

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2015

CORAM:

THE HONOURABLE MR. JUSTICE P.DEVADASS

Crl. R.C. No.1129 of 2014

State represented by
Dy. Superintendent of Police,
CBI/BS & FC/Bangalore. .. Petitioner

vs.

K.S.Selvakumar .. Respondent

Criminal Revision Petition preferred under Sections 397 and 401 of Criminal Procedure Code, 1973 against the order passed in Crl.M.P.No.328 of 2013 in C.C.No.31289 of 2004 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.K.Srinivasan,
Special Public Prosecutor for CBI Cases.

For Respondent : Mr.C.Rajan

O R D E R

The CBI directed this revision as against the order of discharge passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.328 of 2013 in C.C.No.31289 of 2004.

2. Petitioner is A-9 in this case. He filed Crl.M.P.No.328 of 2013 to discharge him from this case.

3. The Trial Court referring to various decisions including the three-Judge Bench in Gian Singh vs. State of Punjab and Another {2013} 1 SCC (Crl.) 160 = (2012) 10 SCC 303} taken note of the fact that there was compromise between the Bank and the accused, discharged the petitioner holding as under in para-25 of its order:

"25. In the above circumstances of this case, since the petitioner and his company honestly settled the amount by way of

compromise to the bank, there may not be any fruitful result in the further proceedings of this case.

In the result, this petition is allowed and the petitioner is discharged from this case. No costs."

4. According to the learned Special Public Prosecutor for CBI, the phraseology employed in Section 320 (9) Cr.P.C., is empathetic that "no offence shall be compounded except as provided by this Section, thus the Subordinate Criminal Courts have no power to compound the offence or discharge the accused noticing compromise, if any, arrived at. However, it would be entirely different from the inherent jurisdiction of the High Court under Section 482 Cr.P.C. The inherent jurisdiction under Section 482 Cr.P.C has been reserved only for the High Court.

5. However, the learned counsel for the respondent would repel him.

6. I have gone through the impugned order, Gian Singh (cited supra). In discharging the petitioner from this case noticing the compromise the Trial Court overstepped the said express bar inbuilt in Section 320 (9) of Cr.P.C. However, it would be different had the case has been projected under Section 482 Cr.P.C. by the respondent/A-9 before this Court.

7. In the circumstances, this revision is allowed. The order of discharge passed by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in CrI.M.P.No.328 of 2013 in C.C.No.31289 of 2004 is set aside.

8. The Registry will process the petition already filed by the respondent under Section 482 Cr.P.C and number it, if it is otherwise in order and take further action.

Svn

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

Copy to:

1. The Deputy Superintendent of Police,
CBI/BS & FC/Bangalore.

2. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.
 3. The Special Public Prosecutor for CBI Cases,
High Court, Madras.
 4. The Section Officer, Criminal Section,
High Court, Madras.
- + 2 ccs to Mr.C.Rajan, Advocate SR 26583

bvr(co)
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