IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.03.2023

Pronounced on : 23.03.2023

CORAM

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Appeal No.712 of 2013

Anand Rao ... Appellants/Accused 1

/versus/

State
The Inspector of Police,
SPE:CBI:ACB:CHENNAI
IN R.C.No.5/(E)/2004/SPE/CBI/BSFC/BANGALORE
... Respondent / Complainant

Prayer:- Criminal Appeal is filed under Section 374 (2) r/w.382 of Cr.P.C., praying to admit this Criminal Appeal on file, call for the records in C.C.No.5 of 2006 on the file of the learned XI Additional City Civil and Sessions Judge [CBI Cases Relating To Banks And Financial Institutions, Chennai-1, set aside the finding and sentence passed in the said case, acquit this appellant of the charges from the said case.

For Appellant : Mr.B.Kumar, Senior Counsel
for Mr.S.Ramachandran

For Respondent : Mr.K.Srinivasan, Senior Advocate and Special Public Prosecutor [CBI]

JUDGMENT

The appellant herein is the 1st accused in C.C.No.5 of 2006 on the file of XI Additional City Civil and Sessions Judge [CBI Cases Relating To Banks And Financial Institutions, Chennai-1.

2. The appellant (A1) along with one Balakrishnan (A2), proprietor of M/s.Bala International, Karur were tried by the Trial Court for the following charges:-

(i) Under Section 120-B r/w 409, 420 IPC and substantive offences of 420 IPC and Section 13(2) r/w, 13(1) (c) & (d) of PC Act, 1988 against A1 and A2.

(ii) Under Section 420 IPC against A1.

(iii) Under Section 409 IPC against A1

(iv) Section 13(2) r/w, 13(1) (c) & (d) of PC Act, 1988 against A1

(v) Under Section 420 IPC against A1

(vi) Under Section 420 IPC against A2

3. Since the charges framed provides a fair idea about the case of the prosecution, the same is extracted below:

> Firstly, that you A-1 while functioning as Public Servant in your capacity as Dy. General Manager, Syndicate Bank, Zonal Office, Chennai and you A-2 as proprietor, M/s.Bala International, Karur were parties to a criminal conspiracy hatched at Chennai, during the period 1999 to 2001, to cheat the Syndicate Bank, Karur Branch, to the tune of Rs.9,73,29,000/- by committing Criminal misconduct and criminal breach of trust and thereby made wrongful loss to the above said sum to the bank and corresponding wrongful gain to you and for others. Thereby you A-1 and A-2 have committed the offence punishable u/s 120 B r/w 409 and 420 of IPC & Sec. 13 (2) r/w 13(1) (c) & (d) of PC Act, 1988 and within my cognizance.
>
> Secondly, that in pursuance of the criminal conspiracy stated in charge No.1, you A-1 along with A-2 cheated the bank to the tune of Rs.9,73,29,000/- in the following manner. That you Al, Sanctioned Packing Credit limit of 125 lakhs, FDBP limit of Rs 125 lakhs and Adhoc PCI/FDBP limit of Rs. 200 lakhs on

28.10.2000 based on dishonest and fraudulent recommendation made by Shri G.D.Raj and disregarding the diminishing turn over reported in the audited Balance Sheets of M/s. Bala International submitted to the branch for the period ending 31.03.1998, 31.03.1999 and 31.03.2000, renewal of the existing Packing Credit limits of Rs. 125 lakhs and FDBP limit of Rs. 125 lakhs, thereby you A-I have committed the offence punishable u/s 420 IPC and within my cognizance.

Thirdly, that in pursuance of the criminal conspiracy stated in charge No.1, you A-1 along with A-2 cheated the bank to the tune of Rs.9,73,29,000/- in the manner stated in the charge No-2 you have dishonestly and fraudulently misappropriated the above said amount which was entrusted to you or you had dominion over that bank funds in your capacity as Public Servants and thereby you A-1 have committed the offence punishable u/s 409 IPC and within my cognizance.

Fourthly, that in pursuance of the criminal conspiracy stated in charge No.1. you A-1 along with A-2 cheated the bank to the tune of Rs.9,73,29,000/- in the manner stated in the charge No-2. By abusing your official position you have made wrongful loss to the bank for the above said sum and corresponding wrongful gain to you or for others. Thereby you A-1 have committed the offence punishable under Sec. 13 (2) r/w 13(1) (c) & (d) of PC-Act, 1988 and within my cognizance.

