IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.08.2025
PRONOUNCED ON: 29.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.23043 of 2025
and
Crl.M.P.No.15769 of 2025

R.Prakash ... Petitioner

Vs.

State rep by
Inspector of Police,
Central Bureau of Investigation,
ACB Chennai. ... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, to call for the records relating to CC 46 of 2011 pending on file of XI Additional Special Judge CBI, Chennai and quash the charge sheet.

For Petitioner	:	Ms.S.K.Pushppasri
For Respondent	:	Mr.K.Srinivasan, Special Public Prosecutor for CBI Cases

ORDER

This Criminal Original Petition is filed to call for the records relating to CC 46 of 2011 pending on file of XI Additional Special Judge CBI, Chennai and quash the charge sheet.

2.The case of the prosecution is that the Assistant General Manager, Union Bank of India, Regional Office, Salem, lodged a complaint to the respondent seeking to initiate legal action against one G.Kasinathan, Branch Manager, Union Bank of India, Thiruvannamalai Branch, who connived with the dealers and agents and borrowers in the sanction and disbursement of various agricultural loans. The said Kasinathan was posted to the Union Bank of India, Thiruvannamalai Branch on 15.12.2008 and he along with one V.Kannan were holding the post of Branch Manager till 21.12.2008. Thereafter V.Kannan got transferred and the said Kasinathan acted as Branch Manager till 29.06.2009. The said Kasinathan in connivance with M/s.Annamalayar Motors, M/s. Aruneshwara Hi-Tech, M/s.Om Motors, M/s.Sakthivel Engineering Works, M/s.Shri Shivamalai Motors, M/s.Vijay Agro Agencies and other dealers of Tractors and Power Tillers, sanctioned and disbursed 66 agricultural loans including crop loans on different dates to the borrowers without proper documents and with forged documents and the amount not utilized for the purpose for which it was granted. This was found out during internal inspection. The said Kasinathan, Branch Manager without properly processing the records submitted by the borrowers without proper credit appraisal, without interaction with the borrowers, without pre-sanction inspection as per the Bank norms and guidelines, sanctioned 66 agricultural loans. The loans sanctioned were disbursed through Pay orders to the dealers concerned but the dealers not delivered the Tractors/Power Tillers and its accessories to the borrowers. The bills submitted found without serial numbers, invoice and delivery challan without engine or chassis number which are the primary documents and evidence for the supply of said items to the loanees. The post-sanction inspection not conducted. The Tractors/Tillers not physically verified. The Pay orders received by the dealers were credited to the respective accounts, the amounts withdrawn by the dealers, a portion of the loan amount handed over to the borrowers, without delivering the tractors and power tillers and thereby siphoned off the loan amounts. Hence, a complaint was lodged. On receipt of the complaint, a case in RCMA12010A0023 was registered which lead to filing of five charge sheets. As regards C.C.No.46 of 2011, the petitioner in Crl.O.P.No.23043 of 2025 is arrayed as A3 and along with him, six others are being prosecuted.

3.The primary contention of the learned counsel for the petitioner is that the Assistant General Manager, Union Bank of India on the same day lodged a complaint to the respondent for a similar offence against V.Kannan, Branch Manager, Union Bank of India, Thiruvannamalai Branch for identical misdeeds and a case in RCMA12010A0022 registered and investigated which lead to filing of six charge sheets in C.C.Nos.4, 5, 6 , 7, 9 and 10 of 2012. The petitioner/Prakash arrayed as A4 was convicted in C.C.No.6 of 2012 and as A2 in C.C.No.10 of 2012. The petitioner preferred appeals before this Court in Crl.A.No.659 of 2018 and Crl.A.No.675 of 2018. This Court dismissed the appeals and confirmed the conviction of the Trial Court by judgment dated 10.10.2023. The petitioner preferred Special Leave Petition before the Apex Court in SLP(Crl.).No.018305 of 2015. She would submit the petitioner already convicted for similar cause of action, now for the same offence and for the same transaction, the petitioner is being tried again in C.C.No.46 of 2011 and the witnesses are almost the same and facts identical. She would further submit that since the petitioner already tried and convicted in a previous trial for same set of facts forming part of a single transaction. The petitioner cannot be again prosecuted as per Section 300 Cr.P.C. and Article 20(2) of Constitution of India. The Trial Court ought to have clubbed all cases and tried together as one case or tried simultaneously finding all arises out of the same transaction as per Sections 219 and 220 of Cr.P.C. Further, the charge under Prevention of Corruption Act simplicitor is legally untenable. The petitioner is not a public servant and he is a private individual and does not come within the definition of Section 2(c) of the Prevention of Corruption Act. The Trial Court failed to consider the above proceedings arise of same series of facts and continuing conspiracy, there cannot be separate conspiracy for each case since the same modus operandi is projected against the petitioner and the witnesses are all common. The petitioner already tried and convicted in C.C.No.6 of 2012 and C.C.No.10 of 2012 and the conviction is in subsistence for the same offence, hence second prosecution cannot proceeded in view of bar under Section 300 Cr.P.C. She further submitted that Section 300 Cr.P.C. is based on the maxim *nemo debet bis vexari, si constat curiae quod sit pro una et eadem cause.* Thus Section 300 Cr.P.C.

bars the trial of a person not only for the same offence but also for any other offence on the same set of facts. Hence the above case is barred, double jeopardy.

