

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.10.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.No.363 of 2014

V.Seshan

.. Petitioner/6th Accused

vs.

The State of Tamil Nadu
rep.by the Inspector of Police
(Vigilance and Anti Corruption)
Chennai City II Detachment
Chennai 20.

.. Respondent/Complainant

Revision under Sections 397 and 401 of Criminal Procedure Code against the order dated 8.10.2013 passed in Crl.M.P.No.136 of 2013 in Special C.C.No.1 of 2010 on the file of X Additional City Civil and Sessions Judge (Special Judge for Anti Corruption Cases) Chennai.

For petitioner : Mr.S.Selvathirumurugan

For respondent : Mr.P.Govindarajan,
Addl.Public Prosecutor

O R D E R

Challenge in this Criminal Revision Case is to the dismissal order dated 8.10.2013 passed in Crl.M.P.No.136 of 2013 in Special Calendar Case No.1 of 2010 by the X Additional City Civil and Sessions Judge (Special Judge for Anti Corruption Cases), Chennai.

2. The revision petitioner herein, as petitioner, has filed Crl.M.P.No.136 of 2013 in Special C.C.No.1 of 2010 under section 239 of Code of Criminal Procedure, 1973 praying to discharge him from the proceedings of Special Calendar Case No.1 of 2010, wherein the present respondent has been shown as sole respondent.

3. It is averred in the petition that the petitioner and others have been shown as accused in Special Calendar Case No.1 of 2010, wherein it is alleged on the side of the respondent that the petitioner and others have committed offences punishable under section 120(b) r/w 409, 420, 167, 109 r/w 477 (A), 109 of Indian Penal Code r/w Section 13(2) r/w 13(1)(c) and 13(1)(d) of Prevention of Corruption Act. Further, it is averred in the petition that the petitioner is an innocent person and he has no connection whatsoever with the alleged offence and he has been falsely implicated in the present case and under such circumstances, the petition in CrI.M.P.No.136 of 2013 has been filed for getting the relief sought therein.

4. The court below, after considering the divergent contentions raised on either side, has dismissed the petition. Against the dismissal order passed by the court below, the present Criminal Revision Case has been filed at the instance of the petitioner as criminal revision petitioner.

5. The learned counsel appearing for the revision petitioner has contended that the complaint in question has been given on 15.12.1995 and after lapse of long years, a final report has been filed on 18.3.2010 and since final report has been filed very belatedly, the entire proceeding in Special Calendar Case No.1 of 2010 is liable to be quashed and further there are so many higher officials, who involved in the alleged occurrence, but they have not been included in Special Calendar Case No.1 of 2010. Under such circumstances, the Investigating Officer has done lopsided investigation. On that ground also, the case of the prosecution is liable to be thrown out and except the statements of L.Ws.104 and 105, no other materials are available so as to proceed further against the petitioner. Under such circumstances, the petition in CrI.M.P.No.136 of 2013 has been filed for getting the relief sought therein, but the Court below without considering non-involvement of the petitioner, has erroneously dismissed the petition and therefore the dismissal order passed by the Court below is liable to be set aside.

6. The learned Additional Public Prosecutor appearing for the respondent has contended that the revision petitioner has served as Special Officer from 1.3.1992 to 10.5.1993 and during relevant period, the cheques in question have been issued. Under such circumstances, revision petitioner has been arrayed as 6th accused. The Court below, after considering the prima facie evidence available on record against the revision petitioner, has rightly dismissed the petition and therefore,

the dismissal order passed by the court below is not liable to be set aside.

7. The first and foremost point urged on the side of the revision petitioner is that the First Information Report has been registered on 15.12.1995, whereas final report has been filed into Court on 18.3.2010 and enormous delay has occurred in conducting investigation.

8. It is seen from the records that FIR has been registered on 15.12.1995 and after a long time, final report has been filed on 18.3.2010. Simply on the basis of enormous delay, the proceeding of Special C.C.No.1 of 2010 cannot be quashed and in the instant case, the Court has to analyze as to whether prima facie materials are available so as to proceed further against the revision petitioner.

9. It is an admitted fact that from 1.3.1992 to 10.5.1993, the petitioner has served as Special Officer in the particular society. It is also equally an admitted fact that during his period, cheques in question have been issued to various persons. The allegation made against the present accused and others is that all of them have conspired themselves so as to commit offences punishable under section 120(b) r/w 409, 420, 167, 109 r/w 477(A), 109 of Indian Penal Code. Considering the fact that the cheques in question have been issued while the revision petitioner has served as Special Officer and also considering that in all the cheques, he has put his signatures, it is needless to state that prima facie materials are available so as to proceed against the revision petitioner.

10. The learned counsel appearing for the revision petitioner has also contended that the petitioner has been belatedly arrayed as one of the accused in Special Calendar Case No.1 of 2010 and that too on the basis of the statements given by L.Ws.104 and 105.

11. Even though, the revision petitioner has been included belatedly, the offence alleged to have been committed by him cannot be ignored and further as stated supra, the revision petitioner has put signatures in the cheques in question. Under such circumstances, there is no sufficient ground so as to discharge the revision petitioner from the proceeding of Special Calendar Case No.1 of 2010.

12. The main gravamen expressed on the side of the revision petitioner is that the Investigating Officer has done partial investigation without including higher officials and the said argument can be advanced before the trial Court. Therefore, viewing from any angle, the dismissal order passed by the court below is not liable to be set aside and altogether, the present Criminal Revision Case deserves to be dismissed.

In fine, this Criminal Revision Case is dismissed. The order passed in Crl.M.P.No.136 of 2013 in Special C.C.No.1 of 2010 by the court below is confirmed.

Sd/-
Assistant Registrar(CS-VII)

True Copy

Sub Assistant Registrar

To

1. X Additional City Civil and Sessions Judge
(Special Judge for Anti Corruption Cases) Chennai.
 2. Inspector of Police
(Vigilance and Anti Corruption)
Chennai City II Detachment
Chennai 20.
 3. The Public Prosecutor, High Court, Madras.
- +1cc to Public Prosecutor, Sr.59060
- + 1 cc to M/s.S.Selvathirumurugan, Advocate Sr 61380 (7/1/16)

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srg 5/11/2015

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