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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.07.2026

PRONOUNCED ON : 07.08.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6048 of 2024
and Crl.M.P.Nos.4409 & 4421 of 2024

K.R.Sudersan
S/o. K.S.Ramanujam,
Flat No. G-2, Srinivas Flats,
52/72, 53rd Street, Ashok Nagar,
Chennai – 600 083. ... Petitioner

Vs.

1. The Inspector of Police,
CBI, No.36, Bellary Road,
Ganganagar, Bangalore – 32.

2. Sankar, AGM,
Union Bank of India,
Industrial Finance Branch,
Chennai. ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for records to C.C.No.9274 of 2021 on the file of the Additional Chief Metropolitan Magistrate Court, Egmore, Chennai and quash the same by allowing this Criminal Original Petition insofar as the petitioner concerned.

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For Petitioner(s) : Mr.L.Infant Dinesh

For Respondent(s): Mr.K.Srinivasan,
Special Public Prosecutor for CBI for R1

For Mr.M.Thiyageswaran for R2

ORDER

This petition has been filed to quash proceedings in C.C.No.927 of 2021 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, thereby taken cognizance for the offences punishable under Sections 120(b) r/w 420, 468 & 471 of IPC, as against the petitioners.

2. The case of the prosecution is that on the complaint lodged by the defacto complainant viz., Assistant General Manager, Union Bank of India, the first respondent registered a case in Crime No.14(E)/2016-CBI/ B&FC/BLR as against the first and second accused, who are the Chief Managing Director cum Chief Executive Officer and the Managing Director cum Chief Operating Officer of M/s. Zylog Systems Limited (hereinafter referred to as "the Company") and also others for the offences punishable under Sections 120-B r/w. 420 of IPC, alleging that the Company availed various credit facilities such as packing credit, term

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loan and corporate loan, working capital credit facilities from Union Bank of India under consortium with Syndicate Bank and majority of the proceeds of those facilities were diverted and transferred to the branch office of the Company thereby caused loss to the defacto complainant bank to the tune of Rs.466.38 crores as on 30.06.2016.

3. Thereafter, another complaint was lodged by the Syndicate Bank dated 16.12.2016 for the fraud committed by the Company for the loans/credit facilities availed out of consortium. The said credit facilities were availed outside the consortium and the Company availed corporate loan from the Syndicate Bank, Corporate Finance Branch, for the purpose of expansion related developments and marketing in foreign countries, thereby caused loss to the bank to the tune of Rs.296.01 crores as on 30.09.2016. After completion of investigation, the first respondent filed final report sheet and the same has been taken cognizance by the Trial Court in C.C.No.927 of 2021. The petitioner is arrayed as A12, who is a Chartered Accountant, charged for the offences punishable under Section 420 r/w. 120B of IPC. Challenging the above said proceedings, the petitioner filed the present petition.

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4. The learned counsel appearing for the petitioner submits that the petitioner is a Chartered Accountant, duly qualified and provided with professional certificate. He issued certificate only upon proper verification of the books of accounts and other bank statements of the Company. In fact, the Disciplinary Directorate of the Institute of Chartered Accountants of India held that the petitioner is not guilty of any professional misconduct. Further, a forensic audit was conducted by the Syndicate Bank itself, wherein the forensic auditors had concluded that there was no specific details with regard to mis-utilisation of corporate loan given by the bank. Therefore, the findings of a disciplinary authority are based on a standard of proof that is higher than that applicable in ordinary civil proceedings, but lower than the standard required for a criminal conviction. In disciplinary proceedings, the applicable standard is the preponderance of probabilities, whereas, in criminal prosecutions, the charge must be proved beyond reasonable doubt. Consequently, where the petitioner has been exonerated in the disciplinary proceedings, the pending criminal prosecution, which is subject to the more stringent standard of proof, would ordinarily be unable to establish the same charge beyond reasonable doubt.

