IN THE HIGH COURT AT CALCUTTA

CRIMINAL REVISIONAL JURISDICTION

APPELLATE SIDE

Present:-

HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.

CRR 2239 OF 2015

CENTRAL BUREAU OF INVESTIGATION

VS

SHRI KUSHAL DAS BAKSHI

For the C.B.I/ Petitioner : Mr. Amajit De, Ld. Special P.P. C.B.I.

For the Opposite Party No. : Mr. Saibal Mondal, Adv.
Ms. Sonali Ghosh, Adv.

Last heard on : 12.08.2025

Judgement on : 28.10.2025

CHAITALI CHATTERJEE DAS, J. :-

1. This is an application under Section 401 and 482 of the Code of Criminal Procedure filed by C.B.I against an order dated 28.11.2014 passed by the Learned 3rd Special Judge, CBI, Bankshall Court, Kolkata in Special Case No. 16 of 2010 arising out of RLBSK 2009E003 under Section 120 B.R/W 420/467/468/471 of the Indian Penal Code and Section 13(2) of the P.C Act1988.

The genesis of the case is as follows ;

2. The instant case being RLBSK 2009E003, emanated on the basis of a written complaint dated 15.1.2009 filed by the General Manager and Chief Vigilance Officer, Canara Bank, against 9 accused persons with allegations inter alia that M/s. Raiganj solvent oil industries, Pvt. Ltd. Raiganj, promoted and managed by Rajkumar Rathi with Santosh Devi Rathi as Director, already a defaulter at SBI, Raiganj approached the Burra Bazar Branch, Kolkata of Canara Bank for credit facilities. The company was sanctioned with the following limits;-

OCC Rs. 375 Lakhs (for upcoming edible oil refinery project) primary security Submit; OBDB –Rs. 90 Lakhs

Term Loan of Rs. 450 Lakhs

The limits of the loan were sanctioned against

1) Primary Security of hypothecation of stocks and Books debt

2) Collateral security of-

a) EMT of industrial land and shades (what ₹339 lakhs)

b) Hypothecation of plant and missionary

c) EMT of residential property at Raiganj town (worth ₹80 lakhs)

3) Personal Guarantee of Directors-Shri R.K Ranchi, Managing Director and Smt. S. Devi, Director.

Subsequently, the accounts became overdue and slip to NPA and accordingly an investigation conducted, and it was revealed that the party has fraudulently availed the limits with certain facts like having its registered office at Karanjora . It further revealed that the party developed a connection with the Burra Bazar branch through Karunamoyee Goswami, local youth who acted as a middle man and the company had no way, business connection and only to get the loan sanctioned from Kolkata simply changed the address of the registered office From Raiganj to Kolkata suburbs at Garia. The party made a turnover of ₹ 9.50 lakhs in current account during 5 months from November 2005 to March 2 006 mostly in cash and the cash deposited in current account was withdrawn on the same day only to show turnover in the account. The current account was introduced by M/s. Rigid Auto industry maintaining account with their Grand Street, Kolkata branch and enjoying OCC limit with unsatisfactory operation. That limit was also permitted by Shri K.D Bakshi the then Manager during his tenure and the account is NPA with liability of ₹41.37 lakhs .The company also engaged a middle man Gunadhar Naskar, who paid ₹14.50 lakhs from the term loan account and ₹37.20 lakhs paid to other middleman Karunaamaya Goswami from OCC account who is relative of Shri Goswami and the elder brother of Shri Goswami were paid ₹1 lakh each.

3. Further allegation made that a number of transactions revealed showing large diversion of funds from the accounts by the company and they had no genuine trade transactions and they no business connections with the company. The company submitted audited balance sheet for the year 2003, 2004 and 2005 and the balance sheets were not genuine for all the three years. Accordingly, there were several lapses on the part of the branch official, which facilitated the fund like recommending the proposal for a huge amount to a unit situated

350 km away from Kolkata knowing fully well about the difficulties in monitoring, especially in the case of term loan.

4. On the basis of such allegation made in the written complaint, the investigation started and after completion, the charge-sheet was submitted before the learned 3rd Court of special Judge, CBI, Bankshall Court, Kolkata on 28.6.2010 against the present petitioner and other seven accused persons.

