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W.P.No.28365 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM : **JUSTICE N.SESHASAYEE**

W.P. No.28365 of 2024

State Bank of India
Represented by its Chief Manager
Mr.Sathyanathan.J,
Home Loan Centre
RACPC, Ayyapanthangal
Chennai - 600 056.

... Petitioner

Vs.

Central Bureau of Investigation
Represented by
Joint Director & Head of Zone
Banking Securities and Fraud Zone
V Floor, CBI Head Quarters
No.5B - CGO Complex
Lodhi Road
New Delhi - 110 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to register a First Information Report (FIR) / Regular Case (RC) on the basis of the complaint dated 15.12.2024 and 18.03.2024 lodged by the petitioner with the respondent and pass such other or further orders as this Court may deem fit in the facts and circumstances of the case.



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For Petitioner : Mr.Nithyaesh Natraj

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

ORDER

The writ petition is filed seeking a writ of mandamus to direct the respondent to register a First Information Report (FIR) on the basis of the complaints dated 15.12.2023 and 18.03.2024 lodged by the petitioner with the respondent.

2. The case of the petitioner-Bank is that :

- a) The Retail Assets Centralized Processing Centre (RACPC) is a loan processing cell of the State Bank of India, which looks after the processing, sanction and disbursement of various credit facilities including housing loan, car loan, education loan, etc. RACPC also ensures the compliance of all the credit procedures right from pre-sanction procedures till closure of credit accounts of SBI's clients.
- b) One Mr.S.Vakisan and Mrs.Deivanai (partners of M/s Premier Enterprises, an entity engaged in the distribution of liquor) in collusion with a builder one Mr. D. Santhosh and valuers Mr. M. Vijaykumar and Mr.M.S.Senthil, submitted false construction agreements and inflated valuation reports to



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secure a loan of Rs. 4.26 crores for constructing a residential villa in Chennai. The loan agreement was finalized on 14.08.2020.

- c) The property for whose construction the loan was sought was already constructed in 2016. However, the loan application falsely claim that the building was yet to be constructed, leading to the disbursement of funds which were not used for the intended purpose.
- d) The borrowers, builder, valuers and unknown third parties have entered into a criminal conspiracy and in furtherance thereof, they have dishonestly misappropriated the funds of the bank in violation of the loan agreement, thereby leading to criminal breach of trust. This is evidenced by the fact that a sum of Rs. 55,50,000/- was transferred out of the loan proceeds from the current account of the builder Mr.D.Santhosh to the current account of M/s. Premier Enterprises in Union Bank of India within 'a span of 5 days since the opening of the current account in State Bank of India.
- e) On getting to know the fraud played by the borrowers, the account of the borrowers was declared as “fraud” by the bank on 17.10.2022 and classified as NPA on 14.11.2022 in accordance with the guidelines issued by the RBI. As of 16.03.2024, the aforesaid persons have caused a wrongful loss of public money to the tune of Rs. 5.56 crores.



f) In light of the fraud, the Petitioner bank moved a complaint before the respondent on 15.12.2023. On 20.02.2024, the respondent had instructed the Petitioner to resubmit the complaint after incorporating further facts and proof. On 18.03.2024, the petitioner resubmitted the complaint after complying with the directions of the respondent in the letter dated 20.02.2024.

g) In reply to the letter of complaint dated 18.03.2024, the respondent has issued a reply letter dated 08.08.2024 in which it has revealed that on 14.06.2023 the Home Department of the State of Tamil Nadu had withdrawn the general consent issued to CBI under Delhi Special Police Establishment (DPSE) Act, 1946 for conducting investigation in the State and therefore, the CBI is still awaiting approval from the Government of Tamil Nadu under Section 6 of the DPSE for conducting investigation into the offences alleged by the Petitioner. More than 5 months have passed and the respondent is yet to file a FIR against the accused persons who have defrauded the Petitioner bank and swindled the public money.

h) According to the petitioner-Bank, the respondent does not require the sanction of the Government under Section 6 of the DPSE for registering a FIR.



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3. The respondent did not file any counter. Heard both sides. The learned counsel for the petitioner brought to the notice of the Court the orders passed by two learned Single Judges of this Court in W.P.No.601 of 2024, dated 23.01.2024 and W.P.No.16029 of 2024, dated 05.07.2024, wherein this Court by drawing reference to Chapter VI, Clause 6.1 of the Master Circular on “Frauds – Classification and Reporting” of RBI circular dated 01.07.2016, had directed the respondent CBI to register a case where the allegations involve a fraud played by the borrowers on the bank, exceeds a sum of Rs.3.0 crores. According to the petitioner, in the present case also, fraud had been committed to the tune of Rs.5.56 crores. Necessarily, this Court chooses to do the same what the learned Single Judges have done.

4. In conclusion, this petition is allowed, and this Court directs the respondent to register a First Information Report based on the complaint filed by the petitioner. Nothing herein will preclude the petitioner to challenge the FIR, if they are so desirous. No costs.

14.10.2024

Index : Yes / No

Neutral Citation : Yes/No

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To:

1. The Joint Director & Head of Zone
Central Bureau of Investigation
Banking Securities and Fraud Zone
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2. The Public Prosecutor
High Court, Chennai.



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