

**CBI Vs. K. Kannadasan and Ors.
CC No. 03/2021
RC No. 14(A)/2018/CBI/ACB/ND
PS CBI/ACB/New Delhi
CNR No. DLCT11-000020-2021**

24.11.2021

ORDER ON CHARGE

1. Vide this order, I shall dispose off the arguments on the point of charge(s).

2. Brief facts are :

That the present case was registered u/S. 120B r/w. 420, 467, 468, 471 IPC and 13(2) r/w. 13(1)(d) of PC Act, 1988 against Sh. K. Kannadassan, Sh. Tej Pal, both the then Chief Manager, Sh. V. S. Kem, the then Manager, all from Central Bank of India, Anand Parbat, New Delhi and Sh. Pradeep Sharma (private person), Proprietor of M/s. Sterling Engineers and Director M/s. Riadaus Auto Components Pvt. Ltd., Smt. Ruchi Sharma, Director M/s. Riadaus Auto Components Pvt. Ltd., Smt Sarla Sharma (Guarantor / Mortgagor) & M/s. Riadaus Auto Components Pvt. Ltd. Vikas Nagar, Basai Road, Gurugram, on the basis of complaint dated 24.04.2018 of Central Bank

of India through its Sr. Regional Manager, Sh. V. K. Mehendru.

Further, considering the request of Shri Pradeep Sharma, Proprietor of M/s Sterling Engineers, Shri K. Kannadassan, the then Chief Manager sanctioned Cash Credit of Rs.100 lakhs on 11.05.2012 against collateral security of immovable property at Khasra no. 6/17, 2nd Milestone, Vikas Nagar, Basai Road, Gurgaon, Haryana and Term Loan facility of Rs.100 lakhs under CGTSME. The said loan was processed by Shri V. S. Kem, Assistant Manager who was looking after the loan portfolio of the branch. However, following gross irregularities were observed in processing, sanctioning, disbursing and monitoring the loan to M/s Sterling Engineers :

- Separate loan applications for CC limit under MSME and Term loan under Cent Sahyog were not obtained and both the loan were processed on the single application in the format for Cent Sahyog.

- The audited balance sheet of M/s Sterling Engineers Works for the financial year 2009-10 and 2010-11 purportedly audited by M/s Srivastava Kumar and Co. and signed by Sh. M. K. Jain, CA were found to be fake and forged. Similarly, the

provisional balance sheet for the year 2011-12, audited balance sheet for the year 2011-12 & 2012-13 purportedly audited by M/s Anil K. Goel and Associates were also found to be fake and forged. The membership number of both the audit firm mentioned on various balance sheets were found to be same. The genuineness of the balance sheets was not verified prior to recommending and sanctioning of loan.

- CIBIL report was not generated from the member ID of Central Bank of India. Further, instead of generating CIBIL report of M/s Sterling Engineers, the CIBIL report of another ground company i.e. M/s Sterling CNC Engineering Pvt. Ltd. was generated and held on record.

- CERSAI record of property offered as security was also not pulled to verify the earlier mortgage of the offered property, if any.

- RBI defaulter list was also not verified as such no report is available in the record.

- Legal search report of Shri Amit Gupta and Pre-Inspection Report purportedly done by Shri. V. S. Kem, Asst. Manager were not available in the record.

- The turnover/sale of the firm in the balance sheet for financial year 2009-2010 and 2010-2011 were shown as Rs.4.56 crores and Rs.5.62 crores respectively. Further, in the provisional balance sheet for the FY 2011-2012, the sale of the borrower firm was shown as Rs.7.52 crores. However, in the CMA data submitted by the borrower the projected sale/turnover for the FY 2012-2013 was shown as Rs.10 crores. The proposal for the above said limits was processed on the basis of the projected sale of Rs.10 crores for the FY 2012-13 without any justification.

