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STATE OF MADHYA PRADESH

v.

YOGENDRA SINGH JADON & ANR.

(Criminal Appeal No. 175 of 2020)

B

JANUARY 31, 2020

[L. NAGESWARA RAO AND HEMANT GUPTA, JJ.]

Code of Criminal Procedure, 1973:

C *s. 482 – Charge-sheet u/s. 420 r/w. 120-B IPC – Against father of the respondents – Alleging inter alia that the accused had granted cash credit to the respondents (his sons) without proper documents, when he was President of the Bank – High Court quashed the criminal proceedings qua the respondents holding that no criminal case made out against them – Appeal to Supreme Court – Held: The facts of the case prima facie disclose an offence u/ss. 420 and 120-B IPC against the respondents – High Court was not right in quashing the charges against the respondents.*

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s. 482 – Jurisdiction under – Scope of – Held: Power u/s. 482 cannot be exercised where the allegations are required to be proved in the Court of law.

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Allowing the appeal, the Court

F **HELD:** The High Court examined the entire issue as to whether the offence under Sections 420 and 120-B IPC is made out or not at pre-trial stage. The respondents are beneficiary of the grant of cash credit limit when their father was the President of the Bank. The power under Section 482 of the Code of Criminal Procedure, 1973 cannot be exercised where the allegations are required to be proved in court of law. The manner in which loan was advanced without any proper documents and the fact that the respondents are beneficiary of benevolence of their father *prima facie* disclose an offence under Sections 420 and 120-B IPC. Other officials of the Bank have been charge-sheeted for an offence under Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. The charge under Section 420 IPC is not an isolated offence but it has to be read along with the offences under the Act to which the

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respondents may be liable with the aid of Section 120-B of IPC. Therefore, the order of the High Court quashing the charges against the respondents is not sustainable in law. [Para 5 and 6] [73-C-F]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 175 of 2020.

From the Judgment and Order dated 04.05.2016 of the High Court of Madhya Pradesh, Bench at Indore in Criminal Revision No. 260 of 2014.

Dhruv Tamta, Ms. Tanvi Bhatnagar, Harsh Parashar, Advs. for the Appellant.

Arvind Varma, Sr. Adv., Ms. Saloni Tangri, Ms. Jasleen Chahal, Farrukh Rasheed, Advs. for the Respondents.

The Judgment of the Court was delivered by

HEMANT GUPTA, J.

1. The State is aggrieved against an order passed by the High Court of Madhya Pradesh on 2nd May, 2016 whereby the proceedings against the respondents, both sons of late Manohar Singh Jadon, for an offence under Sections 420, 120-B of the Indian Penal Code, 1860¹ were quashed.

2. A charge sheet for the offences under Sections 420, 406, 409, 120B IPC and 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988² was filed on 9th July, 2008 consequent to registration of FIR No. 3 of 2007 on 23rd June, 2007. The allegation was that Manohar Singh Jadon, deceased father of the respondents in connivance with other employees of District Cooperative Kendriya Bank Maryadit, Shajapur³ committed financial irregularities on the basis of forged documents by misusing his post and by providing fake loan to the relatives. Manohar Singh Jadon was President of the Bank from 5th February, 1997 to 26th March, 2002 and from 27th March, 2002 to 7th May, 2004. Harshvardhan Singh Jadon (accused-respondent No. 2) is the proprietor of M/s. Harshvardhan & Brothers whereas Yogendra

¹ for short, 'IPC'

² for short, 'Act'

³ for short, 'Bank'

- A Singh (accused-respondent No. 1) is the proprietor of M/s. Sarohar Trading Company. Ghanshyam Sharma, General Manager, Ramanlal Acharya, Manager, Ram Singh Yadav, General Manager were also arrayed as accused. It was alleged that accused Harshvardhan Singh Jadon submitted an application on 2nd November, 2000 for grant of cash credit limit of Rs.25 lakhs and that the cash credit limit was sanctioned without following the due procedure. It was also alleged that mortgage deed was not registered nor signature of original loanee was found on the mortgage paper. It is also pointed out that an amount of Rs.59,88,327/- was balance on 1st December, 2001 even after depositing Rs.25 lakhs and that the President has done the renewal of cash credit limit at his own level and its confirmation was got done later on from the loan Sub-Committee, while the case was of the son of the President alone. In respect of Yogendra Singh, again the allegation is that cash credit limit of Rs.25 lakhs was sanctioned on the basis of his application dated 30th July, 2001 without completing any of the procedural requirements and without mortgage of any of the property. Smt. Saroj Singh mortgaged the land but without any valuation. The surety of Ishwar Singh was taken. The same person mortgaged land as in the case of Harshvardhan. Similar is the assertion in respect of registration of mortgage. It was also alleged that a sum of Rs.25,65,894/- is the balance as on 31st March, 2002 even after withdrawal beyond the approved credit limit of Rs.25 lakhs.

3. The Special Judge passed an order of framing of charges against Harshvardhan Singh Jadon and Yogendra Singh Jadon apart from other accused on 24th February, 2014. Such order was challenged by the respondents by way of a criminal revision.

- F 4. The High Court in the Revision Petition found that the offences under Sections 420 and 120-B IPC are not made out against the respondents. The Court held that there is no assertion that the cash credit facility obtained with a knowledge that they will not repay the loan amount. The Court held as under:
- G “12. It may be that the Officers of the Bank, because of the fact that father of the applicants was President of the Bank, had acted in disregard of the relevant rules and regulations in that behalf of confer benefit upon the applicants, but that will give rise to liability against the officers of the bank who failed to discharge their duties in accordance with prescribed norms and
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regulations. However, that may not be a ground to proceed A
against a person who has been granted cash credit facility.

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14. In the instant case, the uncontroverted allegations taken in B
their entirety do not prima facie establish that the applicants
deceived the Bank Authorities or fraudulently or dishonestly
induced them to sanction cash credit facility. Thus, the basic
ingredient to constitute the offence of 420 of IPC is totally missing
in the chargesheet.”

5. We find that the High Court has examined the entire issue as C
to whether the offence under Sections 420 and 120-B is made out or
not at pre trial stage. The respondents are beneficiary of the grant of
cash credit limit when their father was the President of the Bank. The
power under Section 482 of the Code of Criminal Procedure, 1973
cannot be exercised where the allegations are required to be proved in
court of law. The manner in which loan was advanced without any D
proper documents and the fact that the respondents are beneficiary of
benevolence of their father *prima facie* disclose an offence under
Sections 420 and 120-B IPC. It may be stated that other officials of
the Bank have been charge sheeted for an offence under Sections
13(1)(d) and 13(2) of the Act. The charge under Section 420 IPC is E
not an isolated offence but it has to be read along with the offences
under the Act to which the respondents may be liable with the aid of
Section 120-B of IPC.

6. Consequently, we find that the order of the High Court quashing F
the charges against the respondents is not sustainable in law and the
same is set aside. The appeal is allowed. It shall be open to the
respondents to take such other action as may be available to them in
accordance with law.