



CrI.O.P.No.23305 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.08.2023

PRONOUNCED ON: 20.09.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.No.23305 of 2021

C. Sridharan

...

Petitioner

/vs/

1. State represented by
Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Wing- Team 31,
Chennai 600 007.

2. N.B.Kulasekaran,
General Manager (retd.),
Corporation Bank,
Mylapore Branch,
Chennai 600 004

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records connected with C.C.No.2630 of 2017 including the charge sheet dated 20.11.2007 in C.C.No.2630 of 2017 on the file of CCB and CBCID Metropolitan Magistrate Court, Egmore, Chennai and quash the same.



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CrI.O.P.No.23305 of 2021

For Petitioner	...	Mr. P.L.Narayanan, Senior Counsel
For Respondents	...	Mr. L. Baskaran, Government Advocate for R1
	...	Mr. W.M.Abdul Azeez . For R2

ORDER

Challenging the criminal proceedings in C.C.No.2630 of 2017 on the file of the CCB and CBCID Metropolitan Magistrate Court, Egmore, Chennai, this Criminal original petition has been filed.

2. The case of the prosecution is that on 27.10.2003, Kamaladasan(A1) had approached the Corporation Bank, (Now Union Bank of India) Mylapore Branch and availed housing loan for a sum of Rs.10.50 lakhs (A/c.No.702003) for purchasing a house to an extent 955 sq.ft., situated in Flat No.G-2, 2nd Floor in S.No.51/H, Gerugambakkam Village, Kancheepuram District from G.Balaubramaian(A2), which was already mortgaged with SBI Bank, Anna salai Branch on 21.05.2003 by depositing the original title deed. Further, he had failed to pay the EMI and thus, cheated the Bank.



3. The petitioner herein is arrayed as A3 and he was the Chief Manager of Corporation Bank, Mylapore Branch. On 29.10.2003, the petitioner(A3) in collusion with the other accused, sanctioned a sum of Rs.10.50 lakhs, within few days of application, without getting original parent document and also failed to follow due diligence. Further, he issued the loan amount to Balasubramanian(A2) by way of cheque before registration and he had not obtained any acknowledgement for the same from A2. Further more, the sale deed was registered on 02.07.2004, i.e., after 9 months of the disbursement of the loan amount and the petitioner was acted as a spectator, which causes huge loss to the bank.

4. In pursuance of the complaint given by the then Chief Manager Mr.N.B.Kulasekaran, Corporation Bank of Mylapore Branch, a case in CCB Cr.No.69/2006 under Sections 420, 465, 467, 468, 471 r/w. 34 of IPC has been registered. After filing of charge sheet, the case has been taken on file as C.C.No.8689 of 2007 by the learned XI Metropolitan Magistrate, Saidapet and later, the same has been transferred to CCB & CBCID Cases Special Metropolitan Magistrate Court, Egmore, Chennai during 2017 and new C.C. No.2630 of 2017 was assigned. To quash the



Crl.O.P.No.23305 of 2021

criminal proceedings against the petitioner, the present petition has been filed.

5. The learned counsel for the petitioner submitted that the petitioner is the third accused in the criminal proceedings in CC.N.2630 of 2017 pending on the file of the CB and CBCID Metropolitan Magistrate Court, Egmore and he was the Bank Manager. He acted only on the advice given by the Legal Advisor and granted loan to Balasubramanian(A2), for which, he now being prosecuted. He further submitted that now the entire loan amount has been repaid and the mortgage property has also been discharged. Hence, the bank has not suffered with any loss and thus, prayed to allow the criminal original petition.

6. The learned Government Advocate(crl.side) appearing for the first respondent submitted that totally, there are four accused in this case. Since A4 absconded, the case was split up and numbered as C.C.No.753/2009. The petitioner is ranked as A3. He further submitted that in this case, prosecution examined 17 witnesses as P.W.1 to PW.17 and exhibits have also been marked and the case was posted for argument on 12.04.2019. During the investigation A1 obtained Anticipatory bail, A2 & A3 were



Crl.O.P.No.23305 of 2021

arrested on 19.06.2007 and 27.06.2007 respectively. After completing the investigation, charge sheet has been filed before the learned XI Metropolitan Magistrate, Saidapet and the same was numbered as C.C.No.8689 of 2007. Later, during the year 2017, the same has been transferred to CCB & CBCID Cases Special Metropolitan Magistrate Court, Egmore, Chennai and renumbered as C.C. No.2630 of 2017. In this case, since G.Balasubramanian(A2) is absconded, NBW was issued against him and now, the case is posted for argument and thus, prays for the dismissal of the petition.

7. I have considered the matter in the light of the submissions made by the learned counsel for the parties and perused the materials available on records carefully.

8. On perusal of the records, it reveals that so far 17 witnesses have been examined as P.W.1 to P.W.17 and exhibits have also been marked. Now, trial has been completed and the case is posted for argument. Further, this Court cannot go into the merits of the case and appreciation of evidence available on records, while exercising its jurisdiction under Section 482 of Cr.P.C.



Crl.O.P.No.23305 of 2021

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9. Taking into consideration of the fact that since the examination witnesses on the side of the prosecution had been completed, it is inappropriate to quash the criminal proceedings as against the petitioner. It is for the Judicial Magistrate to appreciate the witnesses examined by the prosecution and decide the issue, therefore, I find no reason to quash the criminal proceedings at this stage. I find no merit in the criminal original petition and hence, it is liable to be dismissed.

10. Accordingly, this Criminal Original Petition is dismissed.

Index : Yes/No

Internet : Yes/No

20.09.2023

mrp

To

1. Metropolitan Magistrate,
Metropolitan Magistrate Court for CCB & CBCID Cases,
Egmore, Chennai



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Crl.O.P.No.23305 of 2021

V.SIVAGNANAM ,J.

mrp

Pre-delivery order made in
Crl.O.P.No.23305 of 2021

20.09.2023