IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.169 OF 2019
WITH
CRIMINAL REVISION APPLICATION NO. 170 OF 2019
WITH
CRIMINAL REVISION APPLICATION NO. 171 OF 2019
WITH
CRIMINAL REVISION APPLICATION NO. 172 OF 2019
WITH
CRIMINAL REVISION APPLICATION NO. 173 OF 2019
WITH
CRIMINAL REVISION APPLICATION NO. 174 OF 2019

Nitin Marutrao Kale .. Applicant

Versus

The State of Maharashtra & Anr .. Respondents

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Mr.Sudeep Pasbola, Sr. Advocate with Abhishek Yende and Sagar P. for the applicant.
Mrs.Anamika Malhotra, APP for the State.
Mr. H.S. Venegavkar, for respondent no.2 CBI.

CORAM: BHARATI DANGRE, J.
DATED : 24th MARCH 2023

<u>P.C</u>:-

1 Six Revision Applications are filed by Nitin Marutrao Kale, seeking his discharge from the offences with which he was charged, being u/s.420, 468, 471 r/w Section 120B IPC.

2 Heard learned senior counsel Mr.Pasbola for the applicant in all the six Revision Applications and Mr.Venegavkar, appearing for the contesting respondent i.e. respondent no.2.

3 A complaint came to be registered against the accused persons, wherein it was alleged that the present applicant, accused no.6, along with other five accused hatched a conspiracy to dupe Bank of Maharashtra by availing loan to the tune of Rs.Five Crores through various loan facilities being extended.

In order to give effect to the conspiracy, it is the case of the prosecution that the applicant purchased land at Baramati in the name of his employee, Sunil Madane for consideration of Rs.1,46,80,000/-. The land came to be valued by inflating its price and based on this document, the loan facility was availed by accused no.2 – wife of the applicant in name of M/s.Ishwari Enterprises along with accused no.3 Avinash Popat Shinde, shown to be partners of Ishwari Enterprises. The loan facility was availed of Rs.4.54 crores and the account was required to be classified as NPA as the amount was not repaid. Investigation has revealed that for the purpose of giving effect to the conspiracy, various purchase orders, vouchers were prepared for the purpose of loan and it has come on record that these documents are prepared in the office of the applicant as per the statement of one Ajit Laxman Zanje.

4 The material in the charge-sheet clearly reflect the conspiracy, which has resulted in the loan obtained from the Bank being unpaid and for giving effect to the conspiracy, various documents came to be forged and charge-sheet came to be filed against six accused persons, the applicant being arraigned as accused no.6. This included the Retired Sr. Manager of the Bank of Maharashtra, who was charged under the provisions of Prevention of Corruption Act, and it also included a Government Empanelled valuer, who had enhanced the value of the property to give effect to the conspiracy.

5 The discharge application filed by the applicants came to be rejected on 27/2/2019 by the Special Judge in distinct special cases by recording that there is sufficient material collected by the prosecution, which would justify the trial of the applicant for the offences with which he is charged.

6 In six distinct applications, the role attributed to the applicant remain the same but the enterprise which is involved and shown as borrower are different and like the Enterprise M/s.Ishwari Enterprises, in every case, there is a different borrower, but the allegation remain the same, that the applicant who was shown as a guarantor was closely associated with the conspiracy in which the loan availed by the respective borrower and on account of the outstanding amount remaining unpaid, the account being declared as 'NPA'.

For the alleged act, offence u/s.420, 465, 467, 471 read with 120B and the relevant provisions under Section 13(1)(ii) and 13(1)(d) of the P.C. Act, was invoked against the public servant, the Officer of the Bank.

With the identical facts involved, the application for discharge came to be rejected which resulted in institution of the present applications in the year 2019.

7 During the pendency of these proceedings, charge is already framed based on the material compiled in the charge-sheet and a copy of the charge-sheet being placed before me, would clearly reveal that the present applicant is assigned a specific role of committing an offence in the year 2013, in pursuance of an agreement of providing working capital to the enterprise involved and thus committing offences u/s.420, 468, 471, 120B IPC.

The accused persons are also charged for conspiring to prepare a fictitious firm, forged invoices, forged Shop Act licences, inspection report, forged process note, valuation report, audited balance-sheet, false project report and fraudulently using these documents for availing the loan facility and subsequently in not repaying the amount of loan obtained.

8 Perusal of the charge against the present applicant justify he being tried for the offences under which he is charged.

No case is made out for discharge, and particularly in the wake of the fact that in one of the case that the trial has already commenced and examination of one of the witnesses is over, necessarily contemplating other cases to follow the same pursuit.

9 It is too late in the day to discharge the applicant when on framing of charge, the trials in distinct CBI cases have already commenced.

Hence, all the applications are rejected.

Needless to state that the observations are restricted for the purpose for which they are made.

(SMT. BHARATI DANGRE, J.)

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