IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.OP No.13525 of 2015

C.Subramanian ... Petitioner

Vs

State, rep.by
Additional Superintendent of Police,
SPE; CBI; ACB
Chennai ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.4 of ***2014**, pending trial in Additional District Judge, CBI Cases, Coimbatore and quash the same.

For Petitioner : Mr.A.Natarajan,Sr.counsel for Mr.Naveen Kumar Murthi

For Respondent : Mr.K.Srinivasan,Spl.P.P.

ORDER

This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for records relating to Calendar Case No.4 of ***2014**, pending on the file of CBI Court, Coimbatore and quash the same.

2. It is averred in the petition that the petitioner has been shown as 3rd accused in Calendar Case No.4 of ***2014.** The petitioner has no connection whatsoever with the offences alleged to have been committed by other accused. During the relevant period, the petitioner has acted as Director of M/s.Mehala Machines India Limited. Since the petitioner has had no connection whatsoever with the offences alleged to have been committed by the remaining accused, the present petition has been filed for getting the relief sought therein.

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3. The learned counsel appearing for the petitioner has contended that the petitioner is not at all responsible for the act alleged to have been done by the second accused. During the relevant period, the second accused has acted as Manager (Finance and Accounts) in M/s.Mehala Machines India Ltd. Since the petitioner has acted as Director of the said company, he has been falsely implicated in Calendar Case No.4 of ***2014**. Under the said circumstances, the present criminal original petition has been filed for getting the relief sought therein.

4. The learned Special Public Prosecutor has contended that the specific case of the prosecution is that the first accused is a Statutory Central Auditor of Indian Bank. The second accused has acted as Manager (Finance and Accounts) in M/s.Mehala Machines India Limited. At the instigation of the 3rd accused, the second accused has bribed the first accused and for the purpose of proving the role alleged to have been played by the present petitioner (3rd accused), witness Nos.5 and 7 have given clear statements and therefore, the relief sought in the petition cannot be granted.

5. It is seen from the records that during the relevant period, the present petitioner has acted as Director of M/s.Mehala Machines India Ltd. It is an admitted fact that the second accused has served as Manager (Finance and Accounts) of the said company.

6. The consistent case put forth on the side of the prosecution is that the second accused has bribed the first accused in a hotel by name Taj Vivanta, Coimbatore. The specific defence put forth on the side of the petitioner is that he has no connection whatsoever with the offences alleged to have been committed by the accused 1 and 2.

7. The present petitioner has been robed in Calendar Case No.4 of ***2014** only on the basis of statements given by LWs.5 and 7. The learned Special Public Prosecutor has also relied upon their statements. L.W.5 has stated like this:

> "As far as I remember, the following representatives of i) M/s.Mehala Machines India Limited, (ii) Rainbow Colour Tech Processors and iii) C.R.Spinners i.e. Shri C.Subramanian and R.Seshadri, had come to the Zonal Office on 20.4.2013 and discussed with Raj Kumar Aggarwal, SCA

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Likewise LW.7 says like this:

> "On 20.4.13 Statutory Central Auditor, Shri Raj Kumar Aggarwal discussed with Shri C.Subramanian, Managing and Shri R.Seshadri, Manager (Finance) Director of M/s.Mehala Machines about certain irregularities like slow moving of stocks and low turn hover in the account. Shri Raj Kumar Aggarwal stated that the company accounts would be classified as NPA for the above reasons. Both of them offered their clarifications for the points raised by the auditor. . . . .; "

8. From a close scrutiny of the statements given by LWs.5 and 7, the Court can come to a conclusion that the present petitioner (accused No.3) has had connection with the alleged giving of bribe amount by the second accused to the first accused. Further, from their statements, the Court can easily discern that both the accused 2 and 3 have met the first accused on 20.4.2013 in connection with their business. A mere meeting on 20.4.2013 with the first accused would not be sufficient or cannot be a basis for coming to a conclusion that the present petitioner has involved in the crime. Apart from the statements given by LWs.5 and 7, no other materials are available so as to point out the alleged guilt of the petitioner. Therefore, it is quite clear that sufficient materials are not available so as to proceed further against the petitioner (3rd accused) and therefore, the present petition deserves to be allowed.

In fine, this criminal original petition is allowed. The proceeding in Calendar Case No.4 of ***2014** against the petitioner (3rd accused) is alone quashed.

Sd/-
Assistant Registrar(CS IV)

Amended as per the order dated 22.03.2016 made in Crl.MP No.3085/2016.
Sd/-
Assistant Registrar (CS IV)
28.03.2016.

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Sub Assistant Registrar

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To

1.The Additional Superintendent of
   Police,
  SPE; CBI; ACB
  Chennai

2.The Additional District Judge,
  CBI Cases, Coimbatore

3.The Public Prosecutor,
  High Court, Madras.

To be substituted to the order already despatched on 15.12.15

+1cc to Mr.Naveen Kumar Murthi, Advocate, S.R.No.62435
+1cc to Mr.K.Srinivasan, Advocate, S.R.No.62126

Crl.OP No.13525 of 2015

AR IV
CA(23/11/2015)
kra 29.03.2016

HIGH COURT OF JUDICATURE MADRAS
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