IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.10887 of 2025

State Bank of India,
Represented by its Regional Manager, Mr.Monikandan Ramakrishnan,
State Bank of India, Regional Business Office,
Chennai South Zone,
#27/8, Kamarajar Street, West Tambaram,
Chennai – 600045. ... 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 – 110003. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, 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 27.07.2023 lodged by the petitioner with the respondent.

For Petitioner	:	Mr.Nithyaesh Natraj
For Respondents	:	Mr.K.Srinivasan, Special Public Prosecutor for CBI Cases

ORDER

The petitioner, Regional Manager of State Bank of India, Chennai South Zone, West Tambaram, Chennai filed this Writ Petition seeking direction to the respondent/Central Bureau of Investigation to register First Information Report (FIR) on the basis of the complaint, dated 27.07.2023 lodged by the petitioner.

2.Gist of the complaint, dated 27.07.2023 is as follows:

(i)The petitioner, Regional Manager of State Bank of India, Regional Business Office, Tambaram, Chennai is the controller of State Bank of India, Meenambakkam Branch. He has been authorized to lodge complaint under the Regulations 76 & 77 of State Bank of India General Regulations, 1955 which are statutory. The Retail Assets Central Processing Centre (In short "RACPC") is a Loan Processing Cell of the State Bank of India looking after the processing, sanctioning and disbursement of diversified credit facilities such as housing loan, education loan, mortgage loan etc. The RACPC also undertakes the end-to-end facilitation *viz.,* preparation of appraisal, pre-sanction and post-sanction/predisbursement inspections, documentation and account maintenance for all kinds of credit facilities sanctioned till closure of accounts.

(ii)One Mr.Krishnan running a rice mill in the name of M/s.Thamaraiselvi Hitech Rice Mill, Karimedu, Pallipattu, Thiruvallur District. He represented himself to be in the business since 2009. He approached the State Bank of India, Meenambakkam Branch along with his wife Mrs.K.Thamarai Selvi and applied for Housing Term Loan of Rs.5.22 Crore and SBI Suraksha Loan of Rs.27.60 lakhs. Based on their representation and documents produced, Housing Term Loan (HTL Account No.38153499150) for Rs.5.22 Crore and SBI Suraksha Loan (Account No.38161919064) for Rs.27.60 lakhs were sanctioned on 29.12.2018 and 08.01.2019 for purchase of plot situated at Door.No. 19140, Natesan Street, Block No.9, Ward No.C, Zamin Pallavaram, Chengalpet District and constructions thereon with a total project cost of Rs.699.43 lakhs. The Borrowers purchased the said property for a sale consideration of Rs.6 Crore by sale deed dated 09.01.2019 and registered as document No.209 of 2019 with the Sub Registrar Office, Pallavaram. The Borrowers created equitable mortgage in favour of the Bank by depositing the original title deeds of the property and executed a Memorandum of Deposit of Title Deeds dated 25.09.2019. The Bank undertaken due diligence in the form of pre-sanction inspection, Title Investigation Report and took two independent valuation of the property by engaging empaneled professionals. Upon clearance of Title and Valuation, the loan facilities sanctioned to the Borrowers. The Borrowers failed to repay the loan, due to which, the account became Non-Performing Assets (NPA) on 15.05.2021. Thereafter, the Screening Committee at Administrative Office, Chennai verified the documents and found that the panel valuer Mr.A.P.Radhakrishnan entrusted with the valuation of the property gave a report dated 26.11.2018 and valued the property to the tune of Rs.6.26 Crore and the another panel valuer Mr.P.Muthuselvan gave a valuation of Rs.6.02 Crore by his report, dated 12.02.2018. Believing the reports to be genuine, the Bank sanctioned Housing Loan of Rs.5.22 Crore on 29.12.2018 and disbursed an amount of Rs.4.50 Crore on 29.12.2018 for purchase of the plot. Thereafter, the sale deed in favour of the Borrowers Mr.Krishnan and his wife Mrs. Thamarai Selvi registered disclosing the sale consideration as Rs.6 Crore and the Vendor M/s.MPR Constructions Private Limited acknowledged the sale consideration.