5. The present Opposite Party and another accused Gaurav Rathi filed two separate applications under Section 239 of Cr.Pc before the learned Trial Court, praying inter alia for discharge from the case. The learned Court after hearing all the parties by his order dated 28.11.14, allowed such prayer of the petitioner and discharge him from the case and reject the prayer of Gaurav Rathi. Being aggrieved thereby CBI has filed this revisional application.

6. Learned Special Public Prosecutor argued that the order impugned suffers from gross illegality as the learned Court mechanically, considered the evidence and came to findings in favour of the petitioner for not committing the offence. It is further argued that the observation of the Learned Court about insufficient evidence to frame charges against the accused no.1 is flawed. The argument is that the Court did not consider the role attributed to Accused No. 1 by the Opposite Party, suggesting the decision might be erroneous. The charge-sheet was submitted against K.D Bakshi and it was established primarily criminal conspiracy was hatched by him who sanctioned the loan that resulting huge financial bank loss. Therefore the said order is liable to be set aside.

7. Per contra the submission advanced on behalf of the opposite party is that the Opposite Party was only a Manager Kolkata Circle Office when the loan was not sanctioned by him alone and he had no authority to sanction such huge amount of loan. It was Rabi Das Pyage who directed to assist the project in Raiganj. Not only that the learned Court also ordered for further investigation into the matter in order to ascertain the truth but that never happened. No specific ground has been taken by the petitioner as to why the order is liable to be set aside when the learned judge duly applied his judicial mind. It is clear from the charge-sheet that Anil Girodia the General Manager accorded the sanction on 6.2.06 and Divisional Manager./TFO/core credit General Manager sanctioned and after that K.D Bakshi only put his signature. It is further argued that despite such direction passed by the learned Court, no re-investigation has been conducted, which prima facie suggest that there insufficient basis to proceed with against the present Opposite Party. This further implies the investigation is status might impact the case progressing the case. Furthermore, it is not ascertained as to who sanctioned loan. The Learned Advocate put reliance on a decision reported in ***State of M.P versus MV. Sheetla Sahai, and others. Another[1],*** judgement relied upon passed by the coordinate bench of this Court in CRR number 2602 of 2018. Accordingly, prayed for dismissal of the revisional application.

Analysis

8. Heard the submission of both the Learned Counsels. Serious allegations has been levelled in the written complaint lodged against the present Opposite Party by the complainant, who was the Manager of the Burra bazar Branch and the lapses identified against the officials of Kolkata circle and Burra bazar Branch about dishonesty, wilful negligence recklessness which has facilitated

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[1] AIR 2009 SCW 5514

the borrower /middlemen to perpetrate the fraud on the Bank, Kolkata at the relevant point of time. The amount involves loss to the tune of Rs. 914 lacs to the Burra bazar Branch of the Bank. Pursuant to the written complaint, it was further alleged that despite clear instructions from circle office not to release OCC limit before commencement of commercial production, the Opposite Party released such limit on 2.3.2006 when the commercial production purportedly started only in July 2007. Initially the charges were under Section 120B of IPC read with Section 420/468, 471 IPC and Section 11, 12 and 13(2) read with 13(1)(d) of P.C Act 1988 and substantive offences under Section 4, 24, 68 and 471 IPC and Section 12 of P.C. Act. From the charge-sheet, it can be seen that the questioned document were referred to Government examiner of question documents, Kolkata and the GEQD vide opinion no. DXC– 172/2009/1137 dated 18.6.2010 confirmed the signature of Rajkumar Rathi and Santosh Devi Rathi on the various documents and financial statements furnished to Canara Bank . In course of investigation, it was revealed that the Opposite Party was posted and functioning as Branch Manager there between 29.6 2005 and 13.72006. It also revealed that the company availed term loan of ₹20. Lakhs and working capital CC limit of rupees 29 lakhs from SBI, Raiganj Branch and the CC account on becoming irregular and slipped to NPA on 30.9.2000.A recovery proceeding was initiated before the DRT at Kolkata by SBI and suppressing such defaulter status, the Directors of the company approached the Canara bank and with the assistance of accused, Karunamoyee Goswami contacted Jaideep Dasgupta accused of M/s. Dasgupta and Associates and prepared the project report and forged audited balance sheets of the company for the year 2003-2004 and 2005 showing inflated profit as against actual loss.

