



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :22.08.2023

Pronounced on :29.08.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

M.Guruprasad

.. Petitioner/Accused-5

/versus/

1.Additional Superintendent of Police,
Central Bureau of Investigation,
Bank Securities and Fraud Branch (BS & FB)
35, Bellary Road, Ganganagar,
Bangalore 560 032.

.. 1st Respondent/Complainant

2.State Bank of India,
Mid-Corporate Regional Office-1,
Chennai Region,
Rep.by its General Manager,
Mr.G.D.Chandrashekar

.. 2nd Respondent/Defacto Complainant



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records in C.C.No.530 of 2022, pending on the file of learned Additional Chief Metropolitan Magistrate at Egmore, Chennai and quash the same.

For Petitioner :Mr.A.Ramesh, Senior Counsel for
Mr.R.Palaniandavan

For Respondent :Mr.K.Srinivasan, Senior Counsel
Spl. Public Prosecutor for CBI

ORDER

The petitioner herein arrayed as the 5th accused in C.C.No.530 of 2022 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai, has filed a petition to quash the case pending against him on the ground that he being a Professional Chartered Accountant won several accolade in the profession, but been maliciously prosecuted in the said case as if he conspired with the other accused to cheat the State Bank of India and other consortium of banks to the tune of Rs.494 crores between the year 2009 and 2016 and thereby, liable to be punished under Section 420 r/w 120 B of IPC.



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

WEB COPY

2. The petitioner claims that he being a renowned Chartered Accountant of the firm M/s Guru and Jana was engaged by the Board of Directors of M/s Nathella Sampath Jewelry Private Limited vide, letter dated 09.06.2017 to conduct audit of the finance status of the company for the past 4 to 5 years extent the same upto 30.06.2017 and assess the apparent health of the group entities. Further, to recommend corrective measures that may be adopted by the management to remedy the situation, initially to salvage the situation and gradually stabilize and put the operations back on rails. The petitioner with his team of auditors after making a visit to the corporate office of M/s Nathella Sampath Jewelry Private Limited and with the information provided by the company which engaged him, gave a report on 05.08.2017 to the Board of Directors of M/s Nathella Sampath Jewelry Private Limited. The report consists of recommendations and options. The Manager of State Bank of India was also furnished with a copy of the report along with his covering letter dated 05.08.2017.

3. The report and the covering letter according to the prosecution are the only incriminating material to charge the petitioner. Except making inspection and



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

submitting the stock audit report, in the year 2017, he had no role either at the time of sanctioning the loan to M/s Nathella Sampath Jewellery Private Limited in the year 2009 and thereafter for the company's default in payment of loan which was declared as NPA in the year 2016. In the Final Report, the petitioner being inducted as an accused for the substantive offence under Section 420 IPC and under Section 120B IPC for conspiracy with the co-accused. The Final Report however has given a clean chit to the FIR named accused Sohun C.J. Parmar (A5), the Statutory Auditor for the defaulting company during the disputed period.

4. The learned Senior Counsel appearing for the petitioner argued at length submitting that the audit report submitted by the petitioner herein was not taken into consideration by the Bank. His report has been rejected by the State Bank of India stating specifically that he was not the Auditor appointed by the Bank and his report will not be taken into consideration for any purpose.

5. The learned Senior Counsel appearing for the petitioner submitted that the State Bank of India sanctioned loan to M/s Nathella Sampath Jewellery



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

Private Limited in the year 2009 and continued the transaction with the company till 2016. The loans were sanctioned based on the audit report of Sohun C.J.Parmar (A5) the Statutory Auditor. The company defaulted and it was declared as NPA. Thereafter, the Directors of the company to salvage the company from bankruptcy sought professional advice of the petitioner and provided information about its assets and liability to render advice. Accordingly, the petitioner had visited the premise, inspected the accounts and given his opinion as a report. The said report was not considered by the Bank at any point of time. While so, the allegation that he conspired with the company Directors to cheat the State Bank of India and consortium of banks has no foundation.