(iii)It was found that the Borrowers loan account became sick and classified as NPC on 15.05.2021. The Bank initiated SARFAESI action for recovery of Rs.5,26,12,761/- and the property was put up for auction twice by notices dated 16.09.2022 and 29.11.2022 but could not fetch any purchaser. Prior to SARFAESI action valuation report, dated 12.08.2021 from M/s.Arulnambi Engineering Consultants and another report, dated 06.10.2022 from M/s.Sivasubramani were obtained. These two reports had given the value for the very same property to the tune of Rs.5.30 Crore. From the above two valuation reports and from the fact that no bidders came up for purchase of the property even for reserve price of Rs.3.46 Crore, it is proved that the valuation of the property was highly inflated by the valuers at the time of sanction of housing loan. It was also found that the vendor to the property M/s.MPR Constructions Private Limited actively conspired and connived with the Borrowers and gave inflated value to the property to the tune of Rs.6 Crore as sale consideration. Thus, the Borrowers Mr.P.Krishnan, his wife Mrs.K.Thamarai Selvi, the Valuers Mr.A.P.Radhakrishnan, Mr.P.Muthuselvan and Mr.Ranganathan, Power of Attorney of Vendor M/s.MPR Constructions Private Limited and its Director Mr.R.Punithanathan all colluded themselves to induce the Bank to part with the public money and thereby cheated the bank causing loss and corresponding gain to the borrower and others.

(iv)It is seen that in this case, the market value of the land estimated more than three times of the guideline value of the land. This inflated value has been estimated by the Valuers with fraudulent and dishonest intention and thereby induced the bank to sanction for Rs.5.22 Crore to the Borrowers. The act of the valuers has caused a wrongful and financial loss to the extent of Rs.6,11,58,508/-.

3.The learned counsel for the petitioner submitted that after obtaining the sanction under Section 17A of Prevention of Corruption Act, 1988 for involvement of the Bank officials, the complaint was given to the respondent. But the respondent by communication, dated 20.02.2024 returned the complaint referring to the decision of the Hon'ble Apex Court in the case of "***State Bank of India and others v. Rajesh Agarwal and others*** reported in ***(2023) 6 SCC 1***" stating that before lodging a complaint in the Bank Fraud Case, the borrower/accused must be accorded appropriate opportunity and heard vis-a-vis the allegations in the complaint, which is not proper. For the communication, dated 20.02.2024, the Bank sent a reply on 04.03.2025 stating that ***Rajesh Agarwal*** case is two fold one for classifying the borrower as wilful defaulter or blacklisting, where notice to borrower is imperative, but not for registering FIR in a criminal case of fraud, cheating and misappropriation. Despite such reply, the petitioner's complaint not acted upon.

4.He further submitted that the complaint ought to have acted upon immediately since there is a possibility that the accused to escape from clutches of law. In Chapter VI of Master Circular on "Frauds Classification and Reporting" issued by the Reserve Bank of India, a tabulation given, wherein the Amount involved in the fraud and Agency to whom the complaint should be made are given. In this case, the fraud and misappropriation committed is around Rs.6 Crore and there is an involvement of bank officials/public servant. Hence, the complaint was lodged to the respondent who is the authorized person, as per the guidelines of Reserve Bank of India, to register a case and to investigate. Contrary to it, a communication, dated 20.02.2024 was sent by the respondent. Despite the complainant sending reply, dated 04.03.2025, the complaint of the petitioner not acted upon. Hence, he prays for appropriate direction for registration of First Information Report.

5.The learned Senior Counsel/Special Public Prosecutor appearing for the respondent fairly submitted that the communication of the respondent, dated 20.02.2024 citing the decision of the Hon'ble Apex Court in ***Rajesh Agarwal***, is not correct. Referring to para 37 of the decision (***Rajesh Agarwal***), the learned Special Public Prosecutor submitted that the judgment of the Hon'ble Apex Court is two fold that only in case of delay wilful defaulter or blacklisting the account prior notice is requirement and it is not so for criminal offences. Referring to para 37, the learned Special Public Prosecutor submitted that the Hon'ble Apex Court held that "*At the outset At the outset, we clarify that principles of natural justice are not applicable at the stage of reporting a criminal offence, which is a consistent position of law adopted by this Court.*" Further, in para 38, the Hon'ble Apex Court in "***Union of India v. W.N.Chadha*** reported in ***(1970) 2 SCC 458***" had held that "*providing an opportunity of hearing an accused in every criminal case before taking any action against him would "frustrate the proceedings, obstruct the taking of prompt action as law demands,* *defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd and self-defeating.""*. In conclusion, in para 98.1, it had held that "*No opportunity of being heard is required before an FIR is lodged and registered.*" The learned Special Public Prosecutor fairly submitted that in the event of appropriate direction, the respondent/Central Bureau of Investigation would register FIR and proceed with the investigation