The charge-sheet further revealed that the loan application contained glaring discrepancies which were accepted by the opposite party, dishonestly and fraudulently without proper scrutiny and he prepared false credit investigation report on the company without actually making any enquiries with the persons named in the report and without obtaining any opinion report on the company from SBI, Raiganj Branch, and recommended the proposal to Canara Bank.

9. From the charge sheet it transpires that the proposal was further processed in the circle office of. Canara bank by the core credit group and based on recommendation of the core credit group Shri Anil Girota accorded sanction of term loan of ₹450 lakhs for implementation of new oil refinery plant at Raiganj and OCC limit of rupees 375 lakhs with ODBD sublime of ₹90 lakhs as working capital for running the plant on 6.2.2006 and it was communicated to the Burra bazar branch, Kolkata Circle office on 7.2.2006. After that the letter dated 20.2.2006 was signed by the Opposite Party/K.D. Bakshi and the director of the offending company and accordingly the OC limit was to be released only on completion of the project. Accordingly, the charge was against the Opposite Party and being the Senior Manager-in-charge of Canara bank, and he was dismissed from the services of the bank with effect from 17.9.2009. Therefore from charge-sheet which was submitted on conclusion of investigation clearly shows how all persons played role in the entire process but curious enough the charge-sheet only the names of some of the officers can only be found.

10. The Learned Advocate of the Opposite Party draws the attention of this Court to the relevant portion of the charge-sheet in connection with the case which indicate the investigating authority found evidence of a false credit investigation report being prepared on 19.11.2005 and submitted, leading to sanction of loan. This suggests a potentially fraudulent process involving the multiple parties within the Bank's hierarchy. But the present Opposite Party who recommended the proposal to Canara Bank, Circle Office kolkata and the proposal was further processed in the circle office of Canara bank by the core credit group and based on recommendation of the core credit group the then General Manager Sri Anil Girodia on 6.2.2006 accorded sanction of term loan of Rs. 450 lacs for implementation of new oil refinery plant at Raiganj and OCC limit of 375 lakhs with OBDB sub-limit of Rs. 90 lakhs as working capital for running the plant . The sanction of limit was communicated to M/s Raiganj Solvent Oil Industries Pvt. Ltd. By Canara Bank, Burra bazar Branch on 20.2.06 by the Opposite Party only.

It is further seen that in the complaint itself the lapses on part of sanctioning authority at Controlling office were mentioned which suggests that the official working at core credit group while placing the office note before the sanctioning authority falsely mentioned that this is a Kolkata based company incorporated in the year 1994 whereas company's registered office revealed it was changed from Raiganj to Garia only on 5.10.2005.Other allegations are also found mentioned that letter of the opposite party addressed to the General Manager, core credit group, circle office, Kolkata and the appraisal report on the said Raiganj solvent oil industries by Sri Ravi Das Pyage, Technical Field Officer, project appraisal, cell advance section. It is quite surprising that despite the role played by the officers of Core Credit Group in the entire process more so when the complainant specifically pointed out their lapses no charge was framed against any of them and the entire liability fastened to the officials of Burra bazar Branch. It can be said unequivocally that there was negligence on the part of the Opposite Party but whether he had hatched a conspiracy cannot be said to be proved.It was necessary that further investigation ought to be carried out and the Learned Court righty passed such order in view of the peculiar nature of the case. In fact after such sanction the said company repaid portion of the loan. The learned Court considered the fact that the Core credit group and the competent authority of the Canara Bank sanctioned the loan, not only on the basis of the credit report submitted by the present opposite party, but on the basis of the report of the technical field officer. It was further considered by the learned court that if the case of the prosecution is believed to be true, it becomes crystal clear that the present opposite party had no role to play in preparing the appraisal report of technical field officer of core credit group or he had no authority to sanction such a huge amount of loan in favour of the borrower. That apart, if the evidence so projected by the prosecution against the accused was proved before the Court during trial, then also the accused was not liable to sanction the loan in favour of the borrower. The court also expressed his concern that the prosecution did not hurl upon any of the officer of the circle office or the core credit group to be accused person in this case when the chain of conspiracy which started by the submission of credit report by the accused did not ended up to the sanction of the loan and this Court do not find any illegality over such observation.