6. Per contra, the learned Special Public Prosecutor appearing for CBI cases has filed statement of objections to the quash petition wherein it is stated that this petitioner in connivance with A2 to A4 and pursuant to the conspiracy, has submitted a Special Audit Report wherein he has arrived at a conclusion that the audited financial statements of M/s Nathella Sampath Jewellery Private Limited from the financial year 2009-2010 to 2015-2016 carried certain errors,



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

inaccuracies, erroneous business decisions, etc, which has caused adverse impact on the state of affairs of the company during earlier years. This Special Audit Report of the petitioner suggested to write off the receivables and to give false statement about inventory/gold stock of the company to cover up the diversion of fund by the borrowing company. Contrary to the stock statement submitted by M/s Nathella Sampath Jewellery Private Limited as on 31.03.2017, declaring stock worth Rs.495.06 crores, which includes the raw material, finished goods and stock in process. The petitioner in his Special Audit Report had stated that his inventory discloses only stock worth Rs.33 crores. Similarly, in respect of the receivables gold worth Rs.162 crores was receivable from different debtors. However, the Special Audit Report of the petitioner with dishonest intention to cheat State Bank of India, Overseas Branch, and other consortium banks had written off Rs.40 crores.

7. By producing the false Special Audit Report prepared by the petitioner, A1 company sought for One Time Settlement of the dues, which the bank did not agree and ordered for Forensic Audit of the accounts of the company.



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

The Forensic Audit Report brought out the irregularities in the financial transaction of the A1 company and also mentioned about writing off Rs.301.77 crores as per the advise of the petitioner Guru Prasad (A5).

8. The Special Public Prosecutor further submitted that after writing off the inventory worth Rs.301.77 crores as on 31.03.2017 and declaring his stock of Rs.31.8 crores only from Rs.495.07 crores, the tinker Special Audit Report submitted for One Time Settlement (in short 'OTS'). The Audited balance sheet originally submitted by the bank for the financial year 2015-2016, declared the sale of Rs.1513 crores and purchase worth of Rs.1591 crores, in additional the payment of gold making charges of Rs.19.50 crores. Contrary to the earlier audited balance sheet, the Special Audit Report given by the petitioner, after writing off stock, declared sale and purchase for the financial year ending 31.03.2017 as Rs.157 crores and Rs.61 crores respectively showing gold making charges as 'nil'. The petitioner being a professional chartered accountant instead of reporting the true financial conditions of the company had given false report and thereby, acted in an unethical manner to aid A1 company and its Directors A2 to A4 to screen the



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

WEB COPY
true financial position of the company to enable the company to siphon off the sale proceeds of the gold stock, without making payment against the credit limits availed from the banks.

9. Heard both sides and records perused.

10. The CBI, Bank Securities Fraud Branch, Bangalore, had registered the complaint in RC.08(E)/208/CBI/BSFB/BLR on 24.03.2018, based on the written complaint given by G.D.Chandrashaker, General Manager, State Bank of India, Mid Corporate Regional Office-I, Chennai Region. In the complaint, it has been alleged that M/s Nathella Sampath Jewellery Private Limited represented by its Directors had committed fraud on the bank in connivance with its internal auditor and Statutory Auditor. As per the First Information Report, A1 company represented by its Directors A2 and A3 with the help of its internal auditor and Statutory Auditor prepared false and fabricated statements regarding stocks and receivables. During 2009-2016, the sale statements were inflated and falsified in order to avail credit facility in the form of cash credit working capital from State



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

Bank of India, Overseas Branch and other banks in the consortium. A1 company availed loan to the tune of Rs.379.75 crores due and payable at the end of the financial year 2015-2016. The stock and receivable of the company shown as Rs.522.21 crores as on 31.03.2017. For the year 2016-2017 ending 31.03.2017 the company declared stock worth Rs.495.06 crores and receivables Rs.40.80 crores. Whereas the audit conducted by the bank through M/s Jayachandran & Co., Chartered Accountant, the stock as on 31.03.2017 was only Rs.60.17 crores. Thus, the diversion of fund by A1 company and filing false statement of account was the basis for the complaint.