4.In support of her submissions, the learned counsel for the petitioner relied on the decision of High Court of Bombay in ***Mohit Bharatiya v. State of Maharashtra*** reported in ***2024 SCC OnLine Bom 3666*** and the decision o High Court of Allahabad in ***Kameshwar and Another v. State*** reported in ***1958 Cri LJ 583(2)*** for the point that where there are number of offences alleged to have been committed in pursuance of criminal conspiracy, the link which unites the various offences is the link of conspiracy so that whatever be the offence committed in pursuance of the conspiracy, there would be atleast one single crime which the accused is said to have been committed in respect of all of them. Further, relied on the decision of this Court in ***Vishwalingasamy and others v. The Inspector of Police, Uthukuli Police Station, Tirupur*** reported in ***2021 SCC OnLine Mad 14746*** for the point that once Court finds that the person has been already charged, convicted then inherent powers under Section 482 Cr.P.C can be invoked and charge sheet can be quashed

5.The learned Special Public Prosecutor for CBI Cases appearing for the respondent strongly opposed the petitioner's submissions and submitted that offences charged against the petitioner might appear to be similar or same, but the facts of each case are not one and the same. In RCMA12010A0023, the offence was committed during the tenure of G.Kasinathan/A1 in this case who was the Branch Manager from 15.12.2008 to 29.06.2009 of Tiruvannamalai Branch. As regards RCMA12010A0022, it was during the tenure of V.Kannan, Branch Manager, during the period from February 2008 to December 2008. Hence, the Principal conspirator are different. Further, modus operandi might be same but the dealers and beneficiaries are different. The petitioner is the partner in Mahaganapathy Motors and Proprietor of Vijay Agro Agencies. Apart from these two concern, others Dealers of Tractors and Power Tillers conspired in commission of offence.

6.He further submitted that as per Section 300 Cr.P.C, it is clear that a person who is once tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence on the same facts. In this case, the facts are totally different. The case in which petitioner was convicted is C.C.No.6 of 2012 wherein the petitioner along with A2 and A3 therein had projected themselves as Partners of Maha Ganapathy Motors who are the Dealers of Sonalika Tractor and invoices and sale documents issued in the name of one Shanmugam/A8, Venkatachalapathy/A9 for Power Tiller loan. The beneficiaries of the loans not purchased any Tractor or Tiller but conspired with the other accused including the petitioner and misappropriated and cheated the loan amount. Similarly in C.C.No.10 of 2012, the petitioner in the name of Vijay Agro Agencies had committed similar offences wherein the beneficiaries are one Balaraman, Pitchandi, Jayalakshmi, Natarajan, Jayalakshmi, Kulandhaivelu and Narayanaswamy, Lakshmanan, Jayaprakash, Ezhumalai and Arul. In each case, beneficiaries are different and the petitioner in the name of dealer of tractor and power tiller was instrumental in creation of forged documents and submitted the same to the bank and thereafter in conspiracy involved in diversification of the loan amount without supply of Tractor and Tillers. The agricultural land documents, revenue records, invoices and bills all forged in different names. The beneficiaries are different.

7.He further submitted that two set of cases have been filed, in one set of cases V.Kannan was Manager and in the other set of cases, when G.Kasinathan was Manager, during a different period for different beneficiaries. Modus operandi might appear similar but facts are in total variance. The petitioner participated in the trial Court in C.C.Nos.6 and 10 of 2012, during trial not raised any such objections and filed any petition to try all the cases together in one trial or simultaneously, now convicted, appeal dismissed, thereafter filed these petition just to protract the case. In this case, now almost all the witnesses examined including Investigating Officer. On 18.10.2023 questioning under Section 313 Cr.P.C. completed and now case is at the stage of arguments. At this stage, the present petition filed which is not sustainable either in law or on facts. Hence, prayed for dismissal.

8.Considering the rival submissions and on perusal of the materials, it is seen that modus adopted by the petitioner might appear to be similar but the fact of each case are different. The conspirators and conspiracy appears identical but substance of conspiracy are different. In this case, the borrowers are A4/Ezhumalai, A5/Kuppusamy, A6/Vadivel, A7/Murugan, A2 is the Proprietor of M/s.Aruneshwara Hi-Tech and the petitioner is the partner of M/s.Vijaya Agro Agencies, had conspired with the other accused in commission of the offence in the present case. The facts are not one and the same. In view of the above, the contention of the petitioner is not sustainable.

9.Accordingly, this Criminal Original Petition is dismissed. Consequently, connected criminal miscellaneous petition is closed.

29.08.2025

Index:Yes/No
Speaking Order/Non-Speaking Order
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To

1.The XI Additional Special Judge CBI,
Chennai.

2.The Inspector of Police,
Central Bureau of Investigation,
ACB Chennai.

3.The Special Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

cse/vv2

Pre-delivery order made in

Crl.O.P.No.23043 of 2025

29.08.2025