IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.No.29381 of 2024
and Crl.M.P.Nos.16459 and 16462 of 2024

S.Nirmal Kumar .. Petitioner

Versus

1. State represented by
   Deputy Superintendent of Police,
   Central Bureau of Investigation,
   Economic Offence Branch,
   Rajaji Branch, Chennai.
   (R.C.No.07(E) of 2023)

2. R.Anandha Ganesan,
   General Manager,
   State Bank of India,
   Commercial Clients Group,
   Regional Office, Chennai. .. Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records and quash the charge sheet in C.C.No.1920 of 2024 pending trial on the file of the Additional Chief Metropolitan Magistrate Court, Egmore.

For Petitioner : Mr.M.Velmurugan,
for Mr.S.Shankar

For Respondents : Mr.B.Mohan
Special Public Prosecutor (C.B.I)
for R1

ORDER

This Criminal Original Petition is filed to call for the records relating to the charge-sheet in C.C.No.1920 of 2024 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore. The Criminal Original Petition is filed on behalf of *S.Nirmal Kumar*, who is arrayed as accused No.3.

2. Heard *Mr.M.Velmurugan*, learned Counsel for the petitioner and *Mr.B.Mohan*, learned Special Public Prosecutor (CBI), for the first respondent.

3. *Mr.M.Velmurugan*, the learned Counsel for the petitioner, taking this Court through the entire final report, would submit that the gravamen of the allegations in this case is that the first accused Company had fudged the stocks and the other accounts to claim higher turnout of volume, thereby, made the bank to increase the withdrawal limit in the Overdraft facility granted to them and drew more amount than to which they were actually entitled and thereafter, the amounts were not repaid and loss was caused to the bank. In the whole process, the learned Counsel for the petitioner would submit that it can be seen that it is only the Company and the Directors who are responsible and were the beneficiaries of the transaction. The Company is already into liquidation.

4. As far as the Managing Director is concerned, *Rahoul Jain*, against whom the allegations are primarily made also, since died. The Chairman of the Company, namely *Ashok Kumar*, who is another primary officer responsible for the affairs of the Company also since passed away. Now,

only the other Director, namely *Shuchi Jain*, who is the wife of the Managing Director and this petitioner are facing the trial. This petitioner was only working as Accounts Manager in the Company. As such, he is not a beneficiary of the loan amounts drawn from the bank. There is absolutely no evidence at all that this accused received any pecuniary advantage in respect of any of the transactions. The only shred of evidence that is against this accused is that he signed some of the stock statements which are said to be fudged as per the prosecution.

5. The only person who has spoken about this petitioner in the entire case is only *L.W.80*, namely *G.Velu*. The said witness, even in his statement in third paragraph, has categorically stated that he has prepared the stock statement with inflated figures only on the instructions of *Rahoul Jain*. The said paragraph is extracted hereunder for ready reference:-

> "I received stock statement from Satyavedu unit and Krishnagiri unit through mail on every month. Based on the stock statement, I prepared the consolidated stock statement after verifying the opening stock, purchase, sales

> and closing stock and placed the stock statement before Shri Rahoul Jai. He will verify the stock statements and will suggest to make some adjustments in the stock statements to show higher stocks in the units. As suggested and advised by him, I will prepare the stock statement with inflated stock value. To arrive more DP, as suggested and advised by Shri Rahoul Jain, I made the changes in the manufacturing and processing of stocks and inflated the closing balance in the stock statement. The stock statements were prepared mainly as per the requirement of DP. After verifying the stock statements, it was signed by Shri S. Nirmal Kumar, Manager (Accounts) and it was submitted to State Bank of India."

6. However, in grave contradiction to the said statement, in his further statement, which is extracted in the next paragraph, he includes the name of the petitioner also. The said paragraph is extracted hereunder:-

> "Every month, I used to received the stock statements through mail from Satyavedu and Krishnagiri and as per the suggestions and advise by Shri Rahoul Jain, Smt Shuchi Jain and Shri Nirmal Kumar, I changed the stock position in the stock statement with the inflated quantity of stocks and submitted to Shri Nirmal Kumar, Manager (Accounts). After his signature, I sent the stock statement to SBI through mail."

Therefore, that evidence is self-contradictory from the statement of *G.Velu* himself. Therefore, the learned Counsel would submit that if the employees, like the witness *Velu* as well as the petitioner, *S.Nirmal Kumar*, have gone ahead as per the instructions of *Rahoul Jain*, the petitioner should not have also been prosecuted. He should have also been added as a witness, especially, when he has not received any pecuniary advantage arising out of the whole transaction.

7. Per *contra*, the learned Special Public Prosecutor would submit that even as per the learned Counsel for the petitioner, one shred of material is available in the form of the statement made by *L.W.80*. When, *prima facie*, some material is available, it is not for this Court to weigh the evidence and its adequacy thereof for the purpose of considering the application for quashing the final report. Therefore, he would submit that when, *prima facie*, there are materials, this Court should not interfere at the stage of quashing the final report.

8. I have considered the rival submissions made on either side and

perused the material records of the case.

9. It may be true that the Company has gone into liquidation and the Managing Director and the Chairman have since passed away. However, when the final report has been laid, even if there is one shred of evidence, that is, materials in the form of the statements signed by the petitioner and the statement of one witness who has named the petitioner as if he has instructed him, this Court cannot interfere in the matter as if no materials at all are available. Whether the existing materials would be enough for convicting the accused, whether he received any pecuniary advantage and whether there was any intention on the part of him, are all matters to be demonstrated during the course of the trial and should be considered by the Trial Court. Therefore, leaving open the liberty of the petitioner to raise all grounds, including the ones which are raised before this Court in this quash petition, to be raised during the course of the trial, I am of the view that this is not a fit case for interference by this Court at this stage.

10. Therefore, leaving open the liberty of the petitioner to raise all the grounds during the course of the trial, this Criminal Original Petition stands disposed of. At this stage, the learned Counsel for the Petitioner prays that, except for the necessary hearings, the presence of the petitioner be dispensed with. Considering the nature of the allegations that are made and the submissions made by the learned Counsel for the petitioner, except for the necessary hearings such as framing of charges, questioning and other hearings which the Trial Court may insist upon, the presence of the petitioner/accused No.3 before the Trial Court stands dispensed with. Consequently, connected miscellaneous petitions are closed.

13.06.2025

Neutral Citation : no
grs

To

1. The Additional Chief Metropolitan Magistrate,

Egmore.

2. The Deputy Superintendent of Police,
   Central Bureau of Investigation,
   Economic Offence Branch,
   Rajaji Branch, Chennai.

3. The Public Prosecutor,
   High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.

grs

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