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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.10.2024

Pronounced on : 21.12.2024

CORAM : JUSTICE N.SESHASAYEE

Crl.R.C.No.1494 of 2024
and Crl.M.P.No.12508 of 2024

M.Ignatius Dheepam .... Petitioner / Accused No.1

Vs

State represented by
Inspector of Police
CBI / ACB, Chennai. .... Respondent / Complainant

Prayer : Criminal Revision Petition filed under (Section 397 r/w. 401 of Cr.P.C.,) 438 r/w. 442 BNSS praying to set aside the order dated 01.08.2024 made in Crl.M.P.No.6217 of 2024 in C.C.No.4 of 2014 passed by the learned XI Additional Special Judge for CBI cases (CBI case relating to Banks and Financial Institutions), Chennai.

For Petitioner : Mr.R.Arvind

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor [CBI]

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ORDER

1. This revision is directed by A1 against the order passed by XI Additional Special Court for CBI cases in Crl.M.P.No.6217 of 2024 in C.C.No.04/2014.

2. Vide the petition in Crl.M.P.No.6217 of 2024, the petitioner required summons be issued to three witnesses, all of who are bank officials, and also for production of two documents. It came to be dismissed by the impugned order of the learned trial Judge dated 01.08.2024. The line of reasoning of the learned trial Judge is that earlier the petitioner had filed Crl.M.P.No.5722/2024 under Sec.91 Cr.P.C., seeking the very same documents now sought, and that came to be dismissed by the Court on 11.07.2024, and that the petitioner without challenging the said order, has preferred a second petition for identical relief and it cannot be entertained. This apart, A1 did not take any steps to let in evidence on his part for three years.

3. The broad aspect of the case is that A1, the petitioner herein is the Manager of M/s.Indian Bank, and other accused persons, more particularly A4 who

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represents A5 company have fabricated certain false documents and defrauded Indian Bank of about Rs.20.58 crores. And according to the Investigating Agency, A1 was actively involved in the crime.

4. The trial of the case has substantially completed as it had crossed the stage of questioning the accused persons under Sec.313 Cr.P.C., Turning to the two documents which the petitioner has now sought, they are the files relating to claim petition which State Bank of India, Mumbai, had filed before the Debts Recovery Tribunal-I at Mumbai in O.A.No.92 of 2014, and the loan files of M/s.Uniquestep Marine India Pvt.Ltd., According to the trial Court, these files were sought earlier by the petitioner vide Crl.M.P.No.5722/2024, and it came to be dismissed on the ground that the documents are not specific, nor has it indicated how it is necessary and desirable within the meaning of Sec.91 of Cr.P.C., What the petitioner could not achieve in his petition under Sec.91 Cr.P.C., he now tries to reagitate it by filing a petition under Sec.243 Cr.P.C. r/w. Sec.22 of Prevention of Corruption Act.

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5. Heard both sides. The learned Prosecutor submitted that the core allegation against the accused person is that these are the documents that were used for defrauding the bank and hence, whatever that might have happened before DRT, Mumbai, will not have any relevance here. Eventually it is only the order of DRT, Mumbai, if at all any, which may have some relevance, for which no witnesses need be summoned, nor the entire files be called for, but a mere production of the order passed by the DRT would suffice.

6.1 This Court finds considerable merit in the submissions of the learned Prosecutor. The allegation against the accused person here is that he had forged some documents. Now whatever the bank has lost it has to recover, and if the bank's claim had been settled, that does not ipso facto absolve the petitioner of the criminal liability for which he is now facing trial. This apart, only the offence under Sec.420 Cr.P.C., can be compounded with the leave of the Court but not any of the other offences. Therefore, whatever that might have happened before the DRT, Mumbai may not be relevant here.

6.2 Secondly and more importantly as to whether the petitioner and others have

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conspired to defraud Indian Bank with forged documents is concerned, the burden is entirely on the prosecution to prove the guilty of the accused person beyond all reasonable doubts. And if the prosecution has discharged the burden, then the defence might have to create a improbability of the prosecution case that no documents have been forged to defraud the bank. This in essence is confined to ascertaining the genuineness or otherwise of the documents which the prosecution relies on for proving the charges. Set in the context, any proceedings of DRT, Mumbai, will only be alien to the charge framed against the petitioner.

7. Turning to Sec.22 of P.C.Act, under which the petitioner has preferred the present Crl.MP.No.6217 of 2024 is concerned, Sec.22(a) has modified Sec.243(1) Cr.P.C. to the effect that the accused shall give in writing the witnesses he/she/it proposes to examine at once. However, the trial Court has recorded that A1/revision petitioner has taken more than three years since the questioning under Sec.313 Cr.P.C.,

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8. This Court is not satisfied with the bonafides behind this revision petition and the same is therefore, dismissed. Consequently, connected miscellaneous petition is closed.

21.12.2024

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

To:

1.The XI Additional Special Judge for CBI cases
(CBI case relating to Banks and Financial Institutions)
Chennai.

2.The Public Prosecutor
High Court, Madras.

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N.SESHASAYEE.J.,

ds

Pre-delivery order in
Crl.R.C.No.1494 of 2024

21.12.2024