



2025:KER:52814

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 16TH DAY OF JULY 2025 / 25TH ASHADHA, 1947

CRL.REV.PET NO. 253 OF 2022

CRIME NO.RC 11(A)/CBI/2016 OF CENTRAL BUREAU OF

INVESTIGATION, KOCHI, ERNAKULAM

AGAINST THE ORDER DATED 10.12.2021 IN

CRL.M.P.NO.43/2021 IN CC NO.5 OF 2017 OF SPECIAL JUDGE

(SPE/CBI-) I, ERNAKULAM

REVISION PETITIONER/PETITIONER/ACCUSED NO.4 IN C.C.NO.05/17:

RADHAKRISHNAN NAIR

AGED 57 YEARS, S/O NARAYANAN UNNITHAN, (DEPUTY
GENERAL MANAGER STATE BANK OF INDIA,
THIRUVANANTHAPURAM). SRA 25-1, KRISHNA BINDU,
POYYANI JUNCTION, MANAKKAD P.O,
THIRUVANANTHAPURAM, KERALA, PIN - 695009

BY ADVS.

SRI.N.ABHILASH

SHRI.PRAVEEN K. JOY

SRI.E.S.SANEEJ

SRI.M.P.UNNIKRISHNAN

SMT.M.K.SAMYUKTHA

SHRI.DEEPU RAJAGOPAL

SMT.SANDRA S.KUMAR

SRI.P.VIJAYA BHANU (SR.)

RESPONDENT/RESPONDENT/COMPLAINANT IN CC NO.05/2017:

THE CENTRAL BUREAU OF INVESTIGATION
COCHIN, ERNAKULAM, PIN - 682017

BY ADV SHRI.SREELAL N.WARRIER, SPL.PUBLIC
PROSECUTOR, CENTRAL BUREAU OF INVESTIGATION
(CBI)

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 08.07.2025, THE COURT ON 16.07.2025
DELIVERED THE FOLLOWING:



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ORDER

Dated this the 16th day of July, 2025

The 4th accused in C.C.No.5/2017 on the files of the Special Judge (SPE/CBI)-I, Ernakulam, has filed this criminal revision petition under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C' for short), challenging order in CrI.M.P.No.43/2021 in the above case, dated 10.12.2021, whereby the learned Special Judge (CBI) dismissed the application filed by the revision petitioner under Section 239 of Cr.P.C. seeking discharge.

2. Heard the learned senior counsel for the revision petitioner/4th accused and the learned Standing Counsel for the CBI. Perused the relevant documents and the order impugned.



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3. In this matter, the prosecution alleges commission of offences punishable under Sections 120B, 409 and 420 of the Indian Penal Code (hereinafter referred to as 'IPC' for short) as well as under Section 13(2) r/w 13(1) (c) and (d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the PC Act' for short). Tracing the genesis of the prosecution case, it is discernible that, when a complaint filed by the Regional Manager, State Bank of India (SBI), Regional Business Office (RBO), Shornur, Kerala, in the year 2016, against six accused persons and after completing the investigation, final report was filed against five accused persons after treating the other accused person as an 'approver'.

4. The allegation in brief, as per the charge, is that, Shri.M.M.Shoukkathali (A1), Proprietor of M/s.M.M. Traders, approached State Bank of India, Kunnamkulam



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branch on 20.01.2015, for an Asset Based Loan (ABL) facility of Rs.7.00 Crores (Rupees Seven Crores only) for the purpose of business of dealing in 'areca-nut and pepper' on the security of a property with a residential building in 13.63 Ares of land in Survey No.333/1H of Vadanappilly Village, Chavakkad Taluk, Thrissur District. The loan was processed by the Medium Enterprises Hub of SBI, Thrissur, since the applied loan amount limit falls under its purview. The Medium Enterprises Hub, Thrissur, obtained an inflated valuation report from their two valuers, namely, Shri.Sanoj.P.Vincent (2nd accused) and Shri.A.M.Shereef (3rd accused) for Rs.15.11 Crores and 16.00 Crores respectively. On the basis of this inflated valuation report, the bank has sanctioned a loan amount of Rs.7.00 Crores to Shri.M.M.Shoukkathali (1st accused) and loan documents were executed by the borrower on 21.03.2015. The loan amount was disbursed by the bank