Fifthly, that in pursuance of the criminal conspiracy stated, in the charge No.l you Sh. M.Balakrishnan (A-2). Proprietor of M/s.Bala International, dishonestly and fraudulently, submitted 53 applications to Syndicate Bank, Karur Branch, during 17.01.2001 to 11.12.2001 for Packing Credit Loans purported to be for purchase of raw materials, for making exports to various foreign buyers and G.D.Raj after releasing the said Packing Credit loans, to the credit of the Current Account of M/s.Bala International, permitted diversion of the said funds by you A-2, M.Balakrishnan, by permitting the issue of cheques drawn in the name of your own employees and others, instead of allowing third party cheques drawn in the names of the suppliers of raw materials. Against the said 53 Packing Credit Loans, no shipments were made and no Export Bills were submitted to Syndicate Bank. Karur Branch by you

A-2, M.Balakrishnan of M/s. Bala International. By the above fraudulent and dishonest diversion of funds by 53 Packing Credit Loans listed below a wrongful loss of Rs. 2,50,47,500/- was caused to Syndicate Bank, Karur Branch by you A2. Thereby you induced the bank to part with the funds and thus you have cheated the bank. Thereby you A-2 have committed the offence punishable U/s. 420 IPC and within my cognizance. The details of 53 Packing Credit loans are as follows:-

Sl.No.	*Order No. & Date*	*PCL No.*	*Date of Release*	*Sanctioned Amount (Rs.)*
1	1148/A, 02.12.2000 4062/A, 02.12.2000	4/01	17.01.2001	6.00 lacs
2	1146/A, 05.12.2000 1147, 05.12.2000	5/01	17.01.2001	6.25 lacs
3	1115/A, 10.11.2000	8/01	24.01.2001	1.95 lacs
4	4045/A, 15.12.2000	10/01	30.01.2001	4.90 lacs
5	4001, 18.12.2000 4009, 18.12.2000 4021, 16.12.2000	12/01	31.01.2001	15.07 lacs
6	1104/A, 16.12.2000	13/01	31.01.2001	3.39 lacs
7	1151, 30.12.2000 4033/A, 30.12.2000 1152, 30.12.2000 4030/A, 30.12.2000	15/01	07.02.2001	18.30 lacs
8	4037/A, 02.01.2001	16/01	09.02.2001	7.30 lacs

Sl.No.	*Order No. & Date*	*PCL No.*	*Date of Release*	*Sanctioned Amount (Rs.)*
9	1161, 14.12.2000 1162, 14.12.2000	17/01	15.02.2001	6.30 lacs
10	1151, 30.12.2000 4033/A, 30.12.2000 1152, 30.12.2000	18/01	15.02.2001	9.63 lacs
11	4037/A, 02.01.2001	19/01	16.02.2001	90,000/-
12	4028/A, 16.02.2000 4034/A, 16.12.2000	21/01	20.02.2001	11.80 lacs
13	1163, 22.12.2000	22/01	21.02.2001	4.00 lacs
14	4028/A, 16.02.2000 4034/A, 16.12.2000	25/01	26.02.2001	3.50 lacs
15	4937/A, 02.01.2001	26/01	08.03.2001	30,000/-
16	1164/A, 20.01.2001	28/01	09.03.2001	5.00 lacs
17	1166, 08.01.2001	29/01	12.03.2001	3.85 lacs
18	1166, 08.01.2001	30/01	19.03.2001	4.00 lacs
19	1166, 08.01.2001	32/01	20.03.2001	45000/-
20	1215, 01.03.2001 1216, 02.03.2001 1217, 02.03.2001 1218, 03.03.2001 1219, 03.03.2001 1210, 03.03.2001	36/01	29.03.2001	64.00 lacs
21	1172, 03.03.2001 1173, 02.03.2001	39/01	09.04.2001	1.25 lacs
22	1221, 06.03.2001 1206, 28.02.2001	40/01	12.04.2001	20.77 lacs

