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Crl.O.P.No.14311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.14311 of 2023
and Crl.M.P.No.8879 of 2023

K.Saravanan

.. Petitioner

Vs.

1.State rep.by
Inspector of Police,
CBI/BS&FC, Bangaluru-560 302.

2.Shri.V.Pattabhiraman,
Chief Vigilance Officer,
State Bank of Mysore,
Head Office, K.G.Road,
Bangalore-560 009.

..Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to call for the records connected with C.C.No.39 of 2013 on the file of Chief Judicial Magistrate, Coimbatore and quash the same.

For Petitioner	:	Mr.Velayutham Pichaiya Assisted by Mr.B.Sathish Sundar
For Respondent	:	Mr.K.Srinivasan, Senior Counsel Special Public Prosecutor (CBI)

ORDER

M/s.Asian Health & Nutri Foods Limited and its Directors were brought



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under scanner of CBI, pursuant to two complaints one by V.Pattabiraman, the Chief Vigilance Officer, State Bank of Mysore registered in RC.No.7E/2012 dated 05.07.2012 and another based on the complaint given by K.D.Menon, the Deputy General Manager, State Bank of India in RC.2E/2013 dated 21.02.2013. These two cases were investigated and culminated in the final report.

2. The trial Court took the report on file and assigned C.C.Nos.39 and 54 of 2013 respectively. The petitioner herein arrayed as accused sought for quashing of criminal prosecution culminated in C.C.No.54 of 2013 before the High Court and also filed a discharge petition before the trial Court. After the quash petition came to be dismissed by this Court, the said discharge petition also got dismissed. Revision preferred against the dismissal of the discharge petition was not entertained by this Court. However, direction was given to the trial Court to expedite the trial on priority basis. This Court, while dismissing the quash petition, had directed by way of advice to conduct joint trial of both cases or simultaneous trial of both the cases in C.C.Nos.39 & 54 of 2013. Though the orders and direction were passed a long back, yet nothing has progressed in the trial Court.



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3. The petitioner right throughout contended that the loan availed by M/s.Asian Health & Nutri Foods Limited been settled through One Time Settlement long back. Despite the settlement, the Court has declined to quash the complaint as well as refused to discharge him. When the petitioner was ready to undergo the trial, the trial Court did not make any headway. Therefore, the present petition under Section 482 Cr.P.C., is filed to call for the records pertaining to C.C.No.39 of 2013 on the file of the Chief Judicial Magistrate, Coimbatore and quash the same.

4. The learned counsel appearing for the petitioner submitted that the petitioner is ready to file an application for plea bargain. The trial Court may consider the application in accordance with law as laid down under Chapter XXI A of the Code, and the guidelines of the Hon'ble Supreme Court laid in *suo motu* W.P.(Crl.) No.4 of 2021 in the policy strategy for grant of bail.

5. The learned counsel for the petitioner also circulated articles by Jurist regarding the provision of plea bargain in India and its effect. The judgment cited by the learned counsel for the petitioner clearly indicates that the



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legislature after taking into consideration the recommendation of Malimath Committee had brought in a very effective amendment in the Code of Criminal Procedure with a laudable intention to mitigate the ordeal of the accused, who is ready to plea bargain of sentence as well as charges.

6. The object of introduction of this Chapter is to reduce the docket explosion and unwanted criminal trial. However, the experience so far gained indicates that this provision has not been understood in the manner in which it should be understood and applied. Chapter XXI A of the Code not been explored to the expectation of the legislature as well as the higher judiciary. This has prompted the Hon'ble Supreme Court to take up this matter and issued guidelines to the Courts below to exercise their power conferred under the Chapter XXI A. Though this chapter been introduced in the Code on 05.07.2006, statistics and data indicates that Court is not exercised power under this provision. The benefit in respect of the accused, in respect of victim and in respect of prosecution, when the stakeholders resort to plea bargain not been understood by the stakeholders. This Court is in full agreement with the above submission made by the learned counsel for the petitioner.

7. After going through the records and the earlier orders passed by



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this Court, this Court is fully convinced that it is a case fit for entertaining plea bargain.

8. The learned Special Public Prosecutor (CBI) also after perusing the records and on instructions submitted that it is a fit case where the Court can entertain an application under Section 265 A of Cr.P.C., if the petitioner is willing to enter into plea bargain. Here is a case where the bank has advanced loan based on certain documents produced by the company. Now the prosecution contends that the documents are false and been given to the bank, induced the bank to advance the loan and that loan amount been diversified for other purpose than for which the loan was granted. Obviously the transaction appears to be bordering breach of contract and breach of trust. At the end of the day, the parties have cleared the loan under One Time Settlement scheme. In spite of specific direction to the trial Court to expedite the trial, the trial Court is unable to complete the trial for the reason best known.

9. It is reported across the bar in C.C.No.39 of 2013 so far only one witness has been examined and in C.C.No.54 of 2013 examination of witnesses



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yet to be commenced. Summons to examine the defacto complainant been sent and the matter is listed on 10.08.2023 for examination of PW.1.

10. In the said circumstances, the petitioner if come forward to file an application for plea bargain in C.C.No.39 of 2013 as well as C.C.No.54 of 2013, the same may be entertained by the trial Court after causing notice to the learned Special Public Prosecutor as well as the victim namely State Bank of India and State Bank of Mysore, who are the defacto complainants. They shall work out Mutually Satisfactory Disposition as per the guidelines laid in the Code and thereafter, dispose of the case in tune with Section 265 (E) of the Code. While disposing the case, the trial Court shall exercise its power conferred under the Code as well as follow the principle laid down by the Hon'ble Supreme Court in the suo motu Writ Petition as well as the principle adopted by the Hon'ble Supreme Court in Kothari Polymers case. In any event, the above said exercise shall be completed by the trial Court within a period of 3 months.

11. With these directions, this Criminal Original Petition is disposed of accordingly. Consequently, the connected Criminal Miscellaneous Petition is also closed.



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To

1.The Inspector of Police,
CBI/BS&FC
Bangaluru-560 302.

2.Shri.V.Pattabhiraman,
Chief Vigilance Officer,
State Bank of Mysore,
Head Office, K.G.Road,
Bangalore-560 009.

3.The Pubic Prosecutor,
High Court of Madras, Chennai.

Dr.G.JAYACHANDRAN, J.

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