# IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2023

CORAM:

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

Crl.R.C.No.423 of 2020

T.D.Naidu ...Petitioner

Vs.

The Additional Superintendent of Police,
Central Bureau Investigation,
Bank Securities and Fraud Cell,
Bangalore.
Crime No.RC.3(E)/2012

...Respondent

Prayer: The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records in CC.No.7 of 2017 on the file of the learned Principal Sessions Judge, Chennai and set aside the order passed in Crl.MP.No.4441 of 2015 dated 14.02.2020 and discharge the petitioner from CC.No.7 of 2017 on the file of the learned Principal Sessions Judge, Chennai.

For Petitioner : Mr.R.Johnsathyan
Senior Advocate

For Respondents : Mr.K.Srinivasan
Spl. Public Prosecutor

**ORDER**

The petitioner, who stands arrayed as first accused in CC.No.7 of 2017 on the file of the learned Principal Sessions Judge, Chennai has come with this criminal revision against the order passed in Crl.MP.4441 of 2015 dated 14.02.2020 whereby, the learned Principal Sessions Judge, Chennai has rejected the prayer of the petitioner to discharge him from the charges against him.

2. The case of the prosecution is that the petitioner has dishonestly and fraudulently availed term loan of Rs.41.00 Crores for construction of a Medical College Lab Buildings, Lecture Hall etc., and for purchase of medical equipment for the medical college and the loan was sanctioned from Andhra Bank Chennai by furnishing fake documents of his qualifications, discrepant financial statements etc., and diverted the term loan proceeds in collusion with one R.Varadarajan (A2) for various other purposes and thereby caused wrongful loss to the bank to the tune of Rs.57.64 crores. One Raveendranadha Reddy (A3) then Manager of Anna Nagar Branch has facilitated the fraud by his acts of recommending sanction of limit without proper due diligence of the background of the petitioner and

also by disbursing the loan without following the sanction terms and ensuring proper use of the funds, in gross violation of the sanction stipulations.

3. The CBI, Bank Securities and Fraud Cell, Bangalore, registered a case in RC 03(E) 2012 on 20.3.2012 against Shri, T.D. Naidu (A1) Chairman and Managing Trustee, M/s. Deendayal Medical & Educational Trust, Chennai and two others u/s 120-B r/w 420, 468, 471 of IPC and sections 13(2) r/w 13(1)(d) of P.C, Act, 1988 on the basis of a written complaint received from C. Balasubramaniam, General Manager, Andhra Bank, Zonal Office, Chennai. The allegations in brief are that the petitioner Shri. T.D. Naidu(A1) has dishonestly and fraudulently availed term loan of Rs.41.00 crores sanctioned from Andhra Bank, Anna Nagar Branch, Chennai, by furnishing fake documents of his qualifications, discrepant financial statements etc., and diverted the term loan proceeds in collusion with the second accused for various other purposes and thereby caused wrongful loss to the bank to the tune of Rs.57.64 crores. One N.Raveendranadha Reddy, the then Branch Manager of Anna Nagar Branch has facilitated the fraud by his acts of recommending sanction of limit

without proper due diligence to the background of T.D. Naidu and also by disbursing the loan without following the sanction terms and ensuring proper end use of the funds, in gross violation of the sanction stipulations.

4. The construction of the medical college building was to be completed within one year whereas the proposed construction work remain incomplete even till date despite the release of full term loan amount of Rs.41.00 crores. Due to non-payment of dues, Andhra Bank, Anna Nagar Branch, Chennai, classified the said account as NPA on 1.3.2011 and the present loss caused to the bank as on 30.9.2013 is Rs. 69.21 crores.

5. In the meanwhile, the petitioner/T.D. Naidu/A1 had also availed term loan of Rs. 37.00 crores and Bank Guarantee limit of Rs.9.5 crores from the Union Bank of India, Overseas Branch, Chennai during September 2009 for the construction of the said medical college buildings. Due to non-payment of the loan, the said account is presently classified as NPA with effect from 31.3.2011. The present outstanding balance as on 30.9.2013 is Rs.66.29 crores in Term Loan Account and Rs.9.50 crores towards issue of Letter of Guarantee facility.

6. On completion of investigation, a charge sheet against T.D. Naidu(A1) Chairman and Managing Trustee, M/s. Deendayal Medical & Educational Trust, Chennai, R. Varadaraja(A2) Civil Engineering Consultant and N. Raveendranadha Reddy (A3), the then Chief Manager, Andhra Bank, Anna Nagar branch, Chennai for the offences punishable u/s 120-B r/w 420, 468, 471 of IPC and sections 13(20 r/w 13(1)(d) of P.C, Act, 1988 for substantive offences thereof was filed before the court of 11th Additional Special Judge for CBI Cases at Chennai on 27.12.2012 and the same was taken on file in C.C. No.48/2013.

7. Seeking to discharge him of the offences aforementioned, the petitioner filed Crl.MP.No.4441/2015 before the learned XIV Additional Judge for CBI Cases. After elaborately hearing the parties, the learned Judge rejected the prayer of the petitioner for discharge. Aggrieved against the said order, the petitioner has filed the present revision.

8. Mr.R.John Sathyan, the learned Senior counsel appearing for the petitioner vehemently contended that there is no evidence produced by the

Investigating Agency to show that there was a criminal conspiracy hatched by the petitioner and others to cheat Andhra Bank, Anna Nagar Branch, Chennai. The petitioner had executed all necessary and required loan documents as stipulated in the sanction letter issued by the said Bank and the petitioner had availed credit facilities by entering into a contract with the said bank.

