREME COURT 1045);

(7) *Union of India Police Inspector CBI Vs. A.G.Ashok (Criminal Appeal No(s). 1176 of 2015*;

(8) *N.G.Bharathi Vs. State of Represented by Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai (Crl.OP(MD)No.16698 of 2019, dated 07/01/2020*);

(9) *N.G.Bharathi Vs. State represented by Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai. (Crl.OP(MD)No.16701 of 2019, dated 07/01/2020: and*

(10) *G.Pitchaimani Vs. State rep. By The Inspector of Police, Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai. Crl.OP(MD)No.525 of 2020, dated 18/02/2020*).

for the purpose of argument that since one time of settlement has been reached between the parties, continuation of the criminal proceedings may not be proper and it requires to be quashed.



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12. Now the question, which arises for consideration is that whether the above said argument can be accepted.

13. It was brought to the notice of this court at the time of hearing that against the order, that has been passed by the co-ordinate bench of this court in CrI.OP(MD) Nos.16709 of 2019 and 525 of 2020, appeal has been preferred by the CBI before the Hon'ble Supreme Court. Now the appeal preferred in SLA (CrI.)No.711 of 2021 against the order of this court made in CrI.OP(MD)No.16701 of 2019, dated 07/01/2020 was dismissed, on 26/03/2021 and the appeal preferred in SLA (CrI.) No.825 of 2021 against CrI.OP(MD)No.525 of 2020, dated 18/02/2020 is pending. Till this day, it appears that the above said SLA (CrI.)No. 825 of 2021 is pending before the Hon'ble Supreme Court.

14. At one point of time, this court was of the view that rule of parity can also be made applicable to the petitioners, because A3 and A8 are similarly placed persons.

15. The general allegation is that the above said A3 and A8 created fictitious companies for the purpose of availing Cash Credit facilities and A2, who is the



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petitioner herein withdrew the amount. Since one time settlement has been reached, as stated above, the above said proceedings have been quashed.

16. On going through the records, I find that the petitioners are similarly placed that of the co-accused namely A3 and A8.

17. When the matter is called, on 13/09/2022, it was submitted by the learned Special Public Prosecutor appearing for the first respondent that SLA (Cr1)No.711 of 2011 that was preferred against A1-N.B.Bharathy against the order that has been passed by this court in Cr1.OP(MD)No. 16701 of 2019, dated 07/01/2020, was dismissed, on 26/03/2021. But another SLA that was preferred against A8 is still pending.

18. So considering the fact that these petitioners are also similarly placed like that of A3 and A8, without going into the other aspects, the rule of parity can be made applicable to the present petitioners also.

19. As mentioned earlier, the coordinate Bench of this court in the case of N.G.Bharathi Vs. State



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represented by Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai (Crl.OP(MD)No.16701 of 2019, dated 07/01/2020) and G.Pitchaimani Vs. State rep. by the Inspector of Police, Central Bureau of Investigation, ACB, Sastri Bhavan, Chennai (Crl.OP(MD)No.525 of 2020, dated 18/02/2020) quashed the entire proceedings against A3 and A8, in view of the settlement of the entire amount to the Bank. So on the very same ground, the same benefit can also be extended to the petitioners also, by applying the rule of parity.

20.In the result, these criminal original petitions are **allowed**. The impugned CC No.13 of 2006 on the file of the II Additional District Court for CBI Cases, Madurai, is hereby quashed against the petitioners. Consequently connected Miscellaneous Petitions are closed.

26.09.2022

Internet:Yes/No
Index:Yes/No
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To,

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- 1.The II Additional District Judge
for CBI Cases, Madurai.
- 2.The Inspector of Police,
SPE CBI ACB,
Chennai.
- 3.The Special Public Prosecutor,
Madurai Bench of Madras High Court.
Madurai.



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G. ILANGO VAN, J. ,

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Cr1.OP (MD) Nos.5965, 15129 and 15656 of 2021

26/09/2022