(2018) 04 MP CK 0173

In the Madhya Pradesh High Court

Case No : CRR-3266 OF 2015, 21 OF 2016

Suresh Soni And Anr — APPELLANT

Vs

State Of Madhya Pradesh — RESPONDENT

Date of Decision : 27-04-2018

Acts Referred:
Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471

Citation : (2018) 04 MP CK 0173

Hon'ble Judges : SUSHIL KUMAR PALO, J

Bench : Single Bench

Advocate : Arun Kumar Nema, Shahin Fatima, Syed Masood Ali

Final Decision : Dismissed

Judgement

The matter arrise out of the same crime No. and involves the same facts and issues, therefore, heard analogously and are being decided by this

common order.

2. Bereft of the unnecessary details, the prosecution story inbrief is that, Jalam Singh (since deceased) has moved a complaint to the Superintendent of

Police, Sagar by alleging that, accused Rama Patel, Kanchhedi Patel and Babulal Patel with common intention prepared a false revenue records and

on the basis of the same, conspired with the bank officials and obtained agricultural loan of Rs.1,50,000/-. During the course of investigation, it was

found that, false revenue documents were prepared with the regard to Khasra No.101, 184 and 187 of village Tinsua which are owned by the

complainant. Accused Rama Patel, Kanchhedi and Babulal in connivance with the petitioner/Suresh Soni, Advocate, submitted the search report and

petitioner/Rajendra Kumar Joshi, the Branch Manager of UCO Bank disbursed the loan of Rs.1,50,000/-. Therefore, crime has been registered under

Sections 420, 467, 468 & 471 of the IPC at Police Station Kotwali, Sagar. Krishna Kant Dixit, a co-accused and a Probationer of the Bank was also

involved in this case. Subsequently, after investigation, charge-sheet has been filed against the accused persons including the petitioners, Suresh Soni

and Rajendra Kumar Joshi. Accused Kanchhedi and Jalam are dead. Coaccused Babulal is absconding. Proceeding of ST No.900209/13 was stayed,

so far as the petitioners, Suresh Soni and Rajendra Kumar Joshi are concerned.

3. On behalf of Rajendra Joshi, it is contended that the petitioneris innocent. The impugned order dated 08/10/2015, wherein charges have been

framed against the petitioner for offence under Section 420/120-B, 467/120-B, 468/120-B and 471/120-B of the IPCÂ are bad in the eyes of law. The

name of the petitioners are not reflected in the FIR. The petitioner has been impleaded as an accused at the time of framing of charge. After the

verification report by Krishna Kant Dixit, the petitioner has approved the loan and the loan has been sanctioned on the basis of the documents which

has been produced.

4. On behalf of the petitioner/Suresh Soni, it is contended that,the petitioner is a lawyer and given the search report (Ann.A/8) on the basis of the

documents provided to him. It is also claimed that, Shri K.K. Dixit was the Field Officer of the Bank at the relevant time verified the documents. The

petitioner has no nexus with the crime. Name of the petitioner is not mentioned in the FIR. There are no allegations against him for preparing any false

report or fabricating any document. The petitioner is, therefore, entitled to be discharge.

5. On behalf of the respondent/State, the petitions arevehemently opposed and it is contended that, the petitioner Suresh Soni was responsible for

giving the false search/verification report and petitioner/Rajendra Kumar Joshi was the Branch Manager at the relevant time and approved the loan on

the basis of the false revenue records.

6. Perused the record.

7. The documents which indicate that, the accused persons haveconnived together and have prepared the false revenue records and on the basis of

the revenue records and search report, loan of Rs.1,50,000/- was sanctioned by the Bank Officials. The documents which are relied by the petitioners

dated 05/01/2012 and the search report is dated 10/08/2011, indicate that, on the basis of this report, the sanction of loan was made. When prima facie

the revenue records were forged ones, the responsibility of the person in-charge of the search report and the person who sanctioned the loan cannot

be overlooked.

8. At the stage of framing of charge, only prima facie case is tobe seen.

9. On behalf of the petitioner, Suresh Soni, counsel for thepetitioner has placed reliance on CBI, Hyderabad Vs. K. Narayan Rao reported as (2012) 9

SCC 512, wherein it has been held that, merely because his legal opinion may not be acceptable (in present case respondent/Panel Advocate had been

given ownership documents of conspirators' pledged properties, for vetting), he cannot be fastened with criminal prosecution in absence of tangible

evidence.

10. This Court with respectful disagreement that the submissionsmade by the counsel for the petitioners observed that, if the evidence discloses prima

facie commission of alleged offence, the Court has to frame charge against the accused.

11. At the time of framing of charge, the Court has to considerthe broad probabilities of the case and the total effect of the material collected by the

prosecution. At this stage, it is not necessary for the prosecution to establish beyond all reasonable doubts that, the accused has committed the crime.

From the statement of the witnesses and the report, framing of charge is justified. The Court would not indulge into meticulous examination of the

evidence at the time of framing of charge.

12. At this stage, the Court has to take the documents at theirface value, therefore, it would not be proper to embark upon an enquiry.

13. That being so, both the petitions are dismissed.

