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.23046 of 2025 and
Crl.M.P.No.15774 of 2025

Vijayakumar ... 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 C.C.No.51 of 2011 pending on file of XI Additional Special Judge CBI, Chennai and quash the charge sheet Vide No.40.

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 C.C.No.51 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, agents and borrowers in 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 enquiring with the borrowers, without pre-sanction inspection not following 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, Tractors/Power Tillers and its accessories to the borrowers. The bills submitted found without serial numbers, invoice and delivery challan without engine and chassis number and without proof for the supply amounts released. 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 actual delivery of tractors and power tillers and thereby siphoned off the loan amounts. Hence, a complaint 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.51 of 2011, the petitioner in Crl.O.P.No.23043 of 2025 is arrayed as A6 and along with him, eleven others are being prosecuted.

3.The primary contention of the learned counsel for the petitioner/A6 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/A6 is only a Salesman at M/s.Ramajayam Tractors, Tiruvannamalai. It is projected as though the petitioner in connivance with the other accused, namely, A1 to A5 and proprietor of M/s.Ramajayam Tractors and M/s.Sakthivel Engineering Works is said to have created forged documents in the names of loanees. The petitioner convicted in C.C.Nos.4, 5, 9 and 11 of 2012. The petitioner preferred appeals before this Court in Crl.A.No.680 of 2018, Crl.A.No.682 of 2018, Crl.A.No.683 of 2018 and Crl.A.No.684 of 2018. This Court by judgment dated 10.10.2023 modified the conviction and sentence and partly allowed the appeals in Crl.A.No.680 of 2018, Crl.A.No.682 of 2018 and Cr.A.Nos.683 of 2018. Further, this Court by judgment dated 10.10.2023 allowed the appeal in Crl.A.No.684 of 2018 by setting aside the conviction and sentence. Challenging the judgment passed by this Court by modifying the sentence, the petitioner preferred Special Leave Petitions before the Apex Court in SLP(Crl.).Nos.4530, 15951 and 2426 of 2024. 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.51 of 2011 and the witnesses are almost the same and facts are identical. She would further submit that since the petitioner has already tried and convicted in a previous trial for same set of acts forming part of a single transaction. The petitioner again cannot be prosecuted as per Section 300 Cr.P.C. and Article 20(2) of Constitution of India. The Trial Court ought to have clubbed or tried all cases together finding all cases 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 that the above proceedings arise of same series of acts and continuing conspiracy and there cannot be separate conspiracy for each case since the same modus operandi is projected against the petitioner and the witnesses are all common, and the petitioner already tried previously in C.C.Nos.4, 5, 9 and 11 of 2012 and convicted by the Trial Court and the conviction is in subsistence for the same offence, second prosecution not permitted in view of 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 the 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 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 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 is different. Further, modus operandi might be same but the dealers and beneficiaries are different. A1 and A2 entered into a criminal conspiracy with A3 to A7 and the borrowers A8 to A12 abused their official position and resorted to the modus operandi of sanctioning and disbursing the agricultural loans for the purchase of Power Tillers to the Farmers who are not eligible for the same, by flouting the norms of the Bank and siphoned off the public money. The petitioner/A6 prepared quotation on behalf of M/s.Sakthivel Engineering Works who is not an authorized dealer for the sale of Power Tillers. Thus, A1/G.Kasinathan in connivance with the petitioner/A6 and other accused siphoned off the public money. Thus, the accused had actively participated in pursuant to the conspiracy and cheated the bank.

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 set of facts. In this case, the facts are totally different, without supply of Tractor and Tillers, invoices and sale receipts created with false particulars. The agricultural land documents, revenue records, bills, invoices, all forged in different names. The beneficiaries are different. The petitioner participated in Trial in C.C.Nos.4, 5, 9 and 11 of 2012., during trial the petitioner not raised any objections of similarity of case, filed any petition to try all cases as single trial or simultaneously, now after conviction, dismissal of appeal filed the above petition to protract the trial. In this case, Investigating Officer examined and prosecution closed on 05.05.2025. At this stage, the present petition has been filed. Hence, prayed for dismissal.

7.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 facts of each case are different. The conspirators and conspiracy might look identical but are in variance. In this case, A1 and A2 accepted the blank loan documents signed by the borrowers and without verifying the genuineness of the same, sanctioned the loan. The petitioner/A6 prepared the quotation on behalf of M/s.Sakthivel Engineering Works. A1 accepted the loan document and sanctioned the loan. M/s.Sakthivel Engineering Works did not effect the supply of Power Tillers and instead utilized the said amount paid through Pay order by depositing in the bank account and thereafter, the amount was handed over to M/s.Sri Ramajayam Tractors. It is also seen that in this case, Investigating Officer examined and prosecution closed on 05.05.2025. It is seen that the petitioner for the borrower A8/G.Sivalingam had caused to issue proforma, invoices of M/s.Sakthivel Engineering Works/A4 and signed the same as though it was issued by A4 who is not an authorized dealer. Likewise for the loanee A9.Murugesan, similar overt act has been attributed against him. As also for A10/Munian, A11/Munusamy and A12/Thirumoorthy, the petitioner in connivance with the bank officials created forged documents. The documents forged are different and the beneficiaries are also different in each case. In view of the above, the contention of the petitioner is not sustainable.

8.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
cse/vv2
To

1.The XI Additional Special Judge CBI,
Chennai.

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

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

cse/vv2

Pre-delivery order made in

Crl.O.P.No.23046 of 2025

29.08.2025