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4.1. He further submits that the petitioner's role was confined to signing the statement of facts prepared on the basis of the records produced by the Company. Merely because the records are alleged to have been fabricated, the petitioner cannot be implicated in a criminal conspiracy in the absence of any independent material establishing his involvement or meeting of minds with the other accused. The mere act of signing the statement of facts, without anything more, does not constitute the offence of conspiracy. It is further submitted that there is no material whatsoever to attract the offence punishable under Section 420 of the Indian Penal Code as against the petitioner. There is no evidence to demonstrate that the petitioner had any personal gain or pecuniary benefit from the transactions of the Company. In the absence of the essential ingredients of the alleged offences and any incriminating material connecting the petitioner with the commission thereof, the continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law. Therefore, the entire proceedings against the petitioner cannot be sustained and liable to be quashed.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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6. On perusal of the counter affidavit filed by the first respondent and on the submissions made by the learned counsel appearing on either side, it is revealed that the petitioner is arrayed as A12 and his role is that he issued CA Certificate regarding utilization of Rs.50 crores sanctioned to the Company as corporate loan for the purpose of meeting expenses related to expansion related developments and marketing at foreign countries by the Company, in pursuance of criminal conspiracy with other accused persons co-operated in availing the corporate loan fraudulently, thereby causing wrongful loss to the bank to the tune of Rs.79.39 crores.

7. Further in respect of the credit facilities availed by the Company in consortium from Union Bank of India and Syndicate Bank, LR was sent to USA for pointers for execution. It was partly executed based on which, further investigation is being conducted. On perusal of the certificate dated 05.01.2012, reveals that there are materials to show that the petitioner had certified that the Company had availed the corporate loan of Rs.50 crores for the purpose of meeting expenses relating to expansion related development and marketing in foreign countries. However, after receipt of corporate loan of Rs.50 crores, it was

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transferred to the Company’s current account and thereafter diverted to various other current accounts for the purpose other than it was sanctioned. The petitioner issued certificate in conspiracy with other accused persons.

8. Further the petitioner also issued utilization certificate, which is a vital document required to be submitted to the bank for certifying the utilization of the credit facilities availed by the Company. The said certificate constituted as foundational document on the basis of which the bank assessed the financial credentials of its customer and considered the grant of further credit facilities. According to the prosecution, the issuance of the false utilization certificate clearly demonstrates the petitioner's involvement in the conspiracy to cheat the bank. Further the enhancement of the credit facilities from ₹80 crores to ₹100 crores evidences the pivotal role played by the petitioner in the alleged conspiracy. Had the false utilization certificate not been issued, the enhancement of the credit facilities would not have been sanctioned by the bank. Therefore, there are specific and substantive allegations against the petitioner, supported by prima facie material, and that the grounds urged by the petitioner do not warrant the quashing of the criminal proceedings at the threshold.

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9. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Delhi High Court reported in ***2007 SCC Online Del 1248*** in the case of ***Swaminathan Vs. State of Delhi***, wherein it was held that where a chartered accountant merely certifies a statement of fact based on the records produced by a Company on the allegation that the record is fabricated, charge of a conspiracy cannot be framed against the chartered accountant unless there is some more material against the chartered accountant. In the case on hand, there are materials available apart from the issuance of certificate as against the petitioner. Therefore, the above judgment is not applicable to the case on hand.

10. The learned counsel appearing for the petitioner also relied upon the judgment reported in ***2022 SCC Online Ori 3938*** in the case of ***Kulamani Parida Vs. State of Odisha***, wherein the Hon'ble High Court of Orissa at Cuttack held that the allegation of forgery and fabricated is not attributed to the case in absence of a material showing that he had a personal interest in the gain or loss of the parties conducting the business, other than his professional interest. Therefore, no charge is made out as against the accused. The above judgment is not applicable to the case on

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hand since there are sufficient materials available to attract the charge under Section 120-B r/w. 420 of IPC as against the petitioner.