Before the Trial Court, the submission was made on behalf of the prosecution that in course of investigation, it has found that most of the money of the borrower has been siphoned through the accused No.8 Gaurav Rathi, but the learned Court observed that more than 6 crores of money has been siphoned through the different companies of the accused no.8 and number of charge-sheet witnesses specifically divulged before the IO that the said accused was the Director of most of those companies which were found having fake business name and address, and on that score, the petition filed on behalf of the said Gaurav Rathi was rejected. The above observation and the submission of the learned prosecution made before the learned court leaves no room for doubt that the case of the said Gaurav Rathi was different than that of the present opposite party. It is surprising that despite giving a specific direction to re-investigate the matter regarding involvement of any such Officer of Circle, Office or credit group, no development took place and nothing has been placed before this Court also in this regard. The role attributed by the present opposite party was to accept the loan application which was submitted with audited balance sheet for the year ending 31.3.2003, 31.3.2004 and 31.3.2005 purported to be issued by chartered accountant P. Chakraborty, and without further proceeding for any opinion report on the company from SBI recommended the proposal to Canara Bank , Circle Office, Kolkata, where it was processed by the core credit group and based on the recommendation of the core credit group, the sanction was accorded by the General Manager, Shri Anil Girota. So the core credit group could have detected the laches if any made during recommendation by Opposite Party which was not done.

11. In the written complaint, the lapses on the part of the sanctioning/officials were mentioned which included the officials working at core credit group, the sanctioning Authority, but the name of the officials against whom the lapse was alleged to be attributed was the present Opposite Party the then manager and one J. Poddar then manager of Canara Bank and others without naming any of the officer of the code credit group. The investigating authority did not ascertain who was the sanctioning authority when prima facie they found that the entire responsibility was not on the present Opposite Party, and the sanction was granted only with the permission given by the General Manager of the core credit group. Decision relied upon by the learned advocate representing the Opposite Party ***in State of M.P versus Sheetala Sahai and others (supra)*** where the case was under prevention of corruption act, and it was held that the prosecution, having regard to the right of an accused to have a fair investigation, fair enquiry, and fair trial as adumbrated in Article 21 of the Constitution of India, cannot at any stage be deprived of taking advantage of the materials which the prosecution itself has placed on record. The court arrives at an opinion that when two views are possible, charges can be framed, but if only one and one view is possible to be taken, "shall not put accused to harassment by asking him to face trial. In the said case, the respondent number 1 was a Minister and other respondents were secretary and Engineer in chief, the Deputy Secretary, the Chief Engineers, and the applicant under the ages of the World Bank undertook construction of a dam project. Later on the accounts were audited and report was by the Deputy Accountant General, which was taken note of by the auditor general of India, holding that the payments made to the contractors were irregular and resultantly made additional gains of ₹102.46 lacs to them and pursuing that to a complaint was lodged. The matter was investigated by the Special Police establishment collected all materials and filed charge-sheet in the Court of Special Judge where the charges were framed against the respondents. Aggrieved by and dissatisfied with for the offence mentioned there in revision application was filed before the High Court which was allowed and the state challenge the same before the Hon'ble Supreme Court. On consideration of the materials thereof, it was observed that prosecution has proceeded against the officials in a pick and choose manner. It was considered that in the said case by filing counter affidavit, it was not denied that not only the accused who were in office for a very short time, but also those who retired long back before the file was moved for the purpose of obtaining clearance for payment of additional amount from the government, namely who worked as chief engineer till 24.3.1987 and superintendent engineer who worked till 19.6.1989 have been made accused, but on the other hand, those who were one way or the other connected with the decision have not been proceeded at all.

12. The question remains the basis for selectivity arraigning certain Officers as accused, given the involvement of other persons as per the charge-sheet. More so the direction of the Learned Special Judge directing reinvestigation was not followed as of date suggesting potential inconsistencies in the process of investigation fully endorsed with the observation made by Learned Special Bench and do not find any merit in the revisional application filed by the prosecution to interfere with the order passed by the Learned Court and therefore it is liable to be rejected.

13. Hence this revisional application stands dismissed.

14. The order passed by the Learned Special Judge is hereby affirmed.

15. Let a copy of this order along with the T.C.R if any be returned to the earliest.

16. Urgent certified copy if applied by either of the parties be supplied at an earliest subject to fulfilment of all other formalities

(CHAITALI CHATTERJEE DAS,J.)