11. After making investigation, preliminary charge sheet against five persons including the petitioner been filed before the Additional Chief Metropolitan Magistrate, Egmore, Chennai, on 09.02.2022 with a caveat that further investigation is in progress regarding the role of other FIR named accused persons and unknown others to unearth the larger conspiracy responsible for the alleged crime.



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

WEB COPY

12. The statement of witnesses and the documents relied by the prosecution reveals that M/s Nathella Sampath Jewellery Private Limited is a company registered under the Companies Act. Prapanna Kumar and Prasanna Kumar are the sons of one Rananatha Gupta. All the three are the promoters cum Directors of M/s Nathella Sampath Jewellery Private Limited. Sohun C.J.Parmar is the partner of Jeeravla & Co., who is the Statutory Auditor for A1 company. A1 company got incorporated on 03.04.2007. It was enjoying working capital credit limit with various banks, totally to the tune of Rs.71 crores. In the year 2009, the State Bank of India took over the loan and sanctioned loan of Rs.100 crores, including take over limit. The company thereafter obtaining clearance from the State Bank of India and shifted his account to Indian bank closing its limit with other banks. Periodically, the loan limit was enhanced for which the statement of internal auditor and Statutory Auditor were considered by the Bank. For the Financial Year ending 31.03.2016, the Statutory Auditor of the company had certified that the net sale of the company for the financial year ending 31.03.2016 as Rs.1425.02 crores and assets in hand as Rs.625.45 crores. The entire assets of the company with raw materials, stocks in process, finished goods kept in seven



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

showrooms of the A1 company were hypothecated as primary security and nearly 25 immovable properties were given as collateral security. The drawing power of the company derived from the current asset (inventory and receivable) as submitted in the stock statements, after reducing the stipulated margin was periodically enhanced from 2009 to 2017.

13. Meanwhile, the other banks joined the consortium to reduce the exposure of State Bank of India. On 31.03.2017, the company availed drawing power of Rs.355 crores based on the stock statement submitted by the company. After 31.03.2017, A1 company stopped submitting his report and also there was a delay in payment of interest. On inspection the consortium of bank, which has advanced loan to the A1 company found low stock in the showroom. Hence, appointed M/s Jayachandran & Co, Chartered Accountant, to conduct stock audit. It is alleged in the Final Report that the company did not co-operate for physical verification of the stock by the auditor. Only after intervention and warning, they allowed for physical verification and the same was completed on 30.09.2017. The sudden depreciation of stock in progress/work in process noted during the audit.



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

As per the report of M/s Jayachandran and Co, the value of the stock found in the showroom as on 19.07.2017 was only Rs.18.07 crores. The stock shown in the stock statement of the company as on 31.03.2017 was Rs.495.06 crores. Whereas the information collected from the sales, purchase, bank statement, the stock as on 31.03.2017 was only Rs.60.17 crores. For the mismatch value of the stock declared by the Company and what physically found with the company, no proper explanation was forthcoming from the company. In the joint meeting of the consortium held on 24.08.2017, it was decided to appoint M/s Deloitte Touche Tohmatsu India LLP to conduct forensic audit of the A1 company for the period on 01.04.2010 to 30.06.2017. The said M/s Deloitte Touche Tohmatsu India LLP on 14.12.2017, has submitted the audit report highlighting the misrepresentation, falsification of record and diversion of funds. The difference in the value of stock as per the audited financial statement and the statement submitted to enhance the drawing power manipulation of stock value was noted. While carrying forward to the next month intentionally the value of the stock and receivables inflated.



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

WEB COPY

14. The Final Report shows the petitioner as one of the accused finding fault with the Special Audit Report given by him. According to Final Report, the material collected indicates that the petitioner (A5) has given his Special Audit Report as true and correct pecuniary financial status of the company, contrary to the real status, The report of M/s Jayachandran and Co., and the Forensic Auditor has stated different fact and figures regarding the stock and receivables, which belies the Special Audit Report of the petitioner purportedly created to undue the bank to go for One Time Settlement.

15. It is reiterated by the learned Special Public Prosecutor for CBI that the investigation discloses *prima facie* material to prosecute the petitioner herein, since the Special Audit Report submitted by him was pursuant to the conspiracy between him and the Directors of A1 company to cheat the consortium of bank to the tune of Rs.395 crores and further investigation is in progress.

