IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 19.11.2025**

CORAM:

**THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA**

**Crl.O.P.Nos. 26823 & 27577 of 2025**
**&**
**Crl.M.P.Nos. 18257 & 18665 of 2025**

**Crl.O.P.No. 26823 of 2025**

Arasada Satish Babu ... Petitioner

Vs.

1.State by Inspector of Police
Central Crime Branch Team 12
Bank Fraud Investigation Department
Vepery, Chennai 600 007.

2.State Bank of India,
Rep. By its Regional Manager,
Administrative Office: State Bank of India
Zone – I, Network 1, Region 1, Chennai North
No.231, NSC. Bose Road,
Chennai 600 001. ... Respondents

**PRAYER** : Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, to call for the records in CC.No.1601 of 2024 on the file of the learned Additional CCB Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

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|---|---|---|
| For Petitioner | : | Mr. A.Saravanan |
| For Respondent 1 | : | Mr. K.M.D.Muhilan<br>Additional Public Prosecutor |
| For Respondent 2 | : | Mr. A.Arfat Mohammed |

**Crl.O.P.No. 27577 of 2025**

Banawath Sunil Kumar Naik ... Petitioner

Vs.

1.State by Inspector of Police
Central Crime Branch Team 12
Bank Fraud Investigation Department
Vepery, Chennai 600 007.

2.State Bank of India,
Rep. By its Regional Manager,
Administrative Office: State Bank of India
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**PRAYER :** Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, to call for the records in CC.No.1601 of 2024 on the file of the learned Additional CCB Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

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| For Petitioner | : | Mr. A.Saravanan |
| For Respondent 1 | : | Mr. K.M.D.Muhilan<br>Additional Public Prosecutor |
| For Respondent 2 | : | Mr. A.Arfat Mohammed |

## COMMON ORDER

These criminal original petitions have been filed seeking to call for the records in CC.No.1601 of 2024 on the file of the learned Additional CCB Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2. The case of the prosecution is that A1 and A2, in collusion with A3 and A4, who are their relatives, along with A5, a broker had produced a fake and fabricated documents and obtained a loan to the tune of Rs.89,00,000/-. Based on a complaint given by the 2nd respondent bank, an FIR in Crime No.250 of 2023, was registered by the 1st respondent police and the 1st respondent police, after investigation, have filed a final report against A1 to A5 (individuals) and A6 and A7 (officials of the Bank for having colluded with A1 to

A5 and cheated the Bank) for the offences under Section 120 (B), 406 and 420 IPC. The case is pending on the file of the Additional CCB Metropolitan Magistrate Court, Egmore, Chennai.

3. The learned counsel appearing for the petitioners would submit that the petitioners are A6 and A7 who are officials of the bank, have processed the loan application of A1 and A2. He would further submit that the petitioners have not committed any offence and they have been falsely implicated in this case. He would further submit that in respect of the very same charges, the bank had conducted a departmental enquiry and during the enquiry, it was found that the petitioners have no role in cheating committed by the main accused and they have been exonerated of the charges. Further, the 2nd respondent bank had filed a counter affidavit, contending that the petitioners have no role in the offence. Therefore, the proceeding as against the petitioners is nothing but an abuse of process of law and prayed that the proceeding may be quashed as against the petitioners.

4. The learned Additional Public Prosecutor, appearing for the 1st respondent police would submit that based on a complaint given by one Balaji, erstwhile manager of the 2nd respondent bank, a case was registered against A1 to A7 and finding that there are materials against these petitioners, they have also filed a final report. He would further submit that trial is pending and he objected for quashment of the proceeding as against the petitioners herein.

5. The learned counsel for the 2nd respondent *de facto* complainant has filed a counter affidavit of one Karthik.N, who is presently working as a Manager of the 2nd respondent bank. The learned counsel appearing for the *de facto* complainant would submit that departmental enquiry was conducted in the bank and during the course of enquiry, it was found that the petitioners who are officials of the bank have not committed any offence. He would further submit that there is no material to show that they have colluded with the other accused or involved in the aforesaid offence. He would further submit that the 2nd respondent bank has no objection in the proceeding as against A6 and A7 being quashed.

