



CrI.O.P.No.1545 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.1545 of 2023
and
CrI.M.P.Nos.893 & 894 of 2023

1.B.Ragunandhan

2.F.Sindhiya

... Petitioners

Vs

1.The State

Represented by
The Inspector of Police,
CBI/ACB/Chennai,
(Crime No.RC MAI 2018 A 0011 of CCB,
ACB, Chennai)

2.Bank of India,

Represented by
The Deputy General Manager,
Zonal Office, Coimbatore.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.5 of 2020 pending on the file of the learned II Additional District Judge and Special Judge for CBI Cases, Coimbatore and quash the same in so far as the petitioners are concerned.



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For Petitioners : Mr.T.Gowthaman
Senior Counsel

For Respondents :
For R1 : Mr.K.Srinivasan
Special Public Prosecutor (CBI)

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed, to call for the records in C.C.No.5 of 2020 on the file of the learned II Additional District Judge and Special Judge for CBI Cases, Coimbatore and quash the same.

2. The learned Senior Counsel for the petitioners would submit that it is the case of the prosecution that the petitioners have obtained loan from the second respondent Bank for setting up a poly house for floriculture business and they have diverted the funds for other purposes. He would further submit that admittedly the loan was taken for a sum of Rs.74,25,000/- and the first petitioner's father has given a property worth Rs.70,00,000/- as security for the loan and the Bank has not suffered any loss in the transactions and thereby, the prosecution case against the petitioner cannot be sustained.



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3. The learned Special Public Prosecutor (CBI) appearing for the first

respondent would submit that it is the case where the petitioners have applied for loan for the purpose of setting up a poly house for their floriculture business and later invocation of the rules and the purpose for which the loan was sanctioned, they have diverted the funds to some other purposes and siphoned off the same that, a case of cheating is made out as against the petitioners. He would further submit that the trial has commenced and in this case, L.W.1 and L.W.2 have been examined. He would further submit that there are 33 witnesses and the trial will be able to be completed soon and at this stage, he would oppose for quashing of the proceedings.

4. The case is of the year 2020 and trial has commenced and two witnesses have been examined so far. This Court is of the view that all the grounds can be raised before the trial Court and there is no merits in the quash petition.

5. At this juncture, the learned Senior Counsel for the petitioners would submit that the entire case of the prosecution is borne out by records/documents and the day to day presence of the petitioners before the trial Court may not be required. He would further submit that the petitioners are



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ready and willing to appear before the Court as and when their presence is required by the learned Trial Judge and would pray that the presence of the petitioners before the trial Court may be dispensed with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the Trial Court.

7. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross-examine the prosecution witnesses on the same day they are examined in chief or on any other date fixed by the Trial Judge. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court, in the event, their presence is insisted by the Trial Judge for the purpose of identification.



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8. Accordingly, this Criminal Original Petition is dismissed. The

connected Criminal Miscellaneous Petitions are closed.

15.03.2023

Index : Yes/No

Neutral Citation : Yes/No

arb

To

1. The learned II Additional District Judge and
Special Judge for CBI Cases, Coimbatore.
2. The Inspector of Police,
CBI/ACB/Chennai.
3. The Deputy General Manager,
Bank of India,
Zonal Office, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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