

% 12.10.2009

Present : Mr. S. Bala Krishnan, Sr. Adv. with Mr. S. K. Gulati, Adv. for the petitioner.
Mr. Vikas Pahwa, Standing Counsel for CBI.

+ Crl. Rev. P. No. 670/2008

1. On the last date of hearing, it was pointed out by the learned Standing Counsel for CBI that in the instant case the petitioner by way of the present criminal revision petition has challenged the order dated 16th September, 2008 directing the framing of charge against the petitioner for an offence under Prevention of Corruption Act read with Section 418 and 120B IPC. It has been stated that this Court in Dharambir Khattar Vs. Central Bureau of Investigation 2009 IV AD Delhi 657 has held that an order directing the framing of charges in a case under Prevention of Corruption Act is an interlocutory order and thus not amenable to a criminal revision petition in view of Section 19(3)(c) of the Prevention of Corruption Act, 1988. It is further contended that a special leave petition filed against the judgment of the Dharambir Khattar's case (supra) before the Apex Court was also dismissed in limini and therefore, the said order has become final. The present petition deserves to be dismissed on that score.
2. The learned counsel for the petitioner has contended that the judgment of Dharambir Khattar's case need to have a relook on account of following points were was not considered by the said

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learned Single Judge.

3. The learned senior counsel for the petitioner has tried to make a distinction between the 'Special Judge' and a 'Special Court' so as to urge that the learned Judge has in his judgment referred to various decided cases which essentially pertain to 'Special Court' while as the matter of Prevention of Corruption Act is tried by 'Special Judge'.
4. The second contention is that Section 19 of the Prevention of Corruption Act deals with the question of sanction essentially and it is in that context that Section 19(3) (C) is to be seen in the context of sanction only. Another connected argument with this contention is that the Section 19(C) is at perimetria with the language of Section 397(2) sub clause (2) which provides that the interlocutory order will not be subject matter of revision petition. The only difference between the Section 19 of the Prevention of Corruption Act, 1988 and Section 397 Cr. P.C. is that under Section 19 of the Act non-obstante clause is used which cannot be incorporated in Section 397 Cr.P.C. and therefore it is urged that the learned Judge has tried to read non-obstante clause in Section of 19 of the Prevention of Corruption Act in Section 397 Cr.P.C.
5. I have carefully considered the submissions. The points which are sought to be raised have already been dealt with by the exhaustive judgment passed by the learned Single Judge with which this Court is in full agreement. So far as the argument of the learned senior

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counsel for the petitioner regarding the user of non-obstante clause of Section 19 with Section 397 is concerned, it is stated that such an interpretation is not warranted or permissible in law. On the contrary, the special law always supersedes the general law, therefore, the Prevention of Corruption Act being a special law has to prevail over the general provisions of Cr.P.C. to the extent to which provision is made in this regard.

6. So far as the question of 'Special Judge' and 'Special Court' are concerned, these are inter-changeable terms used in various judgments which in my view will not digress in any manner whatsoever from the ratio of the judgment laid down in Dharmabir Khattar's case and since the present case is squarely covered by the said judgment, accordingly, the present petition is dismissed

OCTOBER 12, 2009
KP


V.K.SHALI, J.