Sl.No.	*Order No. & Date*	*PCL No.*	*Date of Release*	*Sanctioned Amount (Rs.)*
	1207, 28.02.2001			
23	1222, 07.03.2001	41/01	12.4.2001	5.73 lacs
24	1222, 07.03.2001	43/01	18.4.2001	1.65 lacs
25	1166, 08.01.2001	46/01	20.4.2001	4.00 lacs
26	1166, 08.01.2001	49/01	27.4.2001	60,000/-
27	1171/A, 24.03.2001	56/01	21.5.2001	3.60 lacs
28	1181/A, 21.04.2001	57/01	22.5.2001	2.00 lacs
29	1187, 01.05.2001	59/01	26.5.2001	60,000/-
30	1187, 01.05.2001	60/01	28.5.2001	3.40 lacs
31	1190, 03.05.2001	61/01	28.5.2001	1.20 lacs
32	4050, 31.05.2001	65/01	06.06.2001	3.80 lacs
33	1186, 01.06.2001	66/01	13.06.2001	1.80 lacs
34	1177, 01.05.2001	68/01	15.06.2001	2.30 lacs
35	1177, 01.05.2001	70/01	22.06.2001	1.60 lacs
36	1223, 10.06.2001	71/01	28.06.2001	2.00 lacs
37	1191, 28.05.2001	78/01	31.07.2001	81000/-
38	1224, 25.07.2001	81/01	07.08.2001	2.40 lacs
39	1225, 05.08.2001	86/01	17.08.2001	60,000/-
40	1226, 17.08.2001	91/01	29.08.2001	2.15 lacs
41	6072, 13.07.2001	93/01	01.09.2001	5.00 lacs
42	6072, 13.07.2001	94/01	06.09.2001	6.00 lacs
43	6072, 13.07.2001	95/01	07.09.2001	1.75 lacs
44	6072, 13.07.2001	96/01	10.09.2001	12.50 lacs
45	6072, 13.07.2001	97/01	11.09.2001	35000/-
46	6072, 13.07.2001	98/01	12.09.2001	40,000/-
47	6072, 13.07.2001	99/01	13.09.2001	2.05 lacs

Sl.No.	Order No. & Date	PCL No.	Date of Release	Sanctioned Amount (Rs.)
48	6072, 13.07.2001	100/01	17.09.2001	4.15 lacs
49	6072, 13.07.2001	102/01	23.10.2001	30,000/-
50	6072, 13.07.2001	105/01	31.10.2001	1.15 lacs
51	1225, 05.09.2001	110/01	22.11.2001	1.38 lacs
52	1004/A, 22.10.2001	112/01	30.11.2001	1.25 lacs
53	1006/A, 26.10.2001	113/01	11.12.2001	93,000/-

Sixthly, that in pursuance of the above criminal conspiracy stated in the charge No-1 you A-2, M.Balakrishnan presented five Export Bills of M/s. Bala International drawn on M/s. Techstyle Connections. U.K. and one Export Bill drawn on M/s. Liv Heart Corporation, Japan, to Syndicate bank. Karur Branch and G.D.Raj discounted the said bills vide Nos. 641205 dated 29.03.2001, 641206 dated 29.03.2001, 641214 dated 06.09.2001, 641215 dated 13.9.2001, 641216 dated 13.09.2001 and 641217 dated 17.09.2001 and the proceeds of discounting aggregating to Rs.2,38,65,064/- were appropriated against 28 Packing Credits, which were outstanding. The five Export Bills drawn on M/s. Techstyle Connections, U.K, were sent from Syndicate Bank. Karur Branch by G.D.Raj to DBS bank, Singapore, for realisation of payment. where you A-2, was also maintaining a Current Account in the name of M/s.Global Bench Mark (Singapore) Pvt Ltd. The Export Bills drawn by M/s. Bala International on M/s.Techstyle Connections, UK and sent by G.D.Raj to DBS Bank, Singapore, were dishonestly and fraudulently accepted for payment on the due date by you A-2, yourself. The export Bills drawn on M/s. Liv Heart Corporation, Japan, was sent to M/s. ASAHI Bank, Japan, or realisation of payment. All the six Export Bills have remained unpaid, resulting in wrongful loss of Rs. 2,38,65,064/- to Syndicate Bank, Karur Branch. Thus you have cheated the bank and made wrongful loss to the tune of Rs 9,73,29.000/- and corresponding wrongful gain to you and to others. Thereby you have A-1 committed the offence punishable u/s 420 IPC and within my cognizance.

4. For the sake of convenience and better understanding, the conviction and sentence imposed on this appellant is tabulated as below:-

Accused	***Conviction***	***Sentence***
A1	U/S.120-B r/w.409, 420 of IPC and u/s.13(2) r/w.13(1)(c) and (d) of Prevention of Corruption Act, 1988	To undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months.
	Section 420 of IPC	To undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months.
	Section 409 of IPC	To undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months.
	u/s.13(2) r/w.1391)(c) and (d) of Prevention of Corruption Act, 1988	To undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months.
	Section 420 of IPC	To undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for three months.

