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CrI.O.P.No.17561 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

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THE HON'BLE MR.JUSTICE VIVEK KUMAR SINGH

CrI.O.P.No.17561 of 2024
and CrI.M.P.No.10518 of 2024

R.Manjunath

... Petitioner

Vs.

The State represented by,
The Deputy Superintendent of Police,
CBI,
Chennai.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to call for the records with regard to the final report filed in C.C.No.5533 of 2013 on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai and set aside the same and consequently the respondent Police to conduct further investigation the case in Cr.No.RC0322022A0009 on his file and file the final report.

For Petitioner : Mr.M.V.Dinaker

For Respondent : Mr.K.Srinivsan
Special Public Prosecutor



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ORDER

The Criminal Original Petition has been filed to call for the records with regard to the final report filed in C.C.No.5533 of 2013 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai and to set aside the same and consequently, direction has to be given to the respondent Police for conducting further investigation in Cr.No.RC0322022A0009 and to file the final report.

2. The case of the prosecution is that the petitioner was the sole accused in this case. The petitioner approached Bank of Baroda and requested for a loan of Rs.9 crores for his business running in the name of M/s.R.S.Auto Components whereas the bank agreed to sanction of Rs.5 crores. After completing all the formalities and furnishing collateral securities, the Bank sanctioned Rs.5 crores on 14.08.2018 under V.Mortgage Scheme. For obtaining the loan, the petitioner has provided 3 properties to the bank. One of the properties situated at Zuzuvadi Village, Hosur Taluk at Krishnagiri District was termed as collateral property to the sanctioned loan but the officials of the Bank not created mortgage which



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pertains to the subject property. Before discharging the loan, the petitioner sold the subject property to one M/s.Essae Corporate Company, Bangalore for a sum of Rs.3,96,00,000/-. For which, the complainant on behalf of the Bank of Baroda, had preferred a complaint.

3.The learned counsel for the petitioner submitted that though the name of the family members of the petitioner were included in the First Information Report, their names were not included in the charge sheet. As per the complaint, the concerned officials of M/s.Bank of Baroda helped the petitioner to get the loan amount without creating the mortgage agreement pertains to the subject property and further, investigating agency failed to observe that the sale proceeds of the subject property has been mis-utilized by one G.Ashoka, Managing Partner of M/s.Sri Adhi Bhairava Blue Metal Firm, Hosur and his associates. On the promise of prompt repayment of the subject loan, the petitioner transferred the sale proceeds to the Bank accounts as per the instructions of the said G.Ashoka. The investigation of Crime No.RC/032/2022/A/0009 has further failed to take note of the criminal case preferred by the petitioner against the said Ashoka and others in FIR in Crime No.369 of 2020. Hence, the petitioner seeks further



investigation in this case.

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4. The learned Special Public Prosecutor for CBI submitted that on completion of investigation, final report has been filed and the same has been taken cognizance by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, in C.C.No.5533 of 2013. He further relied on the judgment of the Hon'ble Supreme Court in the case of ***Union of India and others Vs. Anil Kumar and others*** reported in ***(1999) 5 SCC 743*** and submitted that even after filing of final report, the Police has power to conduct further investigation under Section 173(8) of Cr.P.C, after seeking permission from the Court. The relevant paragraphs of the said judgment are extracted hereunder:

“10. Power of the Police to conduct further investigation, after laying final report, is recognized under Section 173(8) of Cr.P.C. Even after the Court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. This has been so stated by this Court in Ram Lal Narang Vs. State (Delhi Admn). The only rider provided by the



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aforesaid decision is that it would be desirable that the police should inform the court and seek formal permission to make further investigation.

11.In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before Section 173(8) to suggest that the Court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the Court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation.”

5. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor for CBI and also perused the materials available on record.



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6. In view of the submissions made by the learned Special Public Prosecutor for CBI, this Court is of the view that the petitioner has not made out any case for further investigation in this case and hence, this petition is liable to be dismissed.

7. Hence, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is also closed.

25.07.2024

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
vkr

To

1. The Additional Chief Metropolitan Magistrate, Egmore, Chennai.
2. The Deputy Superintendent of Police,
CBI, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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VIVEK KUMAR SINGH, J.

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