IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.986 of 2016

1. R.Usha
2. N.Hema @ Hemamalini
3. K.Lakshmi .... Petitioners

Vs

The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
R-2 2nd & 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road,
Thousand Light, Chennai. ... Respondent

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.20 of 2015 on the file of the Principal Sessions Judge, Chennai and to quash the same.

For Petitioners : Mr.J.Daniel
For Respondent : Mr.P.Sidharthan
Special Public Proseuctor

ORDER

Today the matter is listed under the caption "Entire Bundle not available cases".

2. This petition has been filed to quash the proceedings in C.C.No.20 of 2015 on the file of the Principal Sessions Judge, Chennai.

3. In the complaint, the petitioners are arrayed as A15, A16 & A22. The petitioners filed this petition to quash proceedings in ECIR No.9 of 2013 on the file of the respondent. The petitioners were charged as follows :

> **"a. Charge Sheet No. 20/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013**
>
> As per the Charge Sheet, the loans were dishonestly processed and sanctioned by S/Shri S. Muralidharan and R. Chandrasekaran (A1 & A2 herein) based on forged and fabricated documents; that these loans were fraudulently availed by Shri S. Kumar @ Vijayakumar (A3 herein) in the names of the accused borrowers; that the proceeds of these loans were utilized for the purpose of purchase of plots and construction of houses thereon; that they were also diverted for other purposes and that the loans were not paid back neither by the borrowers nor by Shri S. Kumar @ Vijayakumar, thereby causing a pecuniary loss of Rs. 3,41,58,063.38 to Syndicate Bank. The properties in respect of which these housing loans were sanctioned is situated at Survey No. 123A of Sathangadu Village, Thiruvallur District, Ambattur Taluk and having the address of Plot No.5, Old No. 22A, New No.13, West Mada Street, Veeraraghavan Road, Thiruvettiyur, Chennai – 19.

b. Charge Sheet No. 21/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the loans, which were dishonestly processed & sanctioned by Shri S. Muralidharan (Al herein) and were availed by Shri S. Kumar @ Vijayakumar (A3 herein) in the names of the Accused borrowers for the purpose of purchase of plot and construction of house by submitting forged and fabricated documents; that the loan proceeds were fraudulently diverted to a fictitious firm by name M/s K.V. Constructions, floated by Shri S. Kumar @ Vijayakumar (A3 herein); that the loan proceeds were used for other purposes and that the loans were not paid back neither by the borrowers nor by Shri S. Kumar @ Vijayakumar, thereby causing a pecuniary loss of Rs. 2.22 crores to Syndicate Bank. The property in respect of which these housing loans were sanctioned is situated at Survey No. 237/1 and 237/82 of Thiruvottiyur Village and having address of Door No. 45 & 46, South Mada Street, Thiruvottiyur, Chennai - 19.

c. Charge Sheet No. 22/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the loans were dishonestly sanctioned and processed by Shri S. Muralidharan (Al herein); that they were fraudulently availed by Shri S. Kumar @ Vijayakumar (A3 herein) in the name of the Accused borrowers based on forged and fabricated documents and that they were utilized by the said accused borrowers for the purpose of constructions of houses and that the loans were not paid back neither by the borrowers nor by Shri S. Kumar Vijayakumar, thereby causing a pecuniary loss of Rs. 11 lakhs to Syndicate Bank. The property in respect of which these housing loans were sanctioned is situated at No.43, Village Street, Thiruvottiyur, Chennai - 19

d. Charge Sheet No. 23/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the loans were dishonestly processed and sanctioned by Shri S. Muralidharan (Al herein) without proper verification and based on forged and fabricated documents; that the loan proceeds were fraudulently availed by Shri S. Kumar @ Vijayakumar (A3 herein) in the name of the Accused borrower Shri S. Elumalai (A6 herein) and that the loans were not paid back neither by the borrower nor by Shri S. Kumar @ Vijayakumar, thereby causing a pecuniary loss of Rs. 16 lakhs to Syndicate Bank. The property in respect of which housing loan was sanctioned is situated at No. 12, 2nd Street, Kalaignar Nagar, Thiruvottiyur, Chennai - 19.

e. Charge Sheet No. 24/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the loans were sanctioned dishonestly by S/Shri S. Muralidharan (A1 herein) and R. Chandrasekaran (A2 herein) without proper verification and based on forged and fabricated documents; that the loan proceeds were fraudulently availed by S/Shri S. Kumar @ Vijayakumar and V. J. Vijayakumar, in the names of the Accused borrowers, thereby causing a pecuniary loss of Rs. 35 lakhs to Syndicate Bank. The property in respect of which housing loans were sanctioned is situated at RS No. 404, Raja Shanmugam Nagar, Thiruvottiyur, Chennai-19.

f. Charge Sheet No. 25/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the Housing loans were dishonestly processed and sanctioned by S/Shri S. Muralidharan (Al herein) and R. Chandrasekaran (A2 herein) without proper verification and based on forged and fabricated documents and that the same were fraudulently availed by Shri S. Kumar Vijayakumar (A3 herein) and other

Accused, thereby causing a pecuniary loss of Rs. 34 lakhs to Syndicate Bank. The property in respect of which housing loans were sanctioned is situated at No. 12, 2B, Nermai Nagar, Kolathur, Chennai

g. Charge Sheet No. 26/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the Housing loans were dishonestly processed and sanctioned by S/Shri S. Muralidharan (A) herein) and R. Chandrasekaran (A2 herein) without proper verification and based on forged and fabricated documents to the Accused borrower, thereby causing a pecuniary loss of Rs. 11 lakhs to Syndicate Bank. The property in respect of which housing loans were sanctioned is situated at No. AP 238, 12th East Cross Street, MKB Nagar, Vyasarpadi, Chennai.

