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CrI.O.P.No.24651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.24651 of 2022

and

CrI.M.P.No.15496 of 2022

PNB Housing Finance Ltd.,
rep. by its Authorised Signatory
S.R.Sakthivel

... Petitioner

Versus

1. The Inspector of Police,
CCB-1, Chennai,
132, EVK Sampath Road,
Vepery, Chennai-600 067.

2. Parimala Nayagi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to F.I.R. in Crime No.119 of 2021 dated 17.05.2021 on the file of the 1st respondent, CCB-1, Chennai under Sec.419, 465, 467, 468, 471, 34, 109 as against the petitioner herein under Sec.482 and to quash the same.



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For Petitioner : Mr.Nithyaesh Natraj for
M/s.Nithyaesh and Vaibhav

For Respondents : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

No appearance - R2

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.119 of 2021 on the file of 1st respondent police.

2. Heard both sides.

3. The petitioner is ranked as A6 in the F.I.R. in Crime No.119 of 2021 registered for an offence under Sec.419, 465, 467, 468, 471, 34, 109 of I.P.C. based on the complaint given by the 2nd respondent/defacto complainant. Now, the petitioner/6th accused filed this petition to quash the proceedings stating that they have not involved in any such offence as alleged in the F.I.R. and without any iota of evidence, the petitioner bank was implicated as accused in the F.I.R.



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4. The learned counsel for petitioner would submit that during the course of business, on 08.09.2020, one Mr.Kushal Chand and one Mrs. Asha have approached the petitioner Direct Marketing Agent and made a loan application seeking loan amount of Rs.1,02,00,000/- to enable them to purchase the property being vacant land admeasuring 3200 sq.ft. comprised in Old Survey No.4/3A and 4/3C, New Survey No.4/3C2B, Plot No.192, LIC Nagar 5th Main Road, Pallikaranai Village, previously Saidapet Taluk, presently Sholinganallur Taluk, Kancheepuram District from one Mr.Ramesh, who actually being the power agent of Mrs.Parimal Nayagi (land owner) vide general power of attorney deed executed on 15.09.2019 vide Doc. No. 11381/2019 registered in Chennai South Joint-I, S.R.O. Moreover, the 4th and 5th accused along with loan application handed over title documents including sale agreement dated 09.09.2020, which was executed between the said Ramesh and Kushal Chand. Thereafter, due diligence scrutiny was conducted by petitioner's legal panel and after that, placing trust and reliance upon the credibility of documents and on the 5th accused, the petitioner issued sanction letter



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on 19.09.2020 for granting loan of Rs.1,02,00,000/- vide Loan Account No.HOU/CHE/0920/815738 repayable over a period of 180 months with 12% per annum rate of interest. Thereafter, after execution of sale deed on 24.11.2020, the 5th accused deposited the title deeds in favour of petitioner by executing Memorandum of Deposit of Title Deeds. So, the petitioner had complied all the legal formalities before sanctioning the loan and no such offence was committed by the petitioner on colluding with other accused. Considering that, the petitioner was erroneously added as 6th accused in the F.I.R. and prayed to quash the proceedings initiated against them. In support of their contentions, they relied on the ratio laid down in the authority held in **Crl. Appeal No...../2024 (arising out of S.L.P. (Crl.)No. 2389 of 2023 dated 24.01.2024 in the case of Vishal Noble Singh vs. State of Uttar Pradesh and another,** wherein the Apex Court held in paras 19 to 22 as follows :-

“19. On a careful consideration of the aforementioned judicial dicta, we find that none of the offences alleged against the accused-appellants herein is made out. In fact, we find that the allegations of criminal intent and other



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allegations against the accused-appellants herein have been made with a malafide intent and therefore, the judgment of this court in the case of Bhajan Lal and particularly, subparagraphs 1, 3, 5 and 7 of paragraph 102, extracted above, squarely apply to the facts of these cases. It is neither expedient nor in the interest of justice to permit the present prosecution to continue.

20. This court, in **Madhavarao Jiwajirao Scindia vs. Smbhajirao Chandrojirao Angre (1988) 1 SCC 692**, reasoned that the criminal process cannot be utilised for any oblique purpose and held that while entertaining an application for quashing an F.I.R. at the initial stage, the test to be applied is whether the uncontroverted allegations *prima facie* establish the offence. This court also concluded that the court should quash those criminal cases where the chances of an ultimate conviction are bleak and no useful purpose is likely to be served by continuation of a criminal prosecution. The aforesaid observations squarely apply to this case.

21. We find that in recent years, the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. Courts have therefore to be vigilant against such tendencies and ensure that acts of omission and commission



having an adverse impact on the fabric of our society must be nipped in the bud.

22. We say so for the reason that while the second respondent-complainant has made grave allegations against the appellants herein and on whose behalf a charge sheet has also been filed against such allegations has failed to appear before this court to justify the same. Such acts would not only cause deep fissures and mistrust between people and also unnecessarily burden the law courts and the criminal justice system.”

5. By way of reply, learned Government Advocate (Criminal side) appearing for 1st respondent would submit that by way of impersonation, the 1st accused Parimala Nayagi, declared herself as a owner of property and fabricated the document colluding with other accused and obtained loan, for that, the petitioner/6th accused also issued sanction letter. Therefore, the F.I.R. was lodged in Crime No.119 of 2021. He would further submit that petitioner bank was involved in another case in Crime No. 187 of 2021 registered for the offence under Sec.419, 475, 467, 468, 471 r/w 120 (b) I.P.C. for one more property situated at Mylapore



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Village, Raja Annamalaipuram, 5th Main Road, S.No.3953/21, Plot No.RA351 admeasuring 3874 sq.ft. without proper field verification, parent document, building plan taking into collateral security and deposited as title deed and registered in the SRO, Mylapore, vide document No. 2120 of 2020 dated 14.10.2020 for the purchase of land for the amount of Rs.2,20,00,000/- and the case is also under investigation. Therefore, submitting all the facts, learned Government Advocate would submit that the petitioner is also involved in a case similar in nature, so, it needs detailed investigation and it is not an ordinary case, it is a case of sanctioning loan by colluding with other accused for more than Rs.one crore, which is a public money. Hence, he prayed to dismiss this petition as no merit.

6. Considering the facts and circumstances and on considering both side submissions, it reveals the fact that already the petitioner is facing another case similar in nature, which needs detailed investigation, since because more than a sum of Rs.1 crore is involved, which is a public money. Therefore, the reason assigned by the petitioner is not



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justifiable one. So also, the authority relied on by the petitioner held in **Crl. Appeal No...../2024 (arising out of *S.L.P. (Crl.)No. 2389 of 2023 dated 24.01.2024 in the case of Vishal Noble Singh vs. State of Uttar Pradesh and another*** is not applicable to the facts of present case. Hence, this Court is not inclined to quash the proceedings initiated against the petitioner. Accordingly, this Criminal Original Petition is dismissed as against petitioner. Consequently, connected Criminal Miscellaneous Petition is closed.

12.02.2024

Index: Yes/No

Internet: Yes/No

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To

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CCB-1, Chennai,
132, EVK Sampath Road,
Vepery, Chennai-600 067.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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