16. In the light of the above submission by the Special Public Prosecutor for CBI, it is necessary to examine the Special Audit Report given by the petitioner



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

whether it has element of dishonesty to cheat and such act of dishonest was pursuant to conspiracy between him and the Directors of the borrowing company. The Board of Director of Nathella Sampath Jewellery Private Limited vide Engagement Letter dated 9th June 2017 has appointed M/s Guru and Jana, Chartered Accountant as “Auditors/Consultants” to conduct a Special Audit (SA) into the company's affairs. Pursuant to the said entrustment, constituted a team of auditors, led by CA Guruprasad.

17. The Extracts of the Engagement letter given by the Company:

- At your sole discretion analysis of the Audited Financial Statements for the past four to five years, extend the same upto 30.06.2017 and assess the apparent health of the group entities.
- Carry out a detailed physical verification of the inventory, reconcile the same with the books of account and identify and compute the differences as may be noticed out of such verification, duly quantifying the financial implications thereto.
- Analyse the efficiency/effectiveness of the Accounting policies adopted by the company in general.
- Identify the areas of inaccuracies/irregularities, if any, committed on the part of the management, executives, employees etc.
- Identify failures in adequacies and or inefficiencies, systemic or otherwise, in the internal control mechanism, failure, if any, on the part of the company's internal/Statutory Auditors etc.



WEB COPY



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

- Assess the correct health of the group entities and wherever required restate the financial statement to bring them in conformity with the present realities.
- Recommend corrective measure that may be adopted by the management to remedy the situation, to salvage the situation initially and gradually stabilize and put the operations back on rails.

18. The report is with a disclaimer and confidential Clause. These Clauses clearly show that there was no dishonest intention to induce any one and the report purely meant for the company which has sought advice to redeem from its financial crisis. The disclaimer clause reads as below:-

Disclaimer

- The report deals with our findings in relation to the SA of the financial data of Nathella. An examination of books and records of the company was conducted to ascertain the possible effects of any increase in liabilities/diminution in the value of the assets, if any. Our examination is based on the information and documents provided to us by the management of the company.
- The procedures we performed were limited in nature and as such this report may not necessarily disclose all significant matters or reveal all errors or irregularities, if any in the underlying information. Further, such procedures do not constitute an audit examination or review in accordance with generally accepted auditing standards and therefore we do not express an opinion or any other form of assurance on the information presented in our report. (Emphasis added)
- The data included in this report has been extracted from the information supplied to us during discussions with the management of the company and through records



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

provided to us by them. We have not independently verified the information and accordingly express no opinion or make any representations concerning the accuracy or its completeness.

- This report shall not be used as evidence in any court of law/witness, or for any statutory proceedings or enquiry or Investigation.

19. A1 company was incorporated in the year 2007. From 2009 onwards the credit limit to the company been periodically increased based on the statutory audit report submitted by the partner of M/s Jeeravala & Co., This petitioner was appointed by the company on 9th June 2017. The report was submitted by this petitioner on 20th September 2017. The auditor appointed by the bank M/s Jayachandran & Co., has completed his audit on 30.09.2017. In the meantime, on 26.09.2017, M/s Deloitte Touche Tohmatsu India LLP was appointed to conduct Forensic audit and it has submitted his report on 14.12.2017. Within a span of 6 months, three different professionals have conducted audit of the stock and receivables of A1 company and three reports are available. With the available inputs provided by the company and on physical verification, they have submitted the report.



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

WEB COPY

20. M/s Jeeravla & Co., the Statutory Auditor of A1's company had submitted his statutory report for every financial year since 2009 and that was the basis for enhancing loan limit. The three auditors report which are now relied by the prosecution are all subsequent to the A1 company declared as NPA and after it defaulted payment. Surprisingly, the investigating officer had observed in his Final Report that the investigation could not be established the complicity of FIR named accused, Sohun C.J Parmar, who is the Statutory Auditor, but believe that the Special Audit Report with inflated data enabled A1 company to avail higher drawing power. The petitioner herein, who had come into the picture only in June 2017 on the request of A1 company to recommend, how to recover from the financial crisis. If for Sohun C.J.Parmar, audit report which is basis for advancing loan there is no material to prosecute, A5/the petitioner can not even remotely be held responsible for suggesting remedial measures, after default in payment. Further, the State Bank of India has rejected his report for not being appointed by the bank. Therefore, his report no way be a material for A1 company to cheat the bank, since the crime to cheat has already been completed and the report of the petitioner given subsequent never been considered by the banks for any purpose.