11. He also relied upon the judgment of the Hon'ble Supreme Court in ***Ashoo Surendranath Tewari v. Deputy Superintendent of Police &Anr.***, reported in ***(2020) 9 SCC 636***, wherein it was held that where a person has been exonerated on merits in departmental proceedings, with a categorical finding that the allegations are wholly unsustainable and that the person is innocent, a criminal prosecution arising out of the same set of facts and circumstances cannot ordinarily be permitted to continue, having regard to the higher standard of proof required in criminal cases.

12. However, the said judgment is not applicable to the facts of the present case. The findings recorded in departmental or adjudicatory proceedings are not binding on a criminal court conducting a prosecution arising out of the same transaction. Although the charges in the departmental proceedings and the criminal prosecution arise out of the same set of facts, the prosecution has collected independent oral and documentary evidence to substantiate the allegations against the

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petitioner. Therefore, the exoneration of the petitioner in the departmental proceedings, by itself, does not constitute a valid ground for quashing the criminal proceedings.

13. In this regard, the learned Special Public Prosecutor appearing for the first respondent relied upon the judgment of the Hon'ble Supreme Court of India, reported in ***(2012) 9 SCC 685*** in the case of ***State (NCT of Delhi) Vs. Ajay Kumar Tyagi***, which held as follows :-

> *"21. It is worth mentioning that decision in P.S. Rajya (supra) came up for consideration before a two-Judge Bench of this Court earlier, in the case of State v. M. Krishna Mohan, (2007) 14 SCC 667. While answering an identical question i.e. whether a person exonerated in the departmental enquiry would be entitled to acquittal in the criminal proceeding on that ground alone, this Court came to the conclusion that exoneration in departmental proceeding ipso fact would not lead to the acquittal of the accused in the criminal trial. This Court observed emphatically that decision in P.S. Rajya (supra) was rendered on peculiar facts obtaining therein. It is apt to reproduce paragraphs 32 and 33 of the said judgment in this connection:*

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“32. Mr Nageswara Rao relied upon a decision of this Court in P.S. Rajya v. State of Bihar [1996 (9) SCC 1]. The fact situation obtaining therein was absolutely different. In that case, in the vigilance report, the delinquent officer was shown to be innocent. It was at that juncture, an application for quashing of the proceedings was filed before the High Court under Section 482 of the Code of Criminal Procedure which was allowed relying on State of Haryana v. Bhajan Lal [1992 Supp. (1) SCC 335] holding: (P.S. Rajya case [1996 (9) SCC 1, SCC p.9, para 23)]

“23. Even though all these facts including the report of the Central Vigilance Commission were brought to the notice of the High Court, unfortunately, the High Court took a view that the issues raised had to be gone into in the final proceedings and the report of the Central Vigilance Commission, exonerating the appellant of the same charge in departmental proceedings would not conclude the criminal case against the appellant. We have already held that for the reasons given, on the peculiar facts of this case, the criminal proceedings initiated against the appellant cannot be pursued.” Ultimately this Court concluded as follows:

“33. The said decision was, therefore, rendered on the facts obtaining therein and cannot be said to be an authority for the proposition that exoneration in departmental proceeding ipso facto would lead to a judgment of acquittal in a criminal trial.”

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22. This point also fell for consideration before this Court in the case of Supdt. of Police (C.B.I.) v. Deepak Chowdhary, (1995) 6 SCC 225, where quashing was sought for on two grounds and one of the grounds urged was that the accused having been exonerated of the charge in the departmental proceeding, the prosecution is fit to be quashed. Said submission did not find favour with this Court and it rejected the same in the following words:

"6. The second ground of departmental exoneration by the disciplinary authority is also not relevant. What is necessary and material is whether the facts collected during investigation would constitute the offence for which the sanction has been sought for."

