



WP(MD)No.975 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02/09/2024

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THE HONOURABLE MR. JUSTICE G.ILANGOVAN

WP(MD)No.975 of 2024

S.Dhanabalan

: Petitioner

Vs.

1.Joint Director,
Office of the Joint Director,
South CBI,
Subha Road Avenue,
Thousand Lights,
Chennai-600 006.

2.The Superintendent of Police,
The Central Bureau of Investigation,
A-Wing, Block A4,
3rd Floor,
Besant Nager,
Chennai-600 090.

3.The Inspector of Police,
SPE CBI ACB,
III Floor, Shastri Bhavan No.26,
Headdows Road,
Nungambakkam,
Chennai-600 006

4.The Regional Manager,
Canara Bank,
No.1, Muthiah Tower,
Royal Road,
Cantonment,
Trichy-620 001.
(R4 is *suo muto* impleaded,
vide court order, dated
16/04/2024)

: Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, seeking a Writ of Mandamus to direct the 2nd respondent to take action on the petitioner's complaint, dated 30/11/2023 under the criminal law in the light of the diction laid down by the Supreme Court in the case of Lalitha Kumari Vs.Government of Uttar Pradesh & others reported in (2014)2 SCC 1 and pass such any or other orders.

For Petitioner : Mr.R.Anand

For R1 to R3 : Mr.C.Muthu Saravanan
Special Public Prosecutor
for CBI

For 4th Respondent : Mr.M.Ajmal Khan
Senior Counsel
for Mr.F.Deepak

O R D E R

The Writ Petition is filed seeking direction to direct the 2nd respondent to take action on the petitioner's complaint, dated 30/11/2023 under the criminal law in the light of the diction laid down by the Supreme Court in the case of Lalitha Kumari Vs. Government of Uttar Pradesh & others reported in (2014)2 SCC 1.

2.The facts in brief:-

One P.Kala, W/o.Pandi approached the Canara Bank, Thuvakudi Branch, Trichy for advancing loan amount for developing her business. She was sanctioned a sum of Rs.2 Crores as term loan and other Open Cash Credit facilities



WP (MD) No. 975 of 2024

were also extended. The petitioner is a stranger to the transaction between Kala and the Bank. The petitioner was called by loanee and asked him to stand as a guarantor to the Company. He put his signature in the guarantor column without knowing the contents of the loan application. He has not produced any document to show his credibility. In pursuance of the above said process, on 30/03/2015, a sum of Rs.1.85 Crores disbursed to the Company by the Bank. The petitioner was told that loan was sanctioned for the purpose of purchasing some machineries and other credit facilities. OA No.423 of 2018 was filed before the Debts Recovery Tribunal, Madurai, by the Banker against the loanee namely Mrs.P.Kala and the petitioner was arrayed as one of the parties. In the course of the perusal of the records, he came to know that that the funds were misused by the above said P.Kala, borrowing certain properties contrary to the terms and conditions of the loan agreement. So, it is nothing, but the forgery committed on the Bank by the loanee. She purchased the property on 30/03/2015 in Thuvakudi Industrial Estate. The above said property does not belong to the Company on the date of the loan agreement. But in the loan agreement, Kala has stated that the property belongs to her. The petitioner stood as a guarantor in respect of the loan, which was obtained by false and fabrication of the documents. The Bank Authorities are involved in the transaction. The original



sale deed was not produced by the loanee to the Bank. That was kept pending for conducting enquiry under section 47(1) of the Registration Act. The Debts Recovery Tribunal, Madurai attached the properties. Again, another sum of Rs. 15,00,000/- was sanctioned to the loanees on 20/05/2015. So this shows that Bank Officials are also in collusion with the loanee.

3.Mentioning all these facts, the petitioner sent a complaint to the second respondent herein to take action on his complaint, dated 30/11/2023. Since no proper action was taken till date, this writ petition is filed.

4.Heard both sides.

5.This court is completely at loss to understand the reasoning of the petitioner for the investigation to be taken up by CBI.

6.Even as per the complaint, it is an ordinary offence alleged, that can be taken up for enquiry or investigation as the case may be by the jurisdictional police. Simply because, the loan was sanctioned by the Bank namely the 4th respondent herein and against the loan agreement, the loanee has misused the same for purchasing certain properties and simply because, the allegation has



been made by the petitioner that forgery has been committed not only by the loanee, but collusion is also on the part of the Bank Officials, it does not carry away the jurisdiction of the State Police.

7.For directing the CBI to make any enquiry or investigation as the case may be, a strong has to be made out that too an exceptional one to be dealt with by the Special team.

8.In this regard, the learned Senior Counsel appearing for the 4th respondent would submit that the petitioner is not a special citizen and his complaint is also not a special complaint, which must be entrusted to a special investigation team. He is referring to the various judgments namely **(1)State of West Bengal and others Vs. Committee for Protection of Democratic Rights [(2010)3 SCC 571 and (2)K.Saravanan Karuppasamy and another Vs. State of Tamil Nadu and others [(2014)10 SCC 406]** enlightening the court as to how entrustment of the investigation must be made to the special investigation team.

9.In the judgment reported in **K.Saravanan Karuppasamy and another Vs. State of Tamil Nadu and others [(2014)10 SCC 406]**, the Constitution Bench of the Hon'ble



Supreme Court, even though restrictions have been imposed upon the special team namely CBI, the matter which arises within the particular State, that does not curtail the power of the Constitutions Courts to direct the Special Investigation Team to take the investigation or enquiry as the case may be.

10. There can be no bar to the Constitutional Court to direct the second respondent to enquire by the special team on the particular complaint depending upon the facts and circumstances. Simply because, the complaint has been forwarded and sent by the petitioner to the second respondent that does not *ipso facto* confer the jurisdiction.

11. In this context, the learned counsel appearing for the 4th respondent would bring to the notice of this court the circular issued by the Director/Special Team that CBI can take up the investigation where the amount involved is more than 3 crores.

12. Here, the above Circular, dated 12/06/2012 even otherwise, I am of the considered view that since it is an issue between the Bank and the Guarantor, it is not desirable or it is exceptional case that it must be



WP (MD) No. 975 of 2024

entrusted to the second respondent for enquiry or investigation as the case may be. It is an ordinary offence alleged, it can be taken by the jurisdictional police.

13. It is also seen that OA is pending before the Debts Recovery Tribunal, Madurai and attachment of the property was also made. In that application, the writ petitioner is also one of the parties.

14. In all those circumstances, I am of the considered view that no exceptional case has been made out by the petitioner to entrust same to the second respondent herein. So, the petition is liable to be dismissed, of course liberty is available to the petitioner to prosecute his complaint before the jurisdictional police in accordance with law.

15. The learned counsel appearing for the 4th respondent would also submit that the 4th respondent Bank is the tenant of the petitioner herein; There were some issues with regard to the tenancy issue. But I am not going into that aspect now. It is for the Investigating Officer to take up the issue, whether the complaint has been motivated one because of the tenancy issue.



WP (MD) No. 975 of 2024

16. In the result, this writ petition is **dismissed**, of course liberty is available to the petitioner herein to prosecute his complaint before the jurisdictional police in accordance with law. No costs.

02/09/2024

Index : Yes/No
Internet : Yes/No
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WP (MD) No. 975 of 2024

To,

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Chennai-600 006.
4. The Special Public Prosecutor for CBI,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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