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and was withdrawn by the borrower on the same day. At the time of sanctioning the loan, all property documents like mutation certificate, title deed, etc., were not obtained by the bank. The collateral security property was purchased by the borrower on 20.03.2015. The loan agreement and documents were executed by M/s.M.M.Traders on 21.03.2015. Loan amount was sanctioned and disbursed on the same day. But the borrower created an equitable mortgage of the property offered as a security only on 28.03.2015. These facts revealed that the public servants showed undue haste in the sanctioning and disbursement of loan, that too, even before creation of equitable mortgage. The property was purchased by the borrower for Rs.1.00 Crore, but the very next day, the Bank sanctioned loan for Rs.7.00 Crores by accepting the said property as collateral security. Subsequently, on the request of the borrower, the bank sanctioned two more ad-hoc loans of



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Rs.50 lakhs each on 01.06.2015 and 10.08.2015. The loan became NPA on 27.09.2015 and even then, another ad-hoc loan of Rs.22 lakhs were sanctioned on 30.09.2015. The above acts of these persons caused a huge wrongful loss to the bank and corresponding gain to the accused persons.

5. The petitioner, Shri.Radhakrishnan Nair.P (4th accused) and Shri.Appu Mathew Jose (5th accused), being public servants and the custodian of the funds of the bank, abused their official position and entered into criminal conspiracy with other accused persons Shri M.Shoukkathali (A1), Shri.Sanoj P.Vincent (A2), Shri.A.M.Shereef (A3), Shri.Vinod Dhamodaran (A6) who later turned approver and in pursuance of the said conspiracy, accused Nos.4 and 5 dishonestly and fraudulently abused their official positions as Bank officials, cheated the State Bank of India by processing, sanctioning and disbursing Rs.7.00 Crores to the 1st accused,



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by violating the settled principles of Bank. The said acts caused loss to the bank to the tune of Rs.2.78 Crores and corresponding wrongful gain to the accused. Accused Nos.4 and 5, in their capacity as Bank officials, were the custodian of the funds of the bank and they are bound to manage the funds of the bank as per the norms of the bank. However, both accused Nos.4 and 5 had acted in pursuance of the said criminal conspiracy, allowing the 1st accused to derive undue pecuniary gain and to misappropriate public funds by cheating the Bank.

6. While assailing the order impugned, the learned senior counsel for the revision petitioner argued that, the order of the trial court is unsustainable on two grounds. Firstly, the trial court failed to apply its mind to decide the plea of discharge and thereby, in paragraph No.19 of the order, the status of the revision petitioner himself is referred as 'A5'



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instead of 'A4'. The second point argued is that, violation of guidelines for processing loan alone would not constitute any offences and in the instant case, violation of norms before passing loan alone is the allegation, whereby the revision petitioner has been roped into this criminal proceedings. Therefore, the order impugned would require interference to discharge the petitioner from the allegations.

7. Opposing this contention, the learned Standing Counsel for CBI would submit that, in this case, even though in paragraph No.19, while describing the revision petitioner herein, who is the 4th accused, the trial court by mistake referred him as 'A5' instead of 'A4', the revision petitioner's case was dismissed mentioning his official status as 'Regional Manager'. Therefore, the same itself is not a reason to hold that the trial court failed to apply its mind in this matter and overall reading of the order would show that, plea



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of discharge at the instance of the revision petitioner has been dismissed after application of mind by the trial court and on scrutiny of the prosecution records.

8. It is pointed out by the learned Standing Counsel further that, in this case, in order to grant ABL facility of Rs.7.00 Crores, it is the duty of the Regional Manager (the revision petitioner herein) to convene a meeting of RCC for considering the loan application applied by the 1st accused for recommending the loan proposal to ZCC. In the instant case, no such meeting was conducted and the members of the RCC are CW10 and CW15 and they had given statements to the CBI to the effect that they did not participate in any RCC for processing the loan to be considered by ZCC. It is also pointed out that, in fact, the revision petitioner alone forwarded the RCC meeting to ZCC and in turn, the loan was passed in haste and in a flurry and the same was disbursed on



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21.03.2015. Therefore, the allegations against the revision petitioner are specifically made out, *prima facie*, warranting trial. It is also pointed out that loan of Rs.7.00 Crores was granted to a property, which was purchased on 20.03.2015, showing the valuation as Rs.1.00 Crore and disbursed the loan amount on the next day. Therefore, the allegations would require trial.

