

Special Case No. 46/2017

State (CBI) Vs. Ajit Gokhale and others.

ORDER BELOW EXH.76

1] This is an application filed by accused No. 1 Ajit Ghokhale under Section 227 of Criminal Procedure Code and thereby requested to discharge him from the offences punishable under section 120 B r.w. section 420, 465, 467 and 471 of Indian Penal Code and under Section 13(2) r.w. 13(1)(d) of Prevention of Corruption Act, 1988.

2] It is the case of prosecution that the accused along with borrowers entered into the agreement / criminal conspiracy and by considering the forged document as a genuine and other irregularities and illegalities and thereby sanctioned the huge amount in favour of borrowers Marutirao Shankarrao Kale on behalf of Parth Traders. Santosh is another partner of the said firm. The act of accused is with dishonest intention to cheat and ultimately they succeeded. Therefore in view of report filed by Mr. Pratap Mohanty, investigation is conducted and chargesheet is filed.

3] It is the contention of accused that he was AGM of Bank of Maharashtra , Branch Nashik he has granted the Cash Credit facilities in favour of borrowers as per rules and regulations and within his sanctioning power. There is no objection in the external and internal Audit conducted by Bank in respect of sanctioning of Cash Credit. The accused has considered the documents as per the

norms. He has not played fraud to anybody. The valuation report was prepared. The bank has recovered the huge amount as a interest from the borrowers. There is no sanctioned for prosecution against accused. There is no material to frame the charge . Therefore, he requested for discharge.

4] SSP filed the say at Exh.91 and submitted that accused knowingly and intentionally committed the offence of cheating by accepting forged document in favour of borrowers for sanctioning Credit facility . The amount sanctioned to Parth Traders was diverted to other account. The accused was dismissed from the service at the time of filing of chargesheet and therefore sanction was not required. There is sufficient material to proceed against accused hence application deserves to be rejected.

5] It appears from investigation papers that accused was working as a AGM at Bank of Maharashtra, Pune Branch. During his tenure accused Nitin Kale and others obtained Cash Credit facility from Pune branch. Nitin Kale is a person who again approached to accused No.1 at Nashik when he was working as a Assistant General Manager, Nashik Branch and obtained Cash Credit facility initially in the name of Parth Traders, by showing his father was partner of the said firm.

6] It appears from the investigation papers that valuation report of the property was apparently shown valuation in the exorbitant manner. However, accused no.1 has relied on such document without making any further inquiry. Accused no.1 being

AGM should have given visit to Parth Traders, but he has not given pre-sanction visit to firm and sanctioned Cash Credit facility. It appears from complaint and statement of witnesses that company of accused persons are merely floated on paper and not actually working.

7] It appears from the statement of Sheetal that the accused No. 1 has been involved in the criminal conspiracy to grant C.C. facility in favour of Parth Traders. It appears false purchase orders given by Jiya Building Material and Atharv have been accepted by accused No. 1 without verified its genuineness.

8] It is not in dispute the accused was dismissed from the service at the time of filing charge-sheet. Accordingly, cognizance is taken. In this circumstances, no sanction is required to prosecute the accused. Thus, prima facie from the statement of complainant and witnesses it appears there is sufficient material to frame charge against accused. Therefore, I do not find any substance in this application. In the result, I pass following order -

ORDER

Application is rejected.

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

Date – 19/10/2018

is no material to frame the charge. There is no evidence to say that how the offence can attract against the accused, how he is considered as a part of conspiracy. He is professional and as a professional he has considered the properties and otherwise facts and accordingly valuation report is submitted. He is reputed approved valuer and empaneled on the Government, National and Multinational Bank Panels for more than 25 years. There is no evidence to show that the accused entered into agreement to commit the offence. He has not been benefited in the alleged fraud. There is no ground to frame the charge. Hence, application deserves to be allowed.

4] The CBI has filed say at exh.52 and submitted that the offence is serious. There is material on record to show that the accused being a part of the conspiracy given the valuation report in favour of accused Nitin Kale. The very conduct and statement of witnesses indicates the accused involved in serious case. Hence, application deserves to be rejected.

5] It is admitted fact that the accused is Government approved valuer and was empaneled valuer of the Bank. It is admitted fact by considering valuation report CC facility of Rs.5

crores was sanctioned to Nitin Kale. It is the accusation under criminal conspiracy valuer has valued the property in exorbitant manner without considering the documents and thereby caused to sanction the loan.

6] It appears the report dtd. 16/11/2012 has been signed by the accused. It appears from the statement of informant that the valuer accused no.3 has shown the value of each and every property in exorbitant manner in order to get the more credit facility from the Bank.

7] It appears from the statement of Shri. E.H. Zore, then Joint Sub-Registrar Baramati, Revenue Department, In view of his statement it indicates the market price of the properties given by the accused Nitin Kale as security for the loan, the value of these properties if compared with the value given in the valuation report by the accused, it appears prima facie the accused valued most of all properties in exorbitant manner. Such conduct of accused itself enough to say that he is involved in criminal conspiracy and therefore he has not given the correct valuation of the property in valuation report. Thus, considering the valuation report and statements of Revenue officers it appears there is prima facie proof to proceed against accused.

8] The unique example I want to refer here that the value of the CTS No.733 is shown by the accused is Rs.3,78,00,000/- whereas the revenue department showing its value as Rs.1,05,59,250/-. The same thing is happened in respect of CTS no. 734, 735, 736, 737 and 738.

9] Accused urged that he is the reputed valuer and work of valuation is skilled work. The various aspects have to be considered by the valuer while giving the valuation report. He referred the case of State of Bihar Vs. Ramesh Singh, (1977) 4 SCC 39 wherein it is observed that the Court has to consider the material available before the court while framing the charge. He further referred the case of P. Vijayan Vs. State of Kerala and another, (2010) 2 SCC 398 wherein it is observed that if two views are possible and one of them gives rise to suspicion only as distinguished from the grave suspicion the trial judge will be empowered to discharge the accused and at this stage he is not to see whether the trial will end in conviction or acquittal. He further referred the case of CBI Hyderabad Vs. K. Narayan Rao, 2012 AIR (SCW) 5139 wherein it is observed that the professional can give or can be given by implication is that he is possessed of the requisite skill in that branch of profession which he is practicing and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence. He further referred the case of Vijay Kumar Singh Vs. State of Bihar, Cri. Misc. No. 27162/2011 However, the facts stated in para supra cases and reasons mentioned indicates that there is a prima facie involvement of valuer while giving the valuation report in favour of accused Nitin Kale. Therefore, I do not find any substance in this application. In the result, I pass following order -

ORDER

Application is rejected.

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

Date – 20/10/2018

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

Name of Steno : Smt. U. S. More (G-II)
Court Name: : Shri.Pralhad C.Bhagure
Special Judge CBI, ACB, Pune.
Order signed by PO : 20/10/2018
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