5. The sum and substance of the prosecution case, which has been unravelled through 33 witnesses and 449 exhibits, is that the appellant was functioning as public servant in the capacity as Deputy General Manager, Syndicate Bank, Zonal office, Chennai between 15.12.1999 and 31.03.2001. He along with N.Balakrishnan (A2) proprietor of M/s.Bala International dealing in manufacture and export of hand woven items like Table Cloth, Placemat, Napkins, Bed Spreads etc., and having factory at Karur conspired to cheat the bank and in pursuance of the said conspiracy, the application of M/s.Bala International seeking Export Packing Credit Limit of Rs.400 lakhs and FDBP limit of Rs.50 lakhs, by renewal of existing Packing Credit Limit of Rs.125 lakhs and FDBP limit Rs.125 lakhs was dishonestly and fraudulently recommended by G.D.Raj, the Branch Manager and based on the recommendation of the Branch Manager, the accused, who was then the Deputy General Manager at Zonal office, in abuse of his official position sanctioned the Packing Credit Limit loan and FDBP loan [Foreign Documentary Bill Purchase] to an extent of Rs.200 lakhs. Alleging that disregarding the diminishing turn over reported in the Audited Balance Sheets but based on the false and inflated sales projections, the Branch Manager G.D.Raj at branch level has recommended for sanction of enhanced loan and the accused at Zonal office approved the sanction of loan, to enable G.D.Raj, the Branch Manager to release the Packing Credit Limit loan to Bala International (A2). The said loan disbursed was mis-utilised by Balakrishnan by issuing the cheques drawn in favour of his own employee and others instead of purchasing raw materials from the suppliers. Against the Packing Credit Limit loan, no shipments were made and no export bill was submitted to the bank, Karur branch by Balakrishnan (A2). However the fund has been dishonestly diverted causing loss to the bank to the tune of Rs.2,50,47,500/-. Through the evidence how the money has been diverted other than the purpose for which the loan was sanctioned has been established and spoken by the respective witnesses.

6. The appellant herein, who face the trial as the 1st accused, had put forth the defence that G.D.Raj, who was then the Branch Manager, was responsible for scrutinizing the document before recommendation, has not been prosecuted since sanction to prosecute him was not accorded by the competent authority. The prosecution agency appealed against the denial of sanction to CVC. However, CVC refused to interfere. While so, he as the Deputy General Manager at Zonal level has approved the sanction of additional loan based on the recommendation of G.D.Raj and scrutiny by team of officers been prosecuted. Further it was contended by the appellant that, G.D.Raj is solely responsible for the disbursement of the loan if at all, there was any diversion of the loan, that should have been noticed by G.D.Raj, who is the person responsible to monitor the proper disbursement of the loan for the purpose it granted.

7. In support of his defence, three witnesses and 4 exhibits were marked. The Trial Court accepted the prosecution case and rejected the defence set forth by the appellant /1st accused and convicted him as stated above. The 2nd accused also was found guilty and convicted.

8. The learned Senior Counsel for the appellant submitted that the Branch Manager, G.D.Raj was responsible for recommending the loan and was responsible for the proper disbursement of the loan amount but he was not prosecuted though the investigation agency thought that G.D.Raj, Branch Manager, he is party to the alleged conspiracy of misconduct and cheating. The reason for not prosecuting him is that he was in service at the time and as a Public Servant, he can be prosecuted under P.C.Act, only upon sanction to prosecute. On perusing the documents and the request for grant of sanction to prosecute G.D.Raj received from the investigation agency, the Competent Authority in the Bank thought fit that, it is not a case for prosecuting the bank Manager, who had bonafidely discharged his duty and no *prima facie* material available to prosecute G.D.Raj, the Branch Manager under the provisions of P.C.Act.