9. The questions to be considered herein is whether the contentions raised by the learned senior counsel for the revision petitioner are sustainable to interfere the order impugned. As discernible from the prosecution records, it is crystal clear that the 4th accused is the Regional Manager of SBI who is empowered to ascertain the genuineness of the business assets of the 1st accused before granting ABL facility. Further, the revision petitioner, being the head of RCC, had to examine the asset application for assessing the eligibility of



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the applicant for availing ABL facility of Rs.7.00 Crores and also to convene a meeting of the RCC of which CW10 and CW15 are the members. As per the statement given by CW10 and CW15 and as per document No.62 of the Minutes Book, it could be gathered that no RCC meeting was conducted and without conducting RCC meeting, documents for the same was forwarded to ZCC. It is relevant to note that the 1st accused offered collateral security to the tune of Rs.15.11 Crores and 16.00 Crores by mortgaging a property which was purchased on 20.03.2015, showing the total consideration as Rs.1.00 Crore. On 06.06.2016, after passing the loan, CW60 valued the property again and found that the value would come only to the tune of Rs.5,94,74,000/- and thereby, it could be seen that, the earlier valuation given by accused Nos.2 and 3, showing value of the property on much higher rate, is part of conspiracy hatched between the



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accused to give an undue advantage to the 1st accused. This would fortify the fact that without convening RCC meeting, the matter was referred to ZCC and the loan was sanctioned on 21.03.2015 and encashed on the same date.

10. The essentials to be considered while considering the plea of discharge and framing charge has been elicited by this Court in the decision in **Sandeep G. v. State of Kerala**, reported in **2024 KHC OnLine 586**, following the Apex Court decisions in this regard.

“(i) Matters to be considered at the time of considering discharge and while framing charge are not aimless etiquette. Concomitantly the same are not scrupulous exertion. Keeping an equilibrium in between aimless etiquette and scrupulous exertion, the trial judge need to merely examine the materials placed by the prosecution in order to determine whether or not the grounds are sufficient to proceed against the accused on the basis of police charge/final report. The trial Judge shall look into the



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materials collected by the investigating agency produced before the Court, to see, prima facie, whether those materials would induce suspicious circumstances against the accused, so as to frame a charge and such material would be taken into account for the purposes of framing the charge. If there is no sufficient ground for proceeding against the accused necessarily, the accused would be discharged. But if the court is of the opinion, after such consideration of the materials there are grounds for presuming that accused has committed the offence/s which is/are triable, then necessarily charge shall be framed.

(ii) The trial Judge has to apply his judicial mind to the facts of the case, with reference to the materials produced by the prosecution, as may be necessary, to determine whether a case has been made out by the prosecution for trial on the basis of charge/final report.

(iii) Once the accused is able to demonstrate from the materials form part of the charge/final report at the stage of framing the charge which might drastically affect the very



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sustainability of the case, it is unfair to suggest that such material should not be considered or ignored by the court at this stage. The main intention of granting a chance to the accused of making submissions as envisaged under Section 227 of the Cr.P.C. is to assist the court to determine whether it is required to proceed to conduct the trial.

(iv) At the stage of considering an application for discharge the court must proceed on an assumption that the materials which have been brought on record by the prosecution are true and evaluate said materials, in order to determine whether the facts emerging from the materials taken on its face value, disclose the existence of the ingredients necessary of the offence/s alleged.

(v) The defence of the accused not to be looked into at the stage when the accused seeks discharge. The expression "the record of the case" used in Section 227 Cr. P.C. is to be understood as the documents and objects, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the



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accused is to be confined to the material produced by the prosecution.

(vi) The primary consideration at the stage of framing of charge is the test of existence of a prima-facie case, and at this stage, the probative value of materials on record shall not be evaluated.

(vii) At the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.

(viii) In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which are really the function of the trial Judge, after the trial. At the stage of Section 227, the Judge has merely to sift the prosecution materials in order to find out whether or not there are sufficient grounds to proceed with trial of the accused.

(ix) Strong suspicion in favour of the



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accused, cannot take the place of proof of his guilt at the conclusion of the trial. But at the time of framing charge, if there is suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. In such case also charge needs to be framed to permit the prosecution to adduce evidence.

(x) If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial.”

Having addressed the genesis of the case as discussed on par with the materials produced by the prosecution while considering plea of discharge, it is emphatically clear that the 4th accused has involvement in the crime as part of conspiracy hatched in between the accused persons and



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thereby loan of Rs.7.00 Crores was granted to the 1st accused on mortgaging a property which is too less in value and thereby the 1st accused got illegal pecuniary advantage. Thus the revision petitioner is liable to be tried after framing charge as the prosecution materials would *prima facie* show the offences alleged to be committed by him. Thus, his plea of discharge would not succeed as found by the trial court.

In the result, this criminal revision petition stands dismissed.

Registry is directed to forward a copy of this order to the trial court forthwith.

**Sd/-
A. BADHARUDEEN
JUDGE**

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