IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2026

CORAM:

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

Crl.R.C.No.694 of 2025
and Crl.M.P.Nos.10484 & 10486 of 2025

R. Subramanian
No.12, 5th Street,
Gopalapuram,
Chennai – 600 086.

..Petitioner(s)

Vs

The Inspector of Police,
CBI/ACB/Chennai,
Chennai Zone.

..Respondent(s)

PRAYER: Criminal Revision has been filed under Section 438 r/w. 442 of BNSS, praying to call for the records and set aside the order dated 13.02.2025 passed by the learned XI Additional Special Judge for CBI Cases, Chennai, in C.C.No.13 of 2023 and consequently discharge the petitioner from all offences charges in the charge sheet in C.C.No.13 of 2023 pending on the file of the learned XI Additional Special Judge for CBI Cases, Chennai.

For Petitioner(s): Mr. Rahul M Shankhar

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

ORDER

This Criminal Revision Case has been preferred as against the order dated 13.02.2025, passed by the learned XI Additional Special Judge for CBI Cases, Chennai, in Crl.M.P.No.6306 of 2024 in C.C.No.13 of 2023, thereby dismissing the petition filed by the petitioner to discharge him from all the charges.

2. The case of the prosecution is that during the period 2019 to 2020 in Chennai and other places the accused 1 to 14 and unknown public servants and private persons hatched criminal conspiracy with each other and in pursuance of the said criminal conspiracy, the accused persons in connivance with the bank officials availed 21 numbers of cash credit facilities in name of the non existing units/firms of the A1 to A12 and 2 numbers of loan against the property in the name of one Murugan and M. Geetha from the Indian Overseas bank, Valasaravakkam branch, Chennai. After availing the said loans, they diverted the entire loan proceeds for the ultimate benefits of the partnership firm viz., A.K. Spinning and Weaving Mills represented by its partners viz., A1 & A2, thereby cheated the bank and also caused wrongful loss to the tune of Rs.9.18 crores to the Indian Overseas Bank and also correspondent wrongful gain to them. On the complaint, the respondent registered a case in RC 12(A)/2021-CBI/ACB and after completion of investigation filed final report

for the offences punishable under Sections 120B r/w. 420, 409, 468, 471 r/w. 468 of IPC and Sections 13(2) r/w. 13(1)(a), 11 and 12 of the Prevention of Corruption Act, 1988, and same has been taken on file in C.C.No.13 of 2023 by the Trial Court. While pending the case in framing of charges, the petitioner, who is arrayed as the second accused, filed a petition to discharge him from all the charges and the same was dismissed by the Trial Court. Aggrieved by the same, the petitioner filed the present revision.

3. The learned counsel appearing for the petitioner submitted that M/s. AK Spinning and Weaving Mills was run by the first accused along with one Karunakaran as a partner. In the year 2018, the said partnership firm was reconstituted and the said Karunakaran exited and the petitioner herein joined as a partner. The only allegation as against the petitioner is that he along with the first accused had opened a current account in the name of the partnership firms and had availed a sum of Rs.40,00,000/- cash credit facility in the said account, for which the petitioner had laid down his property as collateral security. The petitioner did not even apply for any loan and he has no connection with any transactions. Except as a partner of the partnership firm, the petitioner does not have any access to the alleged misappropriated funds. He had mortgaged his property worth about Rs.5,00,00,000/- and obtained loan to the tune of Rs.40,00,000/-. Therefore, the allegation of obtaining loan in the

name of non existing firm did not apply to the petitioner as he has no connection with any other entities which form part of the investigation. Further, the petitioner was not a signatory to the loans and he had no access or control over the accounts maintained by the partnership firm which had entirely been under the control of the first accused and the sixth accused, who is none other than the wife of the first accused.

3.1. He further submitted that no offence is made out under Section 120B r/w. 409 and 420 of IPC. No essential ingredients to attract the offence under Section 405 of IPC as against the petitioner, since the main ingredient of criminal breach of trust is not made out by the prosecution. The petitioner never entrusted with any funds of the partnership firm. The petitioner was only acting as a joint loanee in obtaining a cash credit facility and he had only availed a sum of Rs.40,00,000/- from the first accused by way of business transaction. In support of his contention, he relied upon the judgment reported in ***(1989) 4 SCC 630*** in the case of ***Sham Sunder and ors Vs. State of Haryana*** in which the Hon'ble Supreme Court of India held that the penal provision must be strictly construed in the first place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 of the Indian Partnership Act 1932, does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not. Therefore, the petitioner was being a silent partner, he cannot be held liability for the offence committed by the first accused.

3.2. He also relied upon an another judgment of the Hon'ble Supreme Court of India reported in ***AIR 1965 SC 1433*** in the case of ***Velji Raghavji Patel Vs. State of Maharashtra,*** which held that in order to establish entrustment of dominion over property to an accused persons the mere existence of that person's dominion over property is not enough. It must be further shown that his dominion was the result of entrustment. In the case on hand, there is no entrustment of property with the petitioner and as such no charge is made out as against the petitioner. Hence, he prayed to allow this petition.

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

5. On perusal of the counter filed by the respondent and also on the submissions made by the learned counsel appearing on either side, it is revealed that there are totally 14 accused in which, the petitioner is arrayed as A2. He was one of the partners of M/s. AK Spinning and Weaving Mills, and the first accused is the other partner. They availed loan and diverted the entire

loan amount to their various non existing concerns and swindled the same, thereby causing wrongful loss to the bank. Further, the accused 1 & 2 opened a current account in the name of their partnership firm and availed cash credit facilities to the tune of Rs.40,00,000/-. The entire loan proceeds were diverted to other purposes and not utilized for the purposes for which they were sanctioned, thereby the accused persons caused wrongful loss to the tune of Rs.9.18 crores to the bank and corresponding wrongful gain to themselves. The petitioner was being a partner of M/s. AK Spinning and Weaving Mills, dishonestly and fraudulently received a sum of Rs.35,00,000/-, which were processed and sanctioned by the accused 7&8. Therefore, there are specific charges and allegations as against the petitioner to attract the offences under Sections 120B r/w. 420, 409, 468, 471 r/w. 468 of IPC. Hence, the judgments relied upon by the learned counsel appearing for the petitioner are not helpful to the case on hand.

6. Further on perusal of the records, it is revealed that from the loan proceeds of Rs.40,00,000/- sanctioned in the name of M/s.MBG Impex, on 26.07.2019 and a sum of Rs.32,56,000/- was transferred to the partnership firm account. Further on 26.07.2019, a sum of Rs.5,00,000/- had been transferred to the petitioner's account, which was maintained at Carana Bank, Gopalapuram, Chennai. Therefore, the grounds raised by the petitioner can be considered only

during the trial by let in evidence. Hence, the Trial Court rightly dismissed the petition filed by the petitioner to discharge him from all the charges and this Court finds no infirmity or illegality in the order passed by the Trial Court.

7. In view of the above discussions, this Court is not inclined to allow this petition and the petitioner is at liberty to raise all the grounds before the Trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The Trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this Order.

8. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

16.07.2026

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order

rts

G.K.ILANTHIRAIYAN. J,

rts

To

1. The XI Additional Special Judge for CBI Cases,
Chennai

2. The Inspector of Police,
CBI/ACB/Chennai,
Chennai Zone.

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

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