IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1670 of 2024
and
Crl.M.P.Nos.13844, 13845 & 13869 of 2024

R.Santhanakrishnan ... Petitioner/A5

Versus

The State,
Rep. by The Inspector of Police,
Central Crime Branch,
Fake Document Investigation Wing, Team-33,
Vepery, Chennai – 7.
(Cr.No.139 of 2018) ...Respondent/complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.30305 of 2023 in C.C.No.12726 of 2022 dated 31.07.2024 by the learned Metropolitan Magistrate for Exclusive Trial of CCB (Relating to Cheating Cases in Chennai) & CBCID Metro Cases, Egmore, Chennai.

For Petitioner : Mr.Nithyaesh Natraj

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

This Criminal Revision Petition is filed seeking to set aside the order passed in Crl.M.P.No.30305 of 2023 in C.C.No.12726 of 2022 dated 31.07.2024 by the learned Metropolitan Magistrate for Exclusive Trial of CCB (Relating to Cheating Cases in Chennai) & CBCID Metro Cases, Egmore, Chennai.

2.This Court, by order dated 03.10.2024, on hearing the petitioner's contention had passed a detailed order and the same is extracted hereunder:

> *"The petitioner/A5 in C.C.No.12726 of 2022, who is facing trial for offences under Sections 420, 465, 467, 468, 471 r/w 120(b) of I.P.C. along with 4 others, filed a discharge petition in Crl.M.P.No.30305 of 2023, which came to be dismissed by the trial Court by order dated 31.07.2024, against which, the present revision is filed.*
>
> *2.The case projected against the petitioner is that the bank officials of State Bank of India, Specialised Agri Commercial Branch, Alwarpet, Chennai, conspired with the accused/private*

persons in extending the loan based on a forged documents submitted by one Vamsi Krishna/A2. One of the guarantors, namely, Sasikumar lodged a complaint to the respondent police that his signature has been forged and his property has been falsely produced as security for M/s.Sri Sai Loukhya Export Private Limited/A1 and on 15.12.2012 a huge sum of Rs.1,50,00,000/- obtained as loan.

3.The contention of the learned counsel for petitioner is that the petitioner has been arrayed as an accused on a mistaken identity. The petitioner never worked in State Bank of India, SME Branch, Adyar (branch code – 13361). He was only employed in Adyar Branch (branch code – 01115). The loan of A1/company was processed by SBI, Specialised Agri Commercial Branch at Alwarpet, later this branch was transferred to SME branch, Adyar. Whatever offence was committed by the other accused, it pertains to SME branch, which is a separate entity, which is nothing to do with Adyar branch. Earlier, a communication was sent by the respondent police to the Deputy General Manager, State Bank of India on 08.07.2022 with regard to furnishing details of Chief Manager, Adyar Branch of SBI during the period from 01.02.2015 to 28.02.2015 which itself on a wrong query, it ought to be only Adyar, SME branch but in general, they asked for Adyar branch. In reply to the letter dated

08.07.2022, the Chief Manager, SBI had sent a communication on 16.07.2022 informing that Santhanakrishnan, i.e., the petitioner herein was the Assistant General Manager in Adyar branch during that period and also furnished contact details and residential address. Thereafter, the petitioner was arrayed as accused without any enquiry.

4.On coming to know about the same, the petitioner had sent a letter to the Pensioners Grievance Redressal of SBI informing about the mistaken identity and the Deputy General Manager, SBI by communication dated 09.08.2023, informed that by mistake a wrong information has been sent and they have also clarified by giving correct details to the Inspector of Police, EDF-II, Team 37, Vepery. Further they had also recommended to exonerate the petitioner from the above case, since he is noway connected in any of the transaction. Verifying CC loan of Sri Sai Loukhya Exports Pvt. Ltd., they had also given details that the loan was sanctioned on 07.12.2012 and renewed on 02.02.2015 by Specialised Agri Commercial Branch, Alwarpet, Chennai. On closure of the branch, the account was migrated to SME branch, Adyar (13361) and SARFAESI notices issued and then transferred the account to Stressed Assets Recovery Branch, Emgore, Chennai. It was one of the guarantors, on 03.02.2018, lodged a complaint and the *petitioner has got nothing to do with it. Further the police without noticing the difference between SME Adyar (13361) and Adyar (1115) branches, sent letters to local head office of the bank. Hence, there was a confusion and all the confusion has been clarified after proper verification. Thereafter, the Presiding Officer of the Lower Court on 28.03.2024, suo-motu re-opened the case and directed the SHO to enquire as to whether the petitioner/A5 was working in SBI, SME, Adyar (13361) and SBI, Alwarpet branch during the period from 01.02.2015 to 28.02.2015 and adjourned the case to 18.04.2024 to file a report.*

5.The respondent police submitted a report before the Lower Court on 06.05.2024 stating that on a mistaken identity and on a wrong notion, petitioner has been included and also submitted documents received from SBI, SME Adyar Branch, SBI, Alwarpet Branch and SBI Pensioners Grievance Redressal and a letter from the Deputy General Manager, SBI stating that they have recommended to exonerate petitioner's name from the CCB case. Thereafter, the Lower Court recorded the receipt of report dated 06.05.2024 and adjourned the case to 04.06.2024 for orders. On 04.06.2024, the case was adjourned to 19.06.2024 for enquiry and again it was adjourned to 31.07.2024. By the time, the erstwhile Presiding Officer of the trial Court got transferred and the present

Presiding Officer took charge. On 31.07.2024, the incumbent Presiding Officer failed to look into the developments after 08.07.2022, more so, final report submitted by the respondent police along with letters of SBI dated 06.04.2024 and passed the impugned order.