- During the FY 2012-13, only a sum of Rs.84.5 lakhs, was routed through the CC account as against the projected turnover/sale of Rs.10 crores. The said CC limit was renewed in the year 2013 even though the account was unsatisfactory especially on the aspect of projected turnover/sale. Further the term loan account was irregular since beginning and only few partial payments were made.

- Registration of charge of mortgaged property with CERSAI was not done.

- Acknowledgment of the borrower/guarantor accepting terms and conditions of sanction was not obtained.

M/s Ridaus Auto Components Pvt. Ltd. submitted its proposal through its Directors Shri Pradeep Sharma and Mrs. Ruchi Sharma on 23.04.2014, for OD limit of Rs.2 crores under Cent Trade Scheme. On 15.04.2014, Shri K. Kannadassan sanctioned Overdraft limit (OD) of Rs.1.5 crores under Cent Trade Scheme against the mortgage of the same immovable property at Khasra No. 6/17, 2nd Milestone, Vikas Nagar, Basai Road, Gurgaon, Haryana which was mortgaged for the credit facility to M/s Sterling Engineers. Further, following gross irregularities were observed in sanctioning disbursing and monitoring the loan to M/s Ridaus Auto Components Pvt. Ltd. :

- Status report of the audited balance sheet for the projected business as well as the status report from the present banker not obtained.**
- Market information and credibility report of the applicant was not obtained.**
- The loan was sanctioned even though the ground account M/s Sterling Engineers was running irregular and credit turnover in the CC account was just Rs.84.51 lakhs in FY 2012-13 as against the projected turnover of Rs.1000.00 lakhs. During FY 2013-14 credit turnover was only Rs.39.63 lakhs as against**

the minimum requirement of sales turnover of Rs.500.00 lakhs for CC limit of Rs.100.00 lakhs.

- As per extant norms, bank borrowing can be maximum upto 4 times of TNW. The Tangible Net Worth was Rs.8.57 lakhs as on 31.03.2014. Thus, the limit of Rs.1.5 crore was sanctioned in violation of loan polity norms.

- Fresh valuation of the property was not obtained.

- RBI defaulter list was also not verified as such no report is available in the record.

- The Credit rating, vetting of documents, Registration of charge with ROC and CERSAI was also not complied as no such report were available in the record.

- Commercial CIBIL report of M/s Ridaus Auto Components Pvt. Ltd. was not generated. The Consumer CIBIL of its Director Pradeep Sharma (Consumer) was generated where it was observed that three loan accounts of Shri Pradeep Sharma were overdue. However, justification was not obtained.

- Process note, pre inspection report, due diligence report etc., were not available on record.

- The genuineness of the balance sheets was

not verified from ROC while sanctioning limits to M/s Ridaus Auto Components Pvt. Ltd.

- The limit was sanctioned based on projected/estimated balance sheets for FY 2014-15, 2015-16 and 2016-17, in which a rosy picture of the sale of the borrower company were shown as Rs.9.50 crores, Rs. 13 crores and Rs. 16 crores respectively to make the loan proposal fit for sanction.

- Immediately on sanction of OD limit, an amount of Rs.1,00,71,818/- was diverted of the CC account of M/s Sterling Engineers and the CC account of M/s Sterling Engineers was closed. There was no genuine business transactions between M/s Sterling Engineers and M/s RACL. The transfer of the funds of Rs.1,00,71,818/- amounts to diversion of funds done to regularize and close the CC account of M/s Sterling Engineers. Thus, end use of the funds was not ensured. Further, how, M/s Sterling Engineers was going to manage its affairs was also not taken care of by the branch particularly when M/s Sterling Engineers was still functioning unit and a Term Loan of Rs.1.00 crore was still to be repaid to the Bank.

- Premises address of M/s Sterling

Engineers and M/s Ridaus Auto Components Pvt. Ltd. was same and no manufacturing activity was going on it the premises.

The Account of M/s Ridaus Auto Components Pvt. Ltd. turned NPA on 15.12.2015 and the account of M/s Sterling Engineers also turned NPA on 28.06.2016 with outstanding amount of Rs.321.98 lakhs and Rs.95.20 lakhs respectively. Both the accounts were declared as fraud on 28.10.2016.

