



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/11/2022

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.18844 of 2022

and

Cr1.MP(MD)No.12704 of 2022

Kumaresan : Revision Petitioner

Vs.

1.The Deputy Superintendent of Police,
CBI, SCB, Chennai.
(In RC.9(S)/2010/CBI/SCB/Chn) : R1/Complainant

2.Surendran : R2/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code to call for the records pertaining to the impugned charge sheet in CC No.7 of 2012 on the file of the II Additional District Court for CBI cases, Madurai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.R.Gowrishankar

For 1st Respondent : Mr.N.Mohidden Basha
Special Public Prosecutor
for CBI Cases

For 2nd Respondent : No appearance.

**ORDER**

WEB COPY

This petition has been filed by the petitioner seeking quashment of the charge sheet in CC No.7 of 2012 on the file of the II Additional District Court for CBI cases, Madurai.

2.The petitioner is arrayed as A3 in CC No.7 of 2012 before the Sub Court, Madurai.

3.The facts in brief:-

The case was registered in RC. 9(S)/2010/CBI/SCB/Chn. After completing the formalities of the investigation, final report was filed, which was taken cognizance in CC No.7 of 2012 and totally 18 accused in this case.

The factual background is that with the connivance of the private accused persons A1 to A5 along with the bank officials, who are arrayed as A6 to A11 conspired together and cheated the Syndicate Bank, Dindigul Branch, have sanctioned housing loan to the ineligible borrowers to the tune of Rs.155.79 Lakhs; all the above said loans



were converted into as Non-Performing Assets. After repayment, the remaining balance amount was Rs.162.72 Lakhs. It is also found that eight demand loans, 96 agricultural loans, 4 advance credit facilities were sanctioned illegally. One Gunaseelan was deleted from the final report and now 18, accused are facing the charges. So far as this petitioner is concerned, he was arrayed as A3. The allegation against him is that in the name of his deceased mother A.Muthulakshmi, he applied for housing loan for Rs.5,00,000/- for the purpose of constructing the house in her name. In the above said loan, this petitioner along with others stood as sureties. The above said Gunaseelan conspired with A3 namely this petitioner and sanctioned Rs.3,94,000/- as housing loan to the above said Muthulakshmi, on 28/09/2006. The initial amount of Rs.2,00,000/- was released on that date. Out of Rs.2,00,000/-, Rs.1,10,626/- was adjusted for closing the petitioner's overdue belong to the Bank loan account. The balance amount was allotted to one A.Muthulakshmi. But actually, no house was constructed. Still it remains vacant land. Re-valuation was taken and it was estimated as Rs.70,000/-. By the above said illegal process, Rs.1,19,000/- was cheated by those persons. Since, the



above said A.Muthulakshmi died, she was not arrayed as an accused and this petitioner is also facing the charges, as noted above.

4. Seeking quashment of the same, this petition has been filed on the ground that during the trial process, the entire due amount was settled by the petitioner, which was also accepted by the Bank, on 03/04/2022. Based upon the above said one time settlement, this petition has been filed on the ground that absolutely, there was no intention to cheat the Bank either by the above said A.Muthulakshmi or by the petitioner. This petitioner is working as a teacher in the Government school and another accused is also a Government Employee. Because of the cancer disease, the above said Muthulakshmi was suffering and died. So because of the above said ailment, only construction was not done. It could be taken into account to find that there is no intention of cheating as noted above.

5. Per contra, the learned Special Public Prosecutor would submit that now the trial process is over, and this petitioner was also put on section 313



CrI.P.C questioning. On the side of the prosecution, argument was over and posted for the argument on the side of the accused. Citing the pendency of this petition, the above said trial process got adjourned. According to the learned Special Public Prosecutor, even though, money has been paid by way of one time settlement, the crime that has been committed by the petitioner may not be cured. According to him, the trial process must be taken into its logical end or conclusion.

6.Per contra, the learned counsel appearing for the petitioner would submit that the because of the above said situation only, the default occurred and this must be taken into account. When this petition was moved, the learned counsel appearing for the petitioner would submit that a direction may be given to the trial court to consider the one time settlement made by the petitioner. But this court cannot give any such direction to the trial court and it is for the petitioner to let defence evidence to put forth his plea and it is for the trial court to consider the same on its own merit, whether the payment will absolve the criminal liability it cannot be a matter for consideration by this court it involves



factual circumstances. But prima facie, I find that the allegation to the effect that out of Rs.2,00,000/-, which was released as initial amount for constructing the house, Rs.1,60,000/- was used for closing the over due loan that was obtained by this petitioner. So this is the circumstance, which now available against him. So I am of the considered view that the ground, which is raised by the petitioner cannot be considered and accordingly, this petition is liable to be dismissed at the admission of initial stage, of course with liberty to the petitioner to put fourth his plea before the trial court through proper evidence.

7.With the above said liberty, this criminal original petition stands **dismissed**. Consequently, connected Miscellaneous Petition is closed.

18/11/2022

Index:Yes/No
Internet:Yes/No

er



7

To,

WEB COPY

- 1.The II Additional District Court
for CBI Cases, Madurai.
- 2.The Deputy Superintendent of Police,
CBI, SCB, Chennai.
- 3.The Special Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



8

G.ILANGOVAN, J

er

Cr1.RC(MD) No.18844 of 2022

18/11/2022