6.On the submissions of the petitioner and also resorting to the communications and various reports received from SBI, suo-motu opening of the Court and report of the respondent confirms that by 06.04.2024 it is admitted that there was a mistaken identity and the petitioner has been wrongly arrayed as accused. He has got nothing to do with the loan transaction of other accused A1 to A4. On perusal of the material it is seen that the trial Court on a wrong notion passed the impugned order without verifying the documents in total. Hence, the order passed by the trial Court is perverse, needs to be interfered.

7.The learned Additional Public Prosecutor takes notice for the respondent police and seeks time to file his counter giving details of trajectory of the case and also clarifying the points raised by the petitioner.

8.Though this Court was inclined to grant stay, the learned Additional Public Prosecutor submitted that stay may not be necessary, since the case is posted before the trial Court on

28.11.2024, by the time he would clarify the position and file the report.

9.Post the matter on 16.10.2024 under the same caption 'For Admission'."

3.Subsequent to the order passed by this Court on 03.10.2024, today, the learned Additional Public Prosecutor filed his counter. Referring to the letter dated 06.04.2024, the learned Additional Public Prosecutor confirms that the petitioner was not working in State Bank of India, SME Branch, Adyar (13361) during the period from 01.02.2015 to 28.02.2015, during which period the loan is said to have advanced to other accused, who have become defaulter later. This petitioner has got no role, on a communication sent by the Bank with incorrect particulars, mistakenly he was arrayed as accused. Now it was confirmed from the Bank that petitioner is not working in SBI, SME branch, Adyar for the period from 01.02.2015 to 28.02.2015. The relevant portion of the counter is extracted hereunder:

"10. It is submitted that, Learned Judge, Metropolitan Magistrate, CCB & CBCID Court, Egmore on 01.04.2024 directed the Investigation officer to enquiry whether the petitioner/ Accused [A-5] was working in the SBI, SME, Adyar (13361), and SBI, Alwarpet Branch during the period of 01.02.2015 to 28.02.2015. On 02.04.2024, the investigation officer sent letter to the Manager of SBI SME, Adyar Branch (13361) seeking whether the petitioner/ Accused [A-5] was working in the SBI, SME, Adyar (13361), and SBI, Alwarpet Branch during the period of 01.02.2015 to 28.02.2015. On 06.05.2024, the Investigation officer filed a report given by SBI SME, Adyar Branch (13361) Letter Dt.06.04.2024 stating that the petitioner/ Accused [A-5] was not working in the said Branch during the period of 01.02.2015 to 28.02.2015.

11. It is submitted that, there is transfer of presiding officer in Metropolitan Magistrate, CCB & CBCID Court, Egmore. On 31.07.2024 the Learned Judge without considering earlier direction was please to pass on order.

12. It is submitted that, the petitioner filed this present petition before the Hon'ble High Court of Madras to set aside the order passed in Crl.M.P.No.30305 of 2023 in C.C.No.12726 of 2022, dated: 31.07.2024 by the Metropolitan Magistrate for Exclusive Trial of CCB (Relating to Cheating Cases in Chennai) & CBCID Metro Cases, Egmore, Chennai."

4.The learned Additional Public Prosecutor has also produced a letter dated 06.04.2024 issued by the Chief Manager, SBI, SME Brach, Adyar confirming the petitioner was not working from 01.02.2015 to 28.02.2015 in the Adyar branch (13361) and a letter from the Branch Manager, Alwarpet branch dated 06.04.2024 confirming the petitioner was not working from 01.02.2015 to 28.02.2015 in the Alwarpet branch (02190).

5.In view of the admitted position and finding that the petitioner by mistake wrongly arrayed as accused on a misconception that he was employed in SME Adyar branch during the relevant period. It is now confirmed he never served in the Adyar branch during the relevant period. The petitioner had no role in the loan/advance availed by the other accused, who later became defaulter and this loan papers found to be forged. In view of the same, the impugned order dated 31.07.2024 passed in Crl.M.P.No.30305 of 2023 in C.C.No.12726 of 2022 by the learned Metropolitan Magistrate for Exclusive Trial of CCB (Relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai is set aside and the petitioner is discharged form the above case.

6.Accordingly, the Criminal Revision Case is allowed. Consequently, connected criminal miscellaneous petitions are closed.

19.10.2024

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

To

1.The Inspector of Police,
Central Crime Branch,
Fake Document Investigation Wing, Team-33,
Vepery, Chennai – 7.

2.The Metropolitan Magistrate for Exclusive Trial of
CCB (Relating to Cheating Cases in Chennai) &
CBCID Metro Cases, Egmore, Chennai.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

rsi

Crl.R.C.No.1670 of 2024
and
Crl.M.P.Nos.13844, 13845 & 13869 of 2024

19.10.2024