

(2011) 10 MAD CK 0107

Madras High Court

Case No: Criminal R.C. No. 907 of 2011

R.S. Chhatwal

APPELLANT

Vs

State by The Inspector of Police,
SPE/CBI/EOW/Chennai

RESPONDENT

Date of Decision: Oct. 11, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 420, 467, 468, 471

Hon'ble Judges: C.T. Selvam, J

Bench: Single Bench

Advocate: S. Chandrasekharan, for the Appellant; N. Chandrasekaran, Special Public Prosecutor for CBI Cases, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

C.T. Selvam

1. This revision arises against the order passed by the learned XI Additional City Civil and Sessions Judge, Chennai, in CrI.M.P.No. 1714 of 2010 in C.C.No. 5 of 2007. By the orders under challenge, the Court below dismissed the petition moved by the petitioner herein seeking discharge.

2. The case relates to the release of financial facilities by the Punjab & Sind Bank, Mount Road Branch, Chennai, on the basis of forged and fabricated documents to the tune of Rs.4.65 Crores and the borrower company and officials thereof and the bank stand charged for the offences under sections 120-B r/w. 420, 467, 468 and 471 I.P.C. The petitioner had sought discharge informing that he was in no manner involved in the alleged transaction and he had only duly carried out his functions. Further investigation was conducted by the CBI/respondent against the petitioner and two others and it was found that the allegations against them are baseless.

After the investigation, CBI filed a closure report on 12.03.2009. A.6 objected to the same by filing counter. A protest petition was filed by A.6 to issue process to 5 persons and direct the prosecution to place all the documents and materials collected during investigation and an order was passed on 16.06.2009. Summons were issued against the petitioner on 18.11.2009. A Revision petition was filed by the petitioner before this Court in which this Court observed as follows:

Orders passed by the XI Additional Judge for CBI Cases in CrI.M.P.No. 542 of 2009 is perused and the Hon'ble High Court has held it is open for the Revision Petitioner to argue the matter on merits before the Trial Court at the time of framing of charges. The Trial Court came to a conclusion that P.J.Vincent and S.C.Vohra pressurised the Officials for sanctioning the loan. The Trial Court failed to consider the opinion arrived by CBI against this petitioner. It is seen from records that S.C.Vohra had called the Zonal Office 76 times and P.J.Vincent had made 35 calls to A2 and 10 calls to Zonal Office. The calls were made after the conspiracy period. The loan was sanctioned on 27.1.2000. There is no hasty approach by this petitioner in forwarding the letter to the General Manager. The Investigating Officer has not stated that this petitioner exerted pressure on the General Manager for sanction of the loan.

3. Therefore, it was submitted that the Trial Court was erroneous in framing charges against the petitioner. It has been contended by the respondent that further investigation in the case revealed that the petitioner had forwarded the loan proposal to the Head Office of the Bank seeking sanction to take over the limits enjoyed by the first accused company from Federal Bank, Mount Road Branch, Chennai, despite the knowledge that such company had already defrauded Federal Bank by producing forged title deeds. The General Manager, who sanctioned the limit of Rs.5.5 Crores to the first accused company, had directed the company to obtain report from the Technical Manager before release, but the petitioner released the facilities in violation of such directions. On the communication of the Federal Bank informing about the forgery of three title deeds offered as collateral securities, the petitioner should have stopped the operations in the account, but he facilitated the payment of Rs.1.5 Crores to the Federal Bank and took over the account. The petitioner had failed to comply with the directions of sanction and had acted with mala fide intention which is against the interest of the bank. While dismissing the CrI.R.C.No. 215 of 2007 moved by this petitioner, this Court had informed that the reasons stated by the Court below towards including the petitioner as an accused could not be said to be incorrect. The Court below in passing the order under challenge had found that while the petitioner was functioning as Zonal Manager of Punjab & Sind Bank, he had processed the loan to the first accused company and sanction to prosecute the petitioner was sought by the CBI. As sanction was refused, the petitioner was not put up to trial. It was observed that as the petitioner has since retired, now there is no requirement for sanction to prosecute. The pressure exerted by the petitioner in obtaining sanction of facility for the first accused company was noted. Several phone calls were made

and the record of the phone calls was also taken note of. The Court below also observed that the petitioner and another accused suppressed the forged deeds submitted to the Federal Bank from whom the account of the first accused was taken over and that the petitioner had not complied with the conditions imposed in the sanction order before release of the loan.

4. For all the above reasons, the Court below found that it not proper to discharge the petitioner and to require him to face trial. On a perusal of material, we are of the considered view that the order of the Court below is a well reasoned one which does not call for any interference. Prima facie case stands made out against the petitioner. Hence, this revision fails and the same is dismissed. It is for the petitioner to establish his innocence in the course of trial.

5. It is to be noted that any observations made above are merely for the disposal of the revision before us. The Trial Court shall decide the case on merits without being influenced by the dismissal of the present petition.