

[1]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

(1) S.B. CRIMINAL REVISION PETITION NO. 679/2007

MANISH BHANSALI

Vs.

THE SPECIAL POLICE ESTABLISHMENT, CBI, JAIPUR
and

(2) S.B. CRIMINAL REVISION PETITION NO. 686/2007

UMMED KUMAR NAHAR Vs. THE STATE OF RAJASTHAN

DATE: 31.03.2008

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. S.R. Bajwa, Sr. Advocate and
Mr. R.N. Khandelwal for the accused-petitioners.
Mr. S.P. Tyagi for the respondent CBI.

These are two criminal revision petitions filed under Section 397 read with Section 401 Cr.P.C.; one by petitioner Manish Bhansali, Chief Manager of Bank of Baroda, Ramganj Branch, Jaipur, registered as S.B. Criminal Revision Petition No. 679/2007 and another by petitioner Ummad Kumar Nahar, Credit Manager of the same Bank, registered as S.B. Criminal Revision Petition No. 686/2007 against the impugned order dated 25.05.2007 passed by the Special Judge, CBI Cases, Jaipur in Special Case No. 4/99- State Vs. Manish Bhansali and others, by which charges for the offences punishable under Sections 120-B, 420, 468, 471 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act have been framed against the accused-petitioners. Both these

revision petitions are being decided by this common order.

Learned counsels appearing on behalf of the respective petitioner without arguing the revision petitions on merit, submit that during pendency of the trial and before passing of the order impugned dated 25.05.2007, the Additional District & Sessions Judge (Fast Track) No.3, Jaipur City, Jaipur vide its judgment dated 16.09.2005, decreed the suit filed by the Bank of Baroda, Ramganj Branch, Jaipur in favour of the Bank for Rs. 4,76,017/-, but this decree could not be placed before the trial Court for consideration.

Learned counsels for the petitioners placed reliance on the judgment of the Hon'ble Supreme Court rendered in the case of **Central Bureau of Investigation, SPE, SIU(X), New Delhi Vs. Duncans Agro Industries Ltd., Calcutta, reported in (1996) 5 SCC 591**, wherein the Hon'ble Supreme Court has observed that even if offence of cheating is prima facie constituted, compromise decree passed in such suits would amount to compounding of offence of cheating.

Placing reliance on the aforesaid judgment, learned counsels for the petitioners submit that they want to file an appropriate application under Section 216 Cr.P.C. before the

trial Court by way of placing the decree on record and they also want to cite the judgment of the Hon'ble Supreme Court.

Learned counsel appearing for the respondent CBI has strongly objected and submits that since the trial Court was prima-facie satisfied and framed charges against the accused-petitioners for the offences under Sections 120-B, 420, 468, 471 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, no case of re-consideration on the fact that the decree passed by the Civil Court in favour of the Bank could not be placed before the trial Court, is made out.

Having heard rival submissions of the respective parties and upon careful perusal of the order impugned dated 25.05.2007 passed by the Court below as well as the decree passed by the Additional District & Sessions Judge (Fast Track) No.3, Jaipur City, Jaipur dated 16.09.2005 and the judgment of the Hon'ble Supreme Court referred by the learned counsels for the petitioners, in the interest of justice, this Court deem it proper to remand the matter back to the trial Court with liberty to the petitioners to file an application under Section 216 Cr.P.C. along with the decree passed by the Civil Court in favour of the Bank to establish the fact whether offence under Section 420 IPC and the ancillary offences survive or not,

[4]

and the trial Court is directed to consider the judgment of the Hon'ble Supreme Court as well as the submissions made on behalf of the respective parties and then pass fresh order to this effect.

With these observations, both the criminal revision petitions stand disposed of.

(K.S. RATHORE),J.

/KKC/