Further, on transfer of Shri K. Kannadasan, Shri Tejpal, Chief Manager took over as branch incumbent on 12.02.2015 converted the said OD limit of Rs.1.5 Crore of M/s Ridaus Auto Components Pvt. Ltd. into CC limit under MSME of Rs.2.5 crores with enhancement. Further, following gross irregularities were observed in processing, sanctioning disbursing and monitoring the account:

- The loan was processed on the basis of unsigned application of the borrower, without obtaining audited balance sheet, statement of asset and liability, CIBIL report of the borrower/company, fresh LSR/ Valuation of the property offered as collateral security.

- The process note was not signed by any recommending authority. It was only signed by Shri Tejpal as sanctioning authority. Thus, he processed the said loan proposal single handedly on the unsigned application of the borrower. The process note was not completely and properly filled in. Important details were not incorporated in the process note. No justification mentioned in the process note for conversion and enhancement of limit when the account was running continuously out of order.
- The said proposal of conversion of OD limit into CC limit with enhancement was processed on the basis of the same rosy projected/estimated balance sheets as submitted with the OD limit proposal of Rs.1.5 crore under Cent Trade. However, as per the Audited Balance Sheets of the company obtained from ROC for FY 2012-13 and 2013-14, the company had no sales turnover and it was shown as a shell company.
- Pre-inspection carried out on 06.12.2014 and 15.01.2015 as mentioned in the process note were not found in record.
- The conduct/operation of the account was also not monitored. As against the sanction limit of Rs.1.5 crores, the account was

allowed to be continuously overdrawn which went upto Rs.2.03 crores, which was beyond his delegated powers. Even then the enhancement from 1.5 crores to 2.5 crores was considered. Thus, it reveals that the OD limit was converted to CC limit solely to show the account as regular without carrying out the due diligence.

- RBI defaulter list CERSAI registration was not verified.**
- Acknowledgment of the borrower/guarantor accepting terms and conditions of sanction was not obtained.**
- Reaffirmation of Equitable mortgage was not done for the converted CC limit with enhancement.**
- Vetting of documents, Registration with CERSAI of mortgaged property not done.**

The account of M/s Ridaus Auto Components Pvt. Ltd. turned NPA on 15.12.2015 with outstanding amount of Rs.321.98 lakhs. The account was declared as fraud on 28.10.2016.

Internal enquiry carried out by the bank had found serious lapses on the part of Shri Tejpal in processing, sanctioning disbursing and monitoring the CC limit.

Further the investigation established that public servants accused Sh. K.

Kannadasn, Sh. Tejpal, both while working as Chief Manager / Branch Heads, Central bank of India, Anand Parbat Branch, New Delhi and Sh. V. S. Kem, the then Asst. Manager / loan officer Central Bank of India, Anand Parbat Branch, New Delhi entered into conspiracy with accused Pradeep Sharma (Director M/s. Riduas Auto Component Pvt. Ltd. and proprietor of M/s. Sterling Engineers) and in pursuance of said criminal conspiracy they cheated, defrauded and caused wrongful loss to the bank to tune of Rs. 4.17 crores and corresponding wrongful gain to the accused private persons and themselves.

The aforesaid facts and circumstances and acts of commission and omission, prima facie constituted the offence on the part of accused as follows :

I. Sh. K. Kannadasan, the then Chief Manager / branch head, Central Bank of India, Anand Parbat Branch, New Delhi u/s. 120-B r/w 420, 468, 471 IPC and section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences u/s. 13(2) r/w 13(1)(d) of PC Act, 1988.