6. Heard the learned counsel on either side and perused the records.

7. The 2nd respondent / *de facto* complainant has filed a counter and the relevant paragraphs are extracted hereunder:

> *"6. I state that, the present petition to quash is filed by the petitioner who is the Assistant General Manager of this respondent bank and it is pertinent to state that, the 2nd respondent had originally filed its complaint as against A1 to A5 who had cunningly duped the bank and had further misappropriated the sanctioned loan amounts. Whereas, the petitioner was the official who was responsible in sanctioning / approving the aforesaid loan and other-than the aforesaid, there is no role of whatsoever in which the petitioner is involved. A bare perusal of Final Report filed by the 1st respondent police does not prove the charges or offences as against this petitioner and*

*there are no incriminating evidence to prove the offences as against the petitioner.*

*7. I further state that, in view of the aforesaid loan account reviewed as fraud, there has been an internal staff accountability examination conducted by this respondent bank on the petitioner and there has been no discriminating evidences to prove that the petitioner was involved and therefore, due to process has been followed by the respondent bank as against this petitioner. This being the case, arraying this petitioner as A6 in the final report was absurd and unwarranted, since there is no role nor any offences were found to be made out as against this petitioner. A copy of the aforesaid report is filed herewith and this respondent craves leave of this Hon'ble Court to refer the same for better appreciation.*

*8. I further state that, even assuming the entire charge sheet/ final report is taken on its whole, no offences would be established as against this petitioner. It is pertinent to state that, arraying the officials of the bank as A6 and A7 was misfortunate as there is no evidences, witnesses and no offences are made-out as against them. A combined and collative reading of the aforesaid facts would illustrate that the A1 to A5 has intentionally cheated the respondent bank and has further diverted and misappropriated the funds of the bank and the aforesaid acts would go on to prove and establish that they had intentionally colluded together in accomplishing these aforesaid offences. Further, the 2nd respondent herein had filed an original application before the Hon'ble DRT – II, Chennai in OA.No.305 of 2022 for the purpose of recovery of money and in terms of the fradulent acts committed by A1 to A4, this respondent bank had lodged a police* *complaint and thereafter FIR in Crime No.250/2023 was registered by the 1st respondent police. Further, the Reserve Bank of India vide its circular 'Master Directions on Frauds – Classification and Reporting by commercial banks and select FIs' in 'RBI/DBS/2016-17/28' has directed all the banks to follow the procedure laid down therein in cases of fraud related accounts and by virtue of which this respondent bank had filed police complaint and the FIR happened to be registered. A copy of the aforesaid RBI circular is herewith annexed, and this respondent craves leave of this Hon'ble Court to refer the same for better appreciation.*

8. Admittedly, the charges against the petitioners in the departmental proceedings and the criminal prosecution are one and the same. In the counter affidavit filed by the second respondent bank/de facto complainant, it has been categorically stated that there is no incriminating evidence to prove the offences against the petitioners and

in the internal staff accountability examination conducted by the bank, there was no incriminating evidence to prove that the petitioners were involved in the offence and that arraying A6 in the final report is absurd and unwarranted since there is no offence was found to be made out as against him. It has been further stated in the counter affidavit that arraying officials of the bank as A6 and A7 was unfortunate as there is no evidence or witness and there was no offence made out against them.