9. Being aggrieved by the refusal to grant sanction, CBI approached CVC to revisit the request. CVC also declined to interfere with the decision of the Bank. This fact has been clearly deposed by DW.2, B.S.N.Prasad, Deputy General Manager, Vigilance, Syndicate bank. Further DW.1 Eswar Butt then Deputy General Manager had deposed that in connection with the loan sanctioned to M/s.Bala International, he knows vigilance enquiry was conducted and he came to know that Ananda Rao (A1) the appellant herein has sanctioned credit limit to M/s.Bala International well within his financial limit. The head office had scrutinized and reviewed the grant of sanction by A1 and approved the same, since it was in order. The loan sanctioned by A1 by following correct policies, procedures and practises. He has also stated that for the loan granted adequate collateral security was given to the bank in the form of mortgage of immovable property worth Rs.5 crores. There was also an ECGC cover in respect of the credit sanction. The ECGC cover were released the claim amount, since the loan was sanctioned correctly by the bank officials and the exporter namely A2 had made exports by availing the loan. This witness who conducted vigilance enquiry has specifically deposed that, A2 has done export to the tune of Rs.5.5 crores and the money due and payable by the A2 has been released through ECGC after the account of A2 was declared as non performing asset on 31.03.2022.

10. The learned Senior Counsel for the appellant submitted that through cross examination of prosecution witnesses and DW.1 and DW.2, it has been positively established by the appellant that he has discharged his duty bonafidely based on the recommendation of G.D.Raj, the branch manager and the approval of a committee which has scrutinised the recommendation of G.D.Raj. The disbursement of loan was done by G.D.Raj at Branch level and he is not responsible for it. Furthermore, the loan amount has been recovered through ECGC which will not release the money unless the loan sanctioned was in order. It is submitted that the case has been lodged by the CBI against this appellant in haste. If at all there was any culpability, it is attributable only against G.D.Raj, the branch manager who recommended the loan and monitored the disbursement of loan amount and not the appellant who was at the Zonal level sanctioned the loan within his limit and based on the records and recommendation of the branch manager and the scrutiny committee.

11. Mr.K.Srinivasan, the learned Special Public Prosecutor for CBI submitted that the prosecution is able to establish that to avail loan sales projection was inflated contrary to the audit report and the sanctioned loan, loan amount was not utilised for the purpose for which it was granted. Even though, G.D.Raj, who recommended to grant loan was not prosecuted due to want of sanction to prosecute, the culpability of this appellant, who was the Deputy General Manager at Zonal office at that time and sanctioned the loan cannot be ignored. The Trial Court has rightly held that though it is unfortunate that the competent authority refused to grant sanction to prosecute G.D.Raj, the act of A1 cannot be left scotch free, who has committed irregularity in sanctioning the loan. Also the subsequent recovery of the due from A2 by way of one time settlement is not a ground to exonerate A1 from the guilty of offences charged.

12. Heard Mr.B.Kumar, Learned Senior Counsel for the appellant and Special Public Prosecutor for CBI Mr.K.Srininvasan, Senior Counsel.

13. Though voluminous documents have been relying upon by the prosecution, the sum and substance of the point for consideration revolves around whether A1 granted sanction of loan to A2 bonafidely in the course of discharging his duty or his action emanated from conspiracy between him the Branch Manager G.D.Raj and the co-accused Balakrishnan (A2). In this connection, the cross examination on behalf of the appellant to some of the prosecution witnesses and the testimony of the defence witnesses DW.1 and DW.2 are relevant and necessary for proper appreciation.

14. On perusal of record and hearing the learned counsels on either side, this Court finds that the Trial Court has failed to appreciate the evidence before him properly and holistically.

15. The Branch Manager G.D.Raj and the report of the scrutiny group could not have been persuaded to any criminal conspiracy. To start PW.1, Jayaraman, the Manager of the Syndicate bank, who was looking after the foreign exchange Department and the Current Account of M/s.Bala International Carrier had in his cross examination admitted that he processed the applications marked as Ex.P1 to Ex.P17, Mr.G.D.Raj who was the Senior Manager at that point of time perused it. Since the application was in order, grant of loan was recommended by G.D.Raj. PW.1 has specifically stated that the Zonal office has no role to play in the matter of initial processing the applications contained in Ex.P1. To Ex.P17. Thus, it is made clear that the appellant as a Deputy General Manager at Zonal office had no role in initial processing of the loan application. Further this witness also admits that under Ex.P35 to Ex.P38 goods were exported by the 2nd accused. However, the four bills were honoured by the importer and the bank has lodged protest with the importer's Bank and a claim petition subsequently filed before DRT for the recovery of the debt arose against the loan sanctioned.

