IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2225 of 2023 (O&M)
Date of decision: 15th December, 2023

Ashok Garg

… Petitioner

Versus

Central Bureau of Investigation

… Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. PPS Thethi, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is challenging the order dated 21.08.2023 passed by the learned Special Judicial Magistrate (CBI), Haryana at Panchkula, vide which his application for discharge filed under Section 239 Cr.P.C. was dismissed and vide a separate order of even date, charges under Section 120-B read with Sections 420, 468, 471 of the IPC were framed against the petitioner.

2. Learned counsel for the petitioner *inter alia* has made the following submissions:-

(i) That the petitioner is a Government approved Valuer with about 40 years of experience. He has worked extensively with various Banks, showcasing expertise and reliability in his field;

(ii) That the petitioner had carefully evaluated the value of the property used as collateral security, after duly following the standard procedures; this evaluation was carried out after taking into consideration the market rate, circle rate, location of plot, its size and other important factors;

(iii) After the petitioner submitted the valuation report, the Bank officials physically inspected the property independently; the Bank was not obligated by the report of the petitioner as they had 15 days to disagree or ask for another valuation report. However, the Bank accepted the report of the petitioner while following the standard procedure;

(iv) None of the 51 witnesses, who were joined during investigation, alleged any wrongdoing *qua* the petitioner nor any material against the petitioner conspiring with the bank officials and the borrower, for making a false report, came to the fore; all this needed to be appreciated in the light of the Bank officials not being proceeded against by the Investigating Agency.

(v) In the absence of any evidence against the petitioner of having gained unfairly from the inflated valuation report submitted by him, the learned Special Judge erred in passing the impugned order and charging him for offences under Sections 120-B, 420, 468, 471 of the IPC. In support, learned counsel has placed reliance upon **'CBI vs K. Narayana Rao' 2012 (9) SCC 512.**

3. I have heard the learned counsel appearing on behalf of the petitioner and perused the relevant material on record.

4. Before proceeding further, it needs to be emphasized that the process of framing of charges serves the crucial purpose of notifying the accused about the allegations levelled against him, thereby affording him an opportunity to prepare his defence in response to the case of the prosecution. Thus, at the time of framing of charges, the main consideration of the Court is primarily limited to assessing whether or not there exists a *prima facie* case to suspect the involvement of the accused in the offences alleged. On the basis of the evidence and other material brought forth in the challan by the investigating agency, at this preliminary stage, an extensive investigation is not mandated.

5. Coming to the instant case, as per allegations levelled, the petitioner, who was a Government approved Valuer, conspired with the accused, perpetrating a fraud, which led to misappropriation of loan funds amounting to ₹ 527.29 lakhs. The petitioner, in collusion with the co-accused allegedly orchestrated the submission of an inflated valuation report for the collateral security. The property in question had been procured for a sum of ₹ 38.00 lakhs on 23.08.2014. Further, allegedly,

the petitioner inaccurately assessed its market value at ₹7,19,00,000/- in the valuation report dated 04.01.2016 while the prescribed circle rate had been valued at ₹ 2,58,70,500/-. A subsequent valuation conducted by another valuer on 27.10.2017, after the loan account of the co-accused borrower was declared a Non Performing Asset (NPA), instead assessed the market value of the property at ₹66,11,000/- with a realizable value of ₹ 59,50,000/-.

6. It would also be imperative to note that as per the allegations levelled, the property which was a vacant parcel of land surrounded by agricultural holdings, remained unchanged in shape, size and location from the date of its purchase to the date of valuation by the petitioner. Additionally, the land in question was a joint holding, involving other co-sharers and had neither been partitioned nor demarcated between them, significantly impacting its realizable market value also.

7. The assertion of the learned counsel that there was hardly any material on record to link the petitioner with the alleged offences, in the above background, can not be delved into at this stage, as it would be a matter of appreciation at the time of trial. The evaluation of the material collected and the truthfulness or otherwise of the same can only be evaluated during trial when the parties lead their respective evidence.

8. The judgment relied on by learned counsel for the petitioner in **'CBI vs K. Narayana Rao' (ibid)** does not come to his rescue as the present case is distinguishable on facts, the petitioner has not only been

named in the present FIR but there are specific allegations against him of having conspired with the bank officials in the crime in question.

9. In view of the above discussions, the revision petition being without any merit, stands dismissed.

10. However, it is made clear that anything observed hereinabove, shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 15, 2023
rps

Whether speaking/reasoned Yes/No
Whether reportable Yes/No