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Crl.M.P.No.3909 of 2023

Crl.M.P.No.3909 of 2023

in

Crl.O.P.No.6249 of 2023

A.D.JAGADISH CHANDIRA, J.

The main Criminal Original Petition has been filed by the petitioner/A18 seeking to call for the records in C.C.No.554 of 2023 on the file of the Additional Chief Metropolitan Court, Egmore, Chennai and to quash the same.

2. It appears that on the basis of the Forensic Audit Report dated 26.7.2016 pointing out certain irregularities, relaxation or overruling of sanction parameters and lapses on the part of the officials of IDBI while sanctioning loans to certain Companies, the Chief Vigilance Commissioner had issued directions to the CBI to investigate into the matter vide Office Memorandum No.1663/BNK/8/361247 dated 27.10.2017 and thereupon, the FIR in Crime No.R.C.-9(E)2018 (CBI/BS&FC) dated 13.4.2018 was registered against the officials of IDBI including the petitioner for the offences punishable under Section 120-B read with Section 409, 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. On completion of investigation, final report came to be filed and the case was taken on file by the



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Additional Chief Metropolitan Magistrate, Egmore, Chennai in
C.C.No.554 of 2023.

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3. Seeking quashment of the above proceedings, the petitioner has filed the Criminal Original Petition. Pending such petition, the petitioner also seeks for stay and dispensation of his personal appearance.

4. Mr.N.R.Elango, learned Senior Counsel appearing for the petitioner would submit that the petitioner is the then independent Director of the Industrial Development Bank of India, in short IDBI without any major role to play either in sanctioning of loans or in reconstruction of loans already granted by the Bank. He would further submit that the case has been registered based on the recommendations of the Forensic Audit Report and the consequent directions issued by the Chief Vigilance Commissioner.

5. Citing a copy of the letter dated 01.10.2021 issued by the Central Vigilance Commission, New Delhi, the learned counsel for the petitioner would submit that the Department of Financial Services, Ministry of Finance, Government of India is the competent



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authority to give sanction for prosecuting the petitioner if any criminal offence is committed by him in granting the loans and the Central Vigilance Commission, who had directed the CBI to investigate into the matter, had advised the said competent authority for denial of sanction for prosecution against the petitioner and a few others, however, the respondents, suppressing such a fact, had filed the final report implicating the petitioner.

6. The learned counsel for the petitioner would also submit that the Forensic Audit Report given by Chaturvedi and Co., Chartered Accountants also states that they had not come across any misappropriation of funds by any individuals, nor any criminal intention or negligence or cheating or forgery. He would also submit that Mr.K.R.Rajagopalakrishnan, who has been cited as L.W.41 has also stated that they could not get any documentary evidence of misappropriation or fraudulent encashment, cheating, forgery or any other type of fraud. He would further submit that one Mythili Balasubramanian, who was the Executive Director of IDBI and examined as L.W.40 has also stated that while there were lapses of procedure and due diligence (as also indicated by the Forensic Auditor), there do not appear to be any evidence of



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misappropriation of funds by any individuals, criminal intent, negligence, forgery or cheating on the part of any official of the Bank. Contending so, the learned counsel for the petitioner would submit that the proceedings against the petitioner is nothing but abuse of process of law and crave indulgence of this court in the matter.

7. Mr.K.Srinivasan, learned Special Public Prosecutor appearing for the respondents seeks time to get instructions and file counter affidavit.

8. In such circumstances, the learned counsel for the petitioner insisted for dispensation of the personal appearance of the petitioner before the Trial Court pending disposal of the main Criminal Original Petition.

9. Having heard the learned counsel appearing or the parties, it appears that though Criminal Case stands posted for framing of charges on 24.03.2023, there are several Miscellaneous Petitions pending adjudication before the Trial Court.



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10. In the circumstances of the case, the presence of the petitioner before the Trial Court in respect of C.C.No.554 of 2023 is dispensed with until further orders.

Post the main Criminal Original Petition after four weeks.

20.03.2023

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