9. The learned Senior Counsel submitted that the trust have created an equitable mortgage on 16.08.2003 wherein the petitioner has signed the documents and his wife has offered securities. The petitioner has deposited original registered sale deed in respect of agricultural land situated at No.61, Raman Chetty Village, Thiruvallur Taluk, measuring 25 Acres and 85 1/2 cents with existing and proposed building has been constructed in S.No.683/2 in favour of the M/s. DDMET against Term Loan and that the petitioner fully utilized the loan proceeds availed from Andhra Bank and buildings have been constructed for which, Approver had offered consultancy service by receiving his consultancy fees and also other charges for the service rendered by him as engineer and that the petitioner has repaid Rs.20.50 crores to the Andhra Bank and that no forged documents have

been produced and that the statement of LW32 will shatter the edifice of the prosecution story and therefore, the petitioner is liable to be discharged.

10. On the side of the prosecution, Mr.Srinivasan, learned Special Public Prosecutor, CBI Cases, appearing on behalf of the respondent police has vehemently opposed the revision petition and argued that at the time of discharge, the learned Judge has to see whether a prima facie case has been made out to connect the petitioner with the crime. Being satisfied that a prima facie case is made against the petitioner, the learned Judge has rejected the prayer made by the petitioner. The said order needs no interference and sustaining the same, revision has to be rejected.

11. The learned Special Public Prosecutor further submitted that there are sufficient oral and documentary evidence on record to prove the conspiracy hatched by the petitioner and other accused to cheat the said Bank. The learned counsel further submitted that the petitioner had suppressed the material facts of the land which was mortgaged to the Bank by the Trust and that only one part of the building has been constructed in S.No.683/2 with the proceeds of the term loan of the said Bank. While the

Lecture Hall and the hospital main building have been constructed on other Survey Number which have not been mortgaged by the Trust with the Bank and that the other building for which the bank financed have not been constructed on the land mortgaged to the Bank and that it is the duty of the Branch Manager to verify the location of said building and soon collateral security with Andhra Bank is the land of 25.87 Acres under Paripasu Charge with Union Bank of India.

12.The learned Special Public Prosecutor further submitted that the investigation conducted by the I.O. revealed that the petitioner with criminal intention entered into criminal conspiracy with the Chief Manager, Andhra Bank, and without submitting proper documents, the petitioner availed term loan of Rs.41 Crores and also in connivance with the 3rd accused, the part of loan amount was disbursed in favour of the Approver R. Varadarajan, who in fact, is not the Civil Engineer and that the documents such as, Educational Qualification of the petitioner, the Income Tax Return of the petitioner and fake receipts for purchase of medical equipments, which were not actually been purchased nor issued by the concerned company and that after diverting the loan amount into the account of Approver R. Varadarajan the petitioner made him to transfer those loan amount into the personal account of the petitioner and every transaction is established by the prosecution by placing all relevant documents and by examining prosecution witnesses and that the buildings except one constructed not on the property of the Trust as claimed by the petitioner and the same also established by the prosecution by examining Revenue officials and placing Revenue Records, which itself establish that the petitioner with the criminal intention conspired with the 3rd accused in order to cheat the Andhra Bank availed Term loan of Rs.41crores and made to disburse the loan amount into the account of the Approver Varadarajan without doing any construction as per the terms and conditions of the loan agreement and further, made him to divert the amount into the personal account of the petitioner and so, there is more than a prima facie case against the petitioner and the 3rd accused and so, they are necessarily to be tried and therefore, the petitioner successfully dragged the case for several years by filing the present application and that the petitioner has no merit at all and liable to be dismissed.

13. Heard Mr.R.John Sathyan, learned Senior Counsel appearing on behalf of the petitioner and Mr.K.Srinivasan, learned Special Public

Prosecutor, appearing on behalf of the respondent police and perused the materials available on record.

14. The case of the prosecution is that the Bank sustained a wrongful loss of Rs.69.21 crores and on perusal of entire material documents and the 161 Cr.P.C statement of prosecution witnesses clearly establishes a prima facie case and offences as alleged by the prosecution in Final Report against the petitioner to proceed with the trial.

15. While reading the petition for discharge, the learned Judge has to see whether a prima facie case has been made out against the accused. If there are absolutely no materials to connect the accused with the crime, making him face trial is unsustainable. It would be unnecessary both for the accused or Court. Because ultimately the accused would establish that the prosecution has failed to prove the charges against him and he would get Hon'ble acquittal. Even there are number of cases pending before the trial Court, the trial Court will not normally deny to discharge an accused if there are no materials found against him connecting with the crime. However, if the learned Judge finds a prima facie case against the accused, the leniency

of discharge need not be extended, the accused should be made to face trial. Mere rejection of discharge of the petitioner does not mean that the Court has made up its mind to convict the accused. It is just a preliminary stage, the accused has every right to prove his innocence by producing oral and documentary evidence and also disprove the allegations made against him by the prosecution by way of cross examination of prosecution witnesses and documents. In this case, there are materials to connect the accused with the crime. The learned Judge has elaborately discussed about the statement made by the prosecution witnesses under Section 161 Cr.P.C. and also documents collected by the Investigating Officer. A perusal of the same would show that the investigating agency established a *prima facie* case against the petitioner. Therefore, this Court is of the view that the order passed by the learned XIV Judge, CBI Cases does not warrant any interference.

16. In the result, the Criminal Revision Case fails and the same is dismissed.

**25.01.2023**

rli

**P.VELMURUGAN, J.,**

rli

Index : Yes/No
Speaking order/non speaking order

To

1. The Additional Superintendent of Police,
Central Bureau Investigation,
Bank Securities and Fraud Cell,
Bangalore.

2. The Principal Sessions Judge, Chennai.

3. The Public Prosecutor,
High Court of Madras.

Crl.R.C.No.423 of 2020

20.01.2023