II. Sh. Tej Pal, the then Chief Manaer / branch head, Central bank of India, Anand Parbat Branch, New Delhi u/s 120-B r/w 420,

468, 471 IPC and section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences u/s. 13(2) r/w 13(1)(d) of PC Act, 1988

III. Sh. V. S. Kem, the then Manager / loan officer, Central Bank of India, Anand Parbat Branch, New Delhi u/s 120-B r/w 420, 468, 471 IPC and section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences u/s. 13(2) r/w 13(1)(d) of PC Act, 1988

IV. Pradeep Sharma, proprietor of M/s. Sterling Engineers and Director M/s. Ridaus Auto Component Pvt. Ltd. u/s 120-B r/w 420, 468, 471 IPC and section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences u/s. 420 and 471 of IPC.

V. M/s. Ridaus Auto Component Pvt. Ltd. through its Director Pradeep Sharma u/s 120-B r/w 420, 468, 471 IPC and section 13(2) r/w 13(1)(d) of PC Act, 1988 and substantive offences u/s. 420 IPC.

3. It is stated by Ld. PP for CBI that from the perusal of the charge sheet, statement of witnesses recorded u/S. 161 CrPC and other documents along with the sanction letter(s) qua the public servants, a strong suspicion arises that the accused persons are involved in the commission of offence(s) mentioned in the charge sheet, therefore, charge(s) be framed against them as per the offence(s) mentioned in the charge sheet.

4. On the other hand, Ld. Counsel(s) for the accused persons after addressing arguments on the point of charge(s) submit that the arguments on point on charge may be decided on the basis of records.

5. I have gone through the rival contentions.

6. It is settled law that at the stage of framing of charge, it is not expected that the prosecution evidence should be meticulously evaluated. The court has to frame a charge, if there is a strong suspicion that the accused is involved in the commission of offence for which he has been charge sheeted.

7. It has been held in judgments *Dilawar Balu Kurane Vs. State of Maharashtra, (2002) 2 SCC 135* and *Union of India Vs. Prafulla Kumar Samal, (1979) 3 SCC 4* that the Judge while considering the question of framing the charges under section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial. By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

8. After perusal of the record i.e. charge sheet, statement of witnesses recorded u/S. 161 CrPC, documents and the Sanction u/S. 19 PC Act qua the public servant(s) K. Kannadasan dated 14.12.2020, as also the sanction qua the public servant Tajpal also dated 14.12.2020, as also the sanction qua the public servant Veer Singh Kem also dated 14.12.2020, a strong suspicion arises that accused persons are involved in the commission of offence(s), as mentioned in the charge sheet.

9. The prosecution case is based on various documents and the statement of witnesses, as discussed above and it is prima facie of very strong nature. The sanction(s) dated 14.12.2020 have been accorded by the sanctioning authority qua the accused / public servant(s). Consequently, there is strong prima facie case made out against all the accused persons for framing of charge(s).

10. Consequently, from the above said facts and circumstances, all the accused persons i.e. K. Kannadasan (A-1), Tejpal (A-2), Veer Singh Kem(A-3), Pradeep Sharma(A-4) and M/s. Riduas Auto Component Pvt. Ltd.(A-5) are all liable to be all charged u/S. 120-B r/w 420/468/471 IPC r/w 13(2) r/w 13(1) (d) of the PC Act, 1988.

Further the accused K. Kannadasan (A-1), Tejpal (A-2) and Veer Singh Kem(A-3) will also be liable to be charged substantively u/S. 13(2) r/w 13(1)(d) of the PC Act, 1988.

Further, the accused Pradeep Sharma(A-4) and M/s. Riduas Auto Component Pvt. Ltd.(A-5) will also be liable to be charged substantively u/S. 420 IPC.

Further, the accused Pradeep Sharma(A-4) will also be liable to be charged substantively u/S. 468/471 IPC.

11. Let formal charge(s) be framed, against the accused persons, as discussed above.

12. **Nothing observed herein above shall have any bearing on the merits of the case during trial.**

**Announced in the open
Court on this 24th day of
November 2021.**

**(Sanjeev Aggarwal)
Special Judge-CBI (PC Act)-02
Rouse Avenue District Court
New Delhi/24.11.2021**