h. Charge Sheet No. 27/CBI/ACB/CHENNAI/ 2012 dated 14.05.2013

As per the Charge Sheet, the Housing loans were dishonestly processed and sanctioned by Shri S. Muralidharan (Al herein) without proper verification; that these loans were sanctioned based on forged and fabricated documents; that the proceeds of these loans were fraudulently availed by Shri S. Kumar @ Vijayakumar and others, thereby causing a pecuniary loss of Rs. 74 lakhs to Syndicate Bank. The property in respect of which housing loans were sanctioned is situated at Plot No. 7/ 1B, Thiruvottiyur High Road, New Washermanpet, Chennai."

3. Based on the above charges, by virtue of Section 2(1)(y) of the PMLA, 2002, Sections 120(B), 420 and 471 of IPC, 1860 as well as Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988, invoked in the proceedings and there is a *prima facie* case of money

laundering and as such, the respondent rightly initiated the proceedings under ECIR No. 09 of 2013.

4. As far as the first petitioner/A15 is concerned, she had known S.Kumar @ Vijayakumar through his younger sister Jayanthi. She signed the documents for obtaining loan from the Syndicate Bank, Mylapore, only on the insistence of Jayanthi. She came to know only when she was arrested by the officers of CBI, Chennai, the said S.Kumar @ Vijayakumar had purchased property in her name. She did not know where the subject property is situated and the property is in whose possession and the said S.Kumar @ Vijayakumar was handling the case registered against her by CBI, ACB, Chennai, on her behalf.

5. As far as the second petitioner/A16 is concerned, she was issued summons on 22.07.2014 under the provision of Section 50(2) of PMLA, 2002 and the same was returned with an endorsement "Insufficient Address". A13, viz., V.J.Sasikala, in Charge Sheet No.20/CBI/ACB/Chennai dated 14.05.2013 as well as A7 and A8, viz., M.Usha and Adam Khan @ Aatham Khan, in Charge Sheet No.21/CBI/ACB/Chennai, dated 14.05.2013, did not appear for the

summons issued to them on 21.03.2014 requiring their personal appearance on 23.04.2014, 04.04.2014 and 09.04.2014 respectively, under the provision of Section 50(2) of PMLA, 2002.

6. As far as the third petitioner/A22 is concerned, with regard to the Charge Sheet No. 20/CBI/ACB/Chennai/2012 dated 14.05.2013, the property, comprised in Survey No. 123A of Sathangadu Village, Thiruvallur District, Ambattur Taluk situated at Plot No. 5, Old No. 22A, New No. 13, West Mada Street, Veeraraghavan Road, Thiruvottiyur, Chennai-19, was purchased in the names of D.Radha, M.Gajalakshmi, E.Bhuvana, K.Lakshmi and R. Jayanthi and all are relatives of the said S.Kumar @ Vijayakumar. The total extent of the property was then 20000 sq.ft. All the said five persons purchased the property out of the loan amount received from Syndicate Bank. The loans were sanctioned based on false information and fabricated documents. Out of the total extent of around 20000 sq.ft, around 12000 sq.ft of the property was purchased in the names of D. Radha, E. Bhuvana, R. Jayanthi was sold to various other persons by the said S. Kumar @ Vijayakumar. The remaining property standing in the name of K. Lakshmi and M. Gajalakshmi were subdivided into 8 plots and the same were

registered in the names of D. Senthil, D. Radha, E. Bhuvana, S. Elumalai, N. Devaraj, M. Haridoss, V. J. Sasikala, R. Usha and N. Hema @ Hemamalini jointly. Further loans were obtained from Syndicate Bank in the names of these 9 persons for the purchase of plot and construction of house in the aforesaid subdivided 8 plots based on false information and fabricated documents. As per the statement of the said S. Kumar @ Vijayakumar, he had utilized the said loan proceeds to build 8 blocks (Buildings) in these 8 plots each containing 2 houses each in the ground & first floor and that he had let them out on rent /lease and had received the rental/lease income. In the statements given by D. Radha, E. Bhuvana, R. Usha, D. Senthil, S. Elumalai, N. Devaraj, M. Haridoss under Section 50 of PMLA, 2002, they had unilaterally stated that although the loans from Syndicate Bank were taken in their names and the properties are standing in their name, they are neither in possession of the said properties nor they are enjoying the rental/lease income from the said properties. They were not aware of the quantum of the loan taken in their name and in fact they did not take the loan money and the said S. Kumar @ Vijayakumar only had availed the proceeds of the loan taken in their names.

7. There are specific allegations as against the petitioners to

show that they had committed very serious offence. Therefore, there is absolutely no ground to quash the entire proceedings. That apart, only because of the pendency of this petition, the entire trial has been stalled.

8. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.20 of 2015 on the file of the Principal Sessions Judge, Chennai. Accordingly, this Criminal Original Petition stands dismissed.

27.11.2023

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Index:Yes/No
Internet:Yes/No

To
1. Principal Sessions Judge,
Chennai

2. The Deputy Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
R-2 2nd & 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road,
Thousand Light, Chennai.

3. The Public Proseuctor,
High Court, Madras.

G.K.ILANTHIRAIYAN,J.

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