WEB COPY



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

21. The learned Special Public Prosecutor appearing for CBI strains his nerves to justify the inclusion of this petitioner as an accused for giving his Special Audit Report. Whereas, the reading of the Special Audit Report does not indicate anything to induce the bank to deliver anything deceptively. The meeting of mind, which is required to charge a person under conspiracy, must be prior to the commission of crime namely cheating and not subsequent to the commission of crime. The petitioner in his report has specifically mentioned in Section B under the caption “Corrective Measures” that the company's auditor has failed to discharge the professional responsibility and this lapse has contributed greatly to the financial crisis. The petitioner even suggested to remove the auditors of the company as well as the company secretaries. The relevant portion of the report suggesting removal of the auditors and the company secretaries is extracted below:-

II. Removal of Auditors of the Company

We regret to observe that we are hugely disappointed with the role of company's auditors as they have failed to exercise/ discharge their professional responsibility/independence expected of them. In our



WEB COPY



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

opinion, these lapses on their part, has greatly contributed to the present financial crisis which could have been easily identified/ arrested in the initial stages itself. While refraining ourselves from making any further comments on their failures, we would recommend and urge management to change the auditors with immediate effect and make arrangements to get its b of account audited by an alternate and reputed firm of Chartered Accountants initially to cover the audit for financial year 2016-17 and gradually extend to earlier year/s as the circumstances warrant.

III Removal of Company Secretaries of the Company

We regret to observe that we are hugely disappointed the role of the company secretary of the Company as well. He too has failed to exercise/ discharge their professional responsibility/ independence expected of them. In our opinion, these lapses on their part, has greatly contributed to the present crisis which could have been easily identified/ arrested in the initial stages sell. While refraining ourselves from making any further comments on their failures, we would recommend and urge the management to change the company secretary with immediate effect and make arrangements to get its company law compliance audit conducted by an alternate and reputed firm of Company Secretaries



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

WEB COPY

22. He has advised restructuring of the balance sheet conceding inflation of stock as well as receivable. That apart, he has provided three options as a future measures, which reads as below:-

“SECTION C-FUTURE MEASURE:

1. Option A-One-time Rehabilitation facility by the Bankers:

The management may consider approaching the bankers to extend a one-time rehabilitation package based on its past track record. It may be noted here that this scheme is highly subjective on the promoter's ability to infuse long term funds in the company as equity/ preference shares or debenture etc. covering at least one third (33.33%) of the deficit. The banks may be requested to carve out the balance deficit (66.67%) into a working capital term loan, with ZERO coupon rate and to be redeemed over, say, 120 months period after a moratorium period of 6 months from the date of sanction.

We may, however, stress here that the suggested option is not an automatic right of the borrower but the total discretion of the bank based on the past conduct/ track record of the borrower and to consider any such support, banks may insist upon additional collaterals and may impose such other conditions as they deem fit to ensure that the rehabilitation package, if any, approved will serve its purpose, without further diluting the interest of the bankers.

11. Option B-One-time settlement of the dues:

In the event the promoters are not in a position to infuse the long-term funds and/ or provide additional collaterals, as may be stipulated by the bankers, it would be advisable and prudent for the company to approach them to consider a 'One-time settlement of its dues', based on the present realizable values of the securities (both prime and collaterals) duly recognizing the following:

- The company/group having a standing of nearly eight decades in its business enjoying market reputation.
- Track record of the company with the bankers in its



WEB COPY



Crl.O.P.No.19322 of 2022

and

Crl.M.P.No.12721 of 2022

association of nearly eight years i.e. from the date of incorporation.

