Rajeev Ranjan Vs. The State of Jharkhand Through C B I

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Court : Jharkhand

Decided On : Oct-15-2015

Appellant : Rajeev Ranjan

Respondent : The State of Jharkhand Through C B I

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI A. B. A. No. 2384 of 2015 --- Rajeev Ranjan S/o Dr. Radhika Raman Singh permanent R/o Village Majhuin, PO & PS Shivsagar, Distrcit Rohtas (Bihar), presently residing at Qtr. No. E/219, Sector II, H.E.C. Colony, Dhurwa, PO & PS Dhurwa, District Ranchi Petitioner Versus The State of Jharkhand through CBI Opposite Party --- CORAM : HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY --- For the Petitioner : Mr. Rajeev Ranjan, Senior Advocate For the Opposite Party-CBI : Mr. K. P. Deo, Advocate --- 7/15.10.2015 Heard Mr. Rajeev Ranjan, learned senior counsel appearing for the petitioner and Mr. K. P. Deo, learned advocate for the CBI. The petitioner is apprehending his arrest in connection with R.C. Case No. 04(S)/14-EOW-R registered for the offences punishable under Sections 120B r/w 420/467/468/471 of the I.P.C. and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. On the basis of a complaint received from the Deputy General Manager, Bank of Baroda, Regional office, Jharkhand Region, Jamshedpur alleging that the accused persons had availed various credit facilities from the Bank of Baroda, Main branch, Ranchi by creating the mortgage of some property with other various banks and had thus cheated the bank to the tune of Rs. 4.24

crores through 5 loan accounts, the case was instituted. Allegation has also been made against the petitioner with respect to giving false opinion that the properties were fit for creating mortgage which facilitated the sanction of fraudulent loans. It has also been alleged that Vikram Tiwary, Tribhuwan Nath Tiwary, Jayanti Devi and Rajeev Ranjan in pursuance of a criminal conspiracy dishonestly and fraudulently forged the documents and caused wrongful gains to themselves by causing wrongful loss to the bank. Upon investigation charge-sheet was submitted against the petitioner and other accused persons for the offences punishable under Sections 120B r/w 420/467/468/471 of the I.P.C. and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. -2- Mr. Rajeev Ranjan, learned senior counsel has submitted that the petitioner is an empaneled lawyer of Bank of Baroda and merely because he has given an opinion, the same cannot be considered to mean that the petitioner was hand in gloves with the other accused persons causing wrongful gains to himself. It has been submitted that the original document is given by the bank and the same are supposed to be verified by the concerned lawyer. It has also been submitted that the opinion which was given by the petitioner was on the basis of the documents provided by the bank. Bank is the ultimate sanctioning authority of the loan after taking the original documents from the borrower. Mr. K. P. Deo, learned counsel for the CBI has opposed the prayer for anticipatory bail and has submitted that in course of investigation, it has come to light that the petitioner had submitted a false legal opinion certifying the false sale deeds, rent fixation slips issued in favour of co-accused Vikram Kumar Tiwary as genuine. It has also been submitted that based on the opinion of the petitioner confirming the title of property as genuine and fit for mortgage, loan facility was sanctioned by the bank to Vikram Kumar Tiwary. The petitioner has been implicated only on the allegation that he had given false opinion with respect to the genuineness of the documents which were submitted to him for his opinion. It appears that in course of investigation, it has been disclosed that the title of the properties mortgaged to the bank by the borrower Vikram Kumar Tiwary was not in his name as the said landed properties were mutated in the name of Kalpana Tiwary, the wife of Vikram Kumar Tiwary. It further appears that the borrower Shri Vikram Kumar Tiwary has dishonestly and fraudulently concealed the information regarding transfer of title of the said landed properties and had used the old sale deed as equitable mortgage for availing the facility. It would thus mean that the petitioner was provided with the documents which showed Vikram Kumar Tiwary as the owner of the said properties and based on what has been submitted to the bank, the legal opinion was given by the petitioner. In the case of Central Bureau of Investigation, Hyderabad Vs. K. Narayana Rao reported in (2012) 9 SCC512 with respect to the duty of an empaneled lawyer, it was held as follows: -3- 27. In the banking sector in particular, rendering of legal opinion for granting of loans has become an important component of an advocates work. In the law of negligence, professionals such as lawyers, doctors, architects and others are included in the category of persons professing some special skills. A lawyer does not tell his client that he shall win the case in all circumstances. Likewise, a physician would not assure the patient of full recovery in every case. A surgeon cannot and does not guarantee that the result of surgery would invariably be beneficial, much less to the extent of 100% for the person operated on. The only assurance which such a 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 practising and while undertaking the performance of the task entrusted to him, he would be exercising his skill with reasonable competence. This is what the person approaching the professional can expect. Judged by this standard, a professional may be held liable for negligence on one of the two findings viz. either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess. The charge-sheet does not reveal the angle of conspiracy alleged against the petitioner and at best in the given facts and circumstances of the case it can be deduced that the petitioner was negligent in not making proper verification to the effect that the title of the landed properties of Vikram Kumar Tiwary stood transferred in the name of his wife at the time when the legal opinion was given by the petitioner. In such circumstances, therefore, I am inclined to allow this application. Accordingly, the petitioner above named is directed to surrender in the court below within three weeks and pray for bail, and in that event, he shall be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each, to the satisfaction of Special Judge, C.B.I., Ranchi in connection with R.C. Case No. 04(S)/14-EOW-R, subject to the conditions as laid down under

Section 438 (2) of the Code of Criminal Procedure. (Rongon Mukhopadhyay, J) R. Shekhar Cp 3