9. In ***Ashoo Surendranath Tewari vs Deputy Superintendent of Police, EOW, CBI and another - (2020) 9 SCC 636,*** the Supreme Court held as under:

> *"8.A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In P.S.Rajya Vs. State of Bihar, the question before the Court was posed as follows:*

*"3.The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5 (2) read with Section 5 (1) (e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service Commission."*

*9.This Court then went on to state:*

*17.At the outset we may point out that the learned counsel for the respondent could not but accept the position that the standard of proof required to establish the guilt in a criminal case is far higher than the standard of proof required to establish the guilt in the departmental proceedings. He also accepted that in the present case, the charge in the departmental proceedings* *and in the criminal proceedings is one and the same. He did not dispute the findings rendered in the departmental proceedings and the ultimate result of it."*

10.This being the case, the Court then held:

*"23.Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commissioner exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued. Therefore, we do not agree with the view taken by the High Court as stated above. These are the reasons for out order dated 27.03.1996 for allowing the appeal and quashing the impugned criminal proceedings and giving*

*consequential reliefs.”*

*11.In Radheshyam Kejriwal Vs. State of West Bengal, this Court held as follows:*

*“26.We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceedings. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceedings cannot be said to be irrelevant in the criminal case. In B.N.Kashyap the Full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and the will be evident from the following passage of the said judgement:*

*“....I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the*

*proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of Section 41 of the Evidence Act, will have to be carefully examined."*

*29.We do not have the slightest hesitation in accepting the broad submission of Mr.Malhotra that the finding in an adjudication proceeding is not binding in the proceeding for criminal prosecution. A person held liable to pay penalty in adjudication proceeding cannot necessarily be held guilty in a criminal trial. Adjudication proceedings are decided on the basis of preponderance of evidence of a little higher degree whereas in a criminal case the entire burden to prove beyond all reasonable doubt lies on the prosecution.*

*31.It is trite that the standard of proof required in criminal proceedings is higher than that required before the adjudicating authority and in case the accused* *is exonerated before the adjudicating authority whether his prosecution on the same set of facts can be allowed or not is the precise question which falls for determination in this case.”*

*12.After referring to various judgments, this Court then culled out the ratio of those decisions in para 38 as follows:*

*“38.The ratio which can be culled out from these decisions can broadly be stated as follows:*

*(i)Adjudication proceedings and criminal prosecution can be launched simultaneously;*

*(ii)Decision in adjudication proceedings is not necessary before initiating criminal prosecution;*

*(iii)Adjudication proceedings and criminal proceedings are independent in nature to each other;*

*(iv)The finding against the person facing prosecution in the adjudication proceedings is not binding on the proceeding for criminal prosecution;*

*(v)Adjudication proceedings by the Enforcement*

*Directorate is not prosecution by a competent court of law to attract the provisions of Article 20 (2) of the Constitution or Section 300 of the Code of Criminal Procedure.*

*(vi)The finding in the adjudication proceedings in favour of the person facing trial for identical violation will depend upon the nature of finding. If the exoneration in adjudication proceedings is on technical ground and not on merit, prosecution may continue; and*

*(vii)In case of exoneration, however, on merits where the allegation is found to be not sustainable at all and the person held innocent, criminal prosecution on the same set of facts and circumstances cannot be allowed to continue, the underlying principle being the higher standard of proof in criminal cases."*

*(Emphasis Supplied)*

10. In such circumstances, this Court is of the opinion that the proceeding as against A6 and A7 who have no role in the case, as per

the de facto complainant, is an abuse of process of law.

11. In view of the above, the proceeding in CC.No.1601 of 2024, on the file of the Additional CCB Metropolitan Magistrate Court, Egmore, Chennai, as against A6 and A7 alone, is quashed. Accordingly, the criminal original petitions are allowed. Consequently, the connected miscellaneous petitions are closed.

**19.11.2025**

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Neutral Citation: Yes/No

To

1.The Additional CCB Metropolitan Magistrate,
Egmore,
Chennai.

2.Inspector of Police
Central Crime Branch Team 12
Bank Fraud Investigation Department
Vepery, Chennai 600 007.

3.The Public Prosecutor,
High Court of Madras.

**A.D.JAGADISH CHANDIRA, J.**

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