IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No. 21541 of 2019
and
Crl.M.P. No. 11143 of 2019

M.Radhakrishnan ... Petitioner

Vs.

1.The State Rep. by the
Inspector of Police,
City Crime Branch I,
Chennai.

2. T.P.Damodaran. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No. 262 of 2018 on the file of the 1st respondent Police, quash the same as far as the petitioner is concerned.

For Petitioner : Mr. N.Manokaran

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor

For Respondent 2 : Mr. K.Gowthaman

ORDER

The petition is to quash the FIR in Crime No.262 of 2018 for the alleged offences under Section 406, 420, 506 (i) and 120 B of IPC.

2. It is alleged in the impugned FIR that the defacto complainant wanted to raise money by mortgaging his property; that the accused represented to him that since he was aged, it is better if he become a partner in a partnership firm and thereafter obtain a loan; that the 2nd respondent entered into a partnership deed bearing Doc.No.11 of 2016; that as a partner the 2nd respondent applied for a loan and also executed memorandum of deposit of title deeds; that the accused who promised to pay Rs.10,00,000/- as loan did not give any money to the 2nd respondent; that the 2nd respondent later came to know that his property

was mortgaged and a loan of Rs.1 Crore was obtained by the accused dishonestly; that when the 2nd respondent approached the accused, they abused him in filthy language and told him to approach the Bank for redeeming the property by paying Rs.1 Crore; that the petitioner who is a Bank Manager had sanctioned a loan of Rs.1 Crore when the value of property was only Rs.70,00,000/-.

3. The learned counsel for the petitioner submitted that the petitioner as a Bank Manager was not aware of any of the alleged transactions or understanding between the defacto complainant and the other accused. Admittedly, the 2nd respondent had signed in the loan application. When the property was brought for sale, the 2nd respondent had filed a Writ Petition challenging the said sale. The memorandum of deposit of title deeds was also signed by him. Hence, the 2nd respondent cannot claim that he was not aware of the mortgage. The petitioner verified the records and sanctioned the loan. Therefore, he submitted that the petitioner has been unnecessarily arrayed as an accused in the impugned FIR.

4. The learned counsel for the 2nd respondent however would submit that the Bank Manager was aware of the understanding between the 2nd respondent and the other accused and the very fact that a loan of Rs.1 Crore was sanctioned for the property, which is valued less than Rs.70,00,000/- would show the complicity of the petitioner in the alleged crime. Therefore, the learned counsel prayed for the dismissal of the quash petition.

5. The learned Additional Public Prosecutor reiterated the submissions made by the learned counsel for the 2nd respondent and prayed for the dismissal of the quash petition.

6. This Court on perusal of the impugned FIR finds that the allegation is that the other accused misrepresented to the 2nd respondent that they would give a loan of Rs.10,00,000/- and obtained the title deeds of his property fraudulently. They had mortgaged the property and obtained a huge loan of Rs.1 Crore and failed to repay the said

amount to the Bank, thereby, bringing the 2nd respondent's property to sale.

7. The only allegation against the petitioner is that the petitioner was aware that the property was valued less than Rs.70,00,000/- and had sanctioned Rs.1 Crore to the accused dishonestly. It is seen from the valuation report that the estimated market value of the said property was Rs.1,01,00,000/-. Therefore, the allegation against the petitioner cannot be sustained. That apart, the 2nd respondent had signed the loan application form and also the affidavit filed in support of the Writ Petition challenging the auction notice issued by the Bank. The 2nd respondent also signed the memorandum of deposit of title deeds. Hence, it cannot be said that he was unaware of the transactions. The Bank Manager cannot be made liable for the allegations in the impugned FIR .

8. The impugned FIR as against him is clearly an abuse of process of law. Hence, this Court is inclined to quash the impugned

FIR in so far as the petitioner alone is concerned.

9. Accordingly, the petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.

25.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No
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To

1. The Inspector of Police,
City Crime Branch I,
Chennai.

SUNDER MOHAN. J,

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Crl.O.P.No. 21541 of 2019

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