23. The decision of this Court in the case of Central Bureau of Investigation v. V.K. Bhutiani, (2009) 10 SCC 674, also throws light on the question involved. In the said case, the accused against whom the criminal proceeding and the departmental proceeding were going on, was exonerated in the departmental proceeding by the Central Vigilance Commission. The accused challenged his prosecution before the High Court relying on the decision of this Court in the case of P.S. Rajya (supra) and the High Court quashed the prosecution. On a challenge by the Central Bureau of Investigation, the decision was reversed and after relying on the decision in the case of M. Krishna Mohan (supra), this Court came to the conclusion that the quashing of the prosecution was illegal and while doing so observed as

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follows:

"6……..In our opinion, the reliance of the High Court on the ruling of P.S. Rajya was totally uncalled for as the factual situation in that case was entirely different than the one prevalent here in this case."

24. Therefore, in our opinion, the High court quashed the prosecution on total misreading of the judgment in the case of P.S. Rajya case (Supra). In fact, there are precedents, to which we have referred to above speak eloquently a contrary view i.e. exoneration in departmental proceeding ipso facto would not lead to exoneration or acquittal in a criminal case. On principle also, this view commends us. It is well settled that the standard of proof in department proceeding is lower than that of criminal prosecution. It is equally well settled that the departmental proceeding or for that matter criminal cases have to be decided only on the basis of evidence adduced therein. Truthfulness of the evidence in the criminal case can be judged only after the evidence is adduced therein and the criminal case can not be rejected on the basis of the evidence in the departmental proceeding or the report of the Inquiry Officer based on those evidence.

25. We are, therefore, of the opinion that the exoneration in the departmental proceeding ipso facto would not result into the quashing of the criminal prosecution. We hasten to add, however, that if the

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prosecution against an accused is solely based on a finding in a proceeding and that finding is set aside by the superior authority in the hierarchy, the very foundation goes and the prosecution may be quashed. But that principle will not apply in the case of the departmental proceeding as the criminal trial and the departmental proceeding are held by two different entities. Further they are not in the same hierarchy."

14. Therefore, the exoneration of the petitioner in the departmental proceedings would not, ipso facto, warrant the quashing of the criminal prosecution. It is well settled that the standard of proof applicable in departmental proceedings is distinct from, and lower than, the standard required in a criminal trial. Equally, it is a settled principle of law that both departmental proceedings and criminal prosecutions must be decided independently on the basis of the evidence adduced in the respective proceedings. Consequently, a criminal prosecution cannot be terminated solely on the basis of the findings recorded in the departmental proceedings or the report of the Inquiry Officer, as such findings are based only on the evidence led before the disciplinary authority and are not determinative of the issues arising in the criminal trial.

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15. Further, the Hon'ble Supreme Court of India in the judgment reported in ***2019 (4) SCC 351*** in the case of ***Devendra Prasad Singh Vs. State of Bihar &Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no prima facie case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

16. The Hon'ble Supreme Court of India in the judgment reported in ***2019 (10) SCC 686*** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated 17.10.2019)*** held that while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure, the High Court cannot embark upon an appreciation of disputed questions of fact or record findings thereon. The defence sought to be raised by an accused is a matter to be tested on

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the basis of the evidence adduced during the course of trial and cannot be adjudicated at the stage of considering a petition for quashing.Therefore, this Court, while exercising its inherent jurisdiction under Section 482 of the Code of Criminal Procedure, cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therfore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

17. The Hon'ble Supreme Court of India in another judgment dated ***02.12.2019*** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi&anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether

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the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

18. Further this Court cannot observe at this stage as to whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the grounds raised by the petitioner to quash the final report/charge sheet cannot be entertained.

19. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.927 of 2021 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, and the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN. J,

rts

To

1. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.

2. The Inspector of Police,
CBI, No.36, Bellary Road,
Ganganagar, Bangalore – 32.

2. The Assistant General Manager,
Union Bank of India,
Industrial Finance Branch,
Chennai.

3. The Public Prosecutor,
Madras High Court,
Chennai.

Order in
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