6.He further submitted that as per the direction of the Reserve Bank of India *vide* its Master Circular dated 01.07.2016 (Frauds Classification and reporting by commercial banks and select FIs) in RBI/DBS/2016-2017/28 DBS.CO.CFMC.BC.No.1/23.04.001/2016-17, the Reserve Bank of India has classified the frauds committed and issued certain guidelines for reporting frauds to Police/CBI in Chapter VI. He further submitted that the petitioner is a largest public sector bank and the complaint discloses the fraud and misappropriation committed by the Borrowers of the loan in active collusion with the Vendor, Valuers and other loan processing officials of the bank. Hence, the complaint of the petitioner needs detailed and thorough investigation to unearth the deep-rooted conspiracy and to recover the public money.

7.Considering the rival submissions and on perusal of the materials, it is seen that the Borrowers Mr.P.Krishnan and his wife Mrs.K.Thamarai Selvi approached the State Bank of India, Meenambakkam Branch and obtained the Housing Term Loan (HTL Account No.38153499150) and SBI Suraksh Loan (Account No.38161919064) for purchase of land and construction to the tune of Rs.699.43 lakhs. Thereafter, the Borrowers purchased the property for a sale consideration of Rs.6 Crore by sale deed dated 09.01.2019. For proper repayment, the borrowers created equitable mortgage in favour of the Bank by depositing the original title deeds of the property and executed a Memorandum of Deposit of Title Deeds dated 25.09.2019. Since the borrowers failed to adhere to the repayment, the account had become NPA on 15.05.2021, hence the Bank initiated SARFAESI action for recovery of the amount and the property was put up for auction but could not fetch a purchaser. In the subsequent valuation reports obtained from M/s.Arulnambi Engineering Consultants and from Mr.M.Sivasubramani, it is found that earlier valuation reports of the panel valuers is three times higher than the market value of the property. Due to such high inflation, no bidders came forward to purchase the property even a reserve price of Rs.3,46,00,000/- was fixed for auction. Thus, the Borrowers Mr.P.Krishnan and his wife Mr.K.Thamarai Selvi, the valuers Mr.A.P.Radhakrishnan, Mr.P.Muthuselvan, the Vendor of the property M/s.MPR Constructions Private Limited and its Director Mr.R.Punithanathan colluded themselves to induce the Bank to part with public money and thereby cheated the Bank causing huge loss of Rs.6,11,58,508/-.

8.It is seen that the Bank Officials and RACPC Officials, Tambaram while processing the loan documents have not followed the guidelines of the Bank. In this case, already sanction under Section 17(A) of Prevention of Corruption Act, 1988 obtained. In view of the same, the respondent to register the FIR and to proceed with the investigation. Since the Government of Tamil Nadu has withdrawn the General Consent to investigate the offences under Delhi Special Police Establishment Act, 1946, it has become necessary to obtain permission to investigate offences by the Central Bureau of Investigation on case to case basis by issuance of notification under Section 6 of Delhi Special Police Establishment Act, 1946 by Government of Tamil Nadu. It is not in dispute that the complainant is a Public Sector Bank and huge amount of public money siphoned out by the offenders.

9.In similar situation, this Court by orders, dated 23.01.2024, 05.07.2024 and 14.10.2024 in W.P.Nos.601 of 2024, 16029 of 2024 and 28365 of 2023 directed the respondent/Central Bureau of Investigation to register FIR based on the complaint of State Bank of India and to proceed with the investigation in accordance with law and file a final report as expeditiously as possible.

10.In view of the above, this Writ Petition stands allowed with a direction to the respondent/Central Bureau of Investigation to register an First Information Report on the complaint of the petitioner, dated 27.07.2023 and proceed with the investigation in accordance with law. No costs.

09.04.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
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,
V Floor, CBI Head Quarters,
No 5B-CGO Complex-Lodhi Road,
New Delhi – 110003.

2.The Special Public Prosecutor for CBI Cases,
Madras High Court.

M.NIRMAL KUMAR, J.

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