- Promoters are not guilty of any intentional wrong doing and are not guilty of diverting/ siphoning of the company's funds. Major part of the cash inflows, (incremental debts raised) has been utilized towards financing activities as summarized below:

(i) Payment of Interest, Commission/ Charges Rs.239.98 Crore

(ii) Contribution to State/ Central Exchequers Rs. 121.7 Crore

(Income Tax Rs.41.7 Crore. VAT Rs.80 Crore)

- Promoters are not guilty of any extravagance/acquisition of assets illegally.
- The remedial measures suggested by us and if accepted and implemented by the promoters will result in substantial improvement in the net security coverage available to the bankers and isolate them from any possible obligations to provide any dispensation towards Depositors.

III. Option C-Invoking measures under Insolvency Bankruptcy Code 2016

In the unlikely event of the bankers not conceding to the request recommended under Options A or B, in our opinion, the management will be left with no other option but to invoke the provisions of Insolvency Bankruptcy Code 2016 ('IBC 2016') by filing an application to NCLT, Chennai (National Company Law Tribunal) to work out a resolution plan and settle the dues of the financial creditors as provided therein.

We would like to add that our earlier recommendations of migrating other major creditors namely Depositors dues held under savings scheme gold customers, YES Bank and Fullerton India who qualify as financial creditors as defined under IBC 2016 would justify a resolution plan as envisaged in the code so that the best possible dispensation could be provided to other financial creditor's namely SBI, SBT, HDFC and UB1.

23. In his letter dated 05.08.2017, addressed to the Manager, this



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

petitioner has stated as below:-

“Pursuant to the letter of engagement dated 9th July 2017, from the management of Nathella, we had carried out a detailed study of state of affairs of the Company in the month of July 2017. Post completion of the study, we have submitted our report titled "Special Study Report Nathella Sampath Jewelry Private Limited" dated 20th July 2017 to your goodself. The report essentially covered identification of the weakness in internal control mechanism: status of inventory, trade receivables and sundry creditors, along with any other observations,

As a part of our said study report and as a measure of introducing the required corrective measures to remedy the situation, we are submitting Second Part of our report, recommending alternate remedial measures, which we believe are in line with the generally accepted banking practices and adopted and approved by bankers.”

24. The three different options suggested by this petitioner namely,

- (i) Option-A- One Time Rehabilitation Facility by the Bankers
- (ii) Option-B-One Time Settlement of the dues
- (iii) Option-C-Invoking measures under Insolvency Bankruptcy Code

2016 and his letter to the bank, which is extracted above discloses the true professionalism of a person. There is no element of dishonesty found in his report to induce the bank either way. The suggestion given by the field expert with alternate options has been wrongly understood by the Investigating Officer by prosecuting him instead of prosecuting the person, who induced the bank to give



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

loan based on false audit report. It is a clear case of malicious prosecution.

25. On reading the case documents, it is clear that the investigating officer should have taken this petitioner as a witness and his report as admission of the A1 company and its directors for falsification of accounts through its Statutory Auditors, but for the reason best known, the petitioner is arrayed as an accused. It is a classic case of malicious prosecution and shortage of investigation skill.

26. In view of this Court, by including the petitioner herein as one of the accused, instead of as witness, prosecution case against the real culprit who had availed the loan from the bank by filing false statement of accounts will grossly be detrimental.

27. In the result, this Criminal Original Petition is allowed. Consequently,



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

connected Miscellaneous Petition is closed.

29.08.2023

Index:yes
speaking order/non speaking order
ari

To:

1.Additional Superintendent of Police,Central Bureau of Investigation,
Bank Securities and Fraud Branch (BS & FB) 35, Bellary Road, Ganganagar,
Bangalore 560 032.

2.Mr.G.D.Chandrashekar, State Bank of India,
Mid-Corporate Regional Office-1, Chennai Region,

3.The Public Prosecutor, High Court, Madras.

DR.G.JAYACHANDRAN,J.



WEB COPY



Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

ari

delivery Order made in
Crl.O.P.No.19322 of 2022
and
Crl.M.P.No.12721 of 2022

29.08.2023