16. From the testimony of DW.1 Thiru Eswar Butt then Chief Manager of Syndicate bank Vigilance unit, this Court finds that the appellant herein has followed the bank policies, procedures and practises correctly. The loan has been well secured by collateral security by way of mortgage of immovable properties worth Rs.5 crores. The 2nd accused has done export to the tune of Rs.5.5 crores and the loan sanctioned as against the Export bills were later realised through ECGC after initiating recovery proceedings before DRT. The entire due payable to the bank has been cleared. In the cross examination, this witness has reiterated the bank procedure and practise that normally the Deputy General Manager of the bank sanction facility based on the Branch recommendation though he has a power to reduce or increase the branch recommendation. The evidence of DW.1 if read along with evidence of DW.2, B.S.N.Prasad, the Deputy General Manager, Vigilance. It is clear that, the investigation was done by the bank vigilance cell in connection with Non Performing Account of the 2nd accused and the investigation has not disclosed any malafide on the part of the bank officials while granting loan to the 2nd accused.

17. It is pertinent to point out at this juncture that precisely it is the reason why the bank has not accorded sanction to prosecute G.D.Raj, the bank manager and even in spite of the prosecution effort to get CVC clearance to prosecute G.D.Raj which did not fructified. Now back to the testimony of DW.2, the Court finds that ECGC claim invoke for Rs.3.63 crores was settled and received by the bank. Further, for ECGC settlement, the exports should have been actually taken place. The importer should have taken delivery of the goods and defaulted. Bank will be identified only if there is no fault or lapse on the part of the bank officials in following the procedure when sanctioning the loan.

18. It is also noted that the investigation in this matter was not at the instance of the bank, but on a case registered by CBI/BSFC at Bangalore on 27.09.2004 based on reliable information. To be noted that the account of the 2nd accused company was declared as NPA on 31.03.2002. The process for granting loan commenced in the month of August 2000, when the A2 submitted application to the bank seeking Export Packing Credit Limit loan for Rs.400 lakhs and F.D.B.P loan for Rs.50 lakhs. The application for package credit loan towards purchase of raw materials etc., been submitted by A2 between 17.01.2001 to 11.12.2001. It is contended by the learned prosecutor that no shipment was made and no export bills were submitted to indicate that the raw materials were purchased with the loan amount and utilized for the manufacturing goods which were exported. However, the evidence indicates that the 5 export bills drawn on M/s. Techstyles Connections U.K., M/s. Liv Heart Corporation, Japan were all in fact exported and the buyers had failed to honour the Bills and the bank has lodged protest. Later the amount has been realised through ECGC. On 31.03.2001, when the appellant herein retired from service, the accounts of Bala International was healthy running and it was declared NPA only subsequently on 31.03.2002 exactly a year after his retirement.

19. On appreciating the material evidence both documentary and oral let in by the prosecution as well as the defence, this Court finds that the Trial Court has not considered the evidence before it in entirety. By cherry picking certain portions of the oral and documentary evidence has held the appellant guilty, though the appellant was able to establish that he had sanctioned loan bonafidely and the vigilance cell of the bank which has conducted investigation about the loan transaction of A2 has given clean chit that there was no malafide in sanctioning of the loan or in excess of power and limits conferred on the appellant. That apart ECGC which monitoring the export has found that the default of the borrower is due to failure of the buyer to pay the goods delivered and it was not due to the fault of the bank officials granting loan without following procedure.

20. For the above said reason, this Court finds that prosecution has failed to prove the guilt of the charges framed against the appellant. Contrarily, the accused/appellant herein has discharged the burden and established positively that there was no malafide in his action as a public servant and there was no conspiracy between him and A2 as alleged in the charge.

21. In the result, this Criminal Appeal is allowed. The judgment of the Trial Court is set aside. The appellant is set at liberty. Fine amount paid, if any by the accused shall be refunded to him. Bail bond if any executed by the accused shall stand discharged.

23.03.2023

Index : Yes/No
Speaking order/Non-speaking Order
rpl

To,

1.The XI Additional City Civil and Sessions Judge [CBI Cases Relating To Banks And Financial Institutions, Chennai-1

2.The Inspector of Police,
SPE:CBI:ACB:CHENNAI
IN R.C.No.5/(E)/2004/SPE/CBI/BSFC/BANGALORE

3.The Public Prosecutor [CBI],
High Court of Madras,
Chennai.

Dr.G.JAYACHANDRAN.J.,

rpl

Pre-Delivery Judgment made in
Criminal Appeal No.712 of 2013

23.03.2023