

Special Case No.44/2017**CNR No.MHPU01-012382-2017****CBI Vs. Ajit Gokhale and others****ORDER BELOW EXH.111**

1] This is an application filed by accused no.5 S.A. Dhamne impaneled valuer. He requested to issue an order under section 91 of Cr.P.C. and call the valuation reports filed in Bank in respect of properties (Gat no.170 [part], village Jalochi, Tal. Baramati) by various valuers. He also valued the said property and filed the valuation report at D-6.

2] It is the contention of accused that he is impaneled valuer of the Bank of Maharashtra. The Bank has authorized him to give the valuation report in respect of the certain properties i.e. Gat no.170 (part) relating to loan in question. Accordingly, he has furnished the valuation report. At the same time, other valuers valued the said property and given the valuation report in the Bank in respect of same property. However, the CBI has filed charge-sheet against him alleging he has given the incorrect valuation of the property to assist the principal accused under conspiracy to avail the loan facility. Therefore, according to him, the valuation report given by impaneled valuer relating to the property in question it is necessary for conducting the trial and inquiry. Hence, he requested to issue summons and called the documents under section 91 of Cr.P.C..

3] CBI has filed the say at exh.120 and submitted that the CBI has relied and referred the valuation report of the property given

by the accused and not by rest of valuers. Therefore, the valuation report given by other valuers are not relevant for the present trial. Therefore, application deserves to be rejected.

4] Heard both side.

5] Accused urged that the Court is not debarred from summoning or relying upon same even if such document is not a part of charge-sheet. He pressed into service the case of **Nitya Dharmanand @ K.Lenin Vs. Gopal Sheelum Reddy, 2017 DGLS (SC) 1316 (SUPREME COURT)**. In view of section 91 of Cr.P.C. and in view of ratio laid down in the matter of Nitya Dharmanand the Court can summon relevant person to produce the document at any stage of the trial. However, in my view, Court can invoke Section 91 of Cr.P.C. when those documents are necessary for conducting the inquiry or trial.

6] The accused has filed xerox copies of various valuation reports regarding the property of Smt. Reena Kale, Marutirao Kale and Nitin Kale valued by other impaneled valuer. According to him, these are xerox documents which he obtained under RTI Act but its original are lying with the Bank authority and therefore it is very relevant to conduct the inquiry and decide the discharge application.

7] In view of Section 91 of Cr.P.C. the Court can order to produce the documents to the person in whose possession or power such a document are lying if it is necessary for the inquiry or trial.

8] In the present case it is a accusation that the accused being a valuer under the conspiracy with the principal borrowers he introduced the incorrect value of the property of principal borrowers and its surety and thereby caused to grant the facility of cash credit limit in favour of principal borrower.

9] The CBI has relied and referred the valuation report of the accused at D-6 and not the valuation reports of rest of valuers. However, the Bank has considered the valuation report of the accused and accordingly, proceeded ahead for granting the cash credit facility. Therefore, the valuation reports of other valuers relating to the same property are not relevant to decide whether accused has issued the valuation report under the conspiracy of rest of accused or not. It is for the prosecution to prove and produce the material showing accused was part of conspiracy to avail the Bank facility. Therefore, in my view the valuation report of other valuers mentioned in the table in the application are not relevant to conduct the inquiry of discharge application or conduct the present trial. It is for the accused to prove his valuation report is based on true facts, if it is and if any. Thus, I do not find any substance in this application. Hence, I pass following order -

ORDER

Application is rejected.

sd/-
(Pralhad C.Bhagure)
Special Judge (CBI-ACB cases), Pune.

Date - 10/12/2018

I affirm that the contents of this PDF file order are same word for word as per original order

Name of Steno : Smt.Bharati R.Jakka
Court Name: : Shri.Pralhad C.Bhagure
Special Judge CBI, ACB, Pune.
Order signed by PO : 10/12/2018
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