

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07-12-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Crl.R.C.No.1012 of 2015

The State represented by
Deputy Superintendent of Police
Crime Branch CID,
Chennai - 600 008
[Crime No.46 of 1996] ...Petitioner/Complainant

Vs.

R.N. Jayaprakash @ J.P., ...Respondent/Accused

For petitioner :: Mr. P. Govindarajan, Addl.P.P

For respondent :: ***Mr.V.Gopinath Senior Counsel for
Mr.M.Nirmal Kumar**

ORDER

This Criminal Revision Case has been directed against the order passed in Crl.M.P.No.476 of 2015 in Special Calendar Case No.1/2014 pending on the file of the X Additional Special Judge, Chennai and quash the same.

2. The respondent herein as petitioner has filed Crl.M.P.No.476 of 2015 under Section 239 of the Code of Criminal Procedure, 1973 praying to discharge him from the proceedings of Spl.C.C.No.1 of 2014, wherein he has been shown as seventh respondent.

3. It is averred in the petition that the petitioner has been shown as seventh accused in Spl.C.C.No.1 of 2014 pending on the file of the X Additional Special Court for cases under Prevention of Corruption Act, Chennai. Further, it is averred in the petition that the petitioner is a private individual and he has no connection whatsoever with the offences mentioned in the final report and he has been falsely implicated and therefore, the present petition has been filed for getting the relief sought therein.

4. The Court-below after considering the divergent submissions made on either side has allowed the petition and

thereby, discharged the petitioner from the proceedings of Special C.C.No.1 of 2014. Against the order passed by the Court-below, the present Criminal Revision Case has been filed at the instance of the respondent, as criminal revision petitioner.

5. The learned Additional Public Prosecutor has contended that even though sufficient materials are available so as to proceed against the petitioner in Special C.C.No.1 of 2014, the Court-below has erroneously allowed the petition and therefore, the order passed by the Court-below is liable to be set aside.

6. Per contra, the learned counsel appearing for the respondent has contended that the accused Nos.1 and 2 have filed CrI.O.P.Nos.7249 and 7263 of 2015 on the file of this Court, wherein after considering elaborate arguments advanced on either side, this Court has allowed the same by way of stating that there is no material to proceed against the petitioners. Under the said circumstances, the reason given in the order passed in CrI.O.P.Nos.7249 and 7263 of 2015 can also be applied in the present Criminal Revision Case.

7. It is an admitted fact that the accused Nos.1 and 2 have filed CrI.O.P.Nos.7249 and 7263 of 2015 on the file of this Court and this Court after considering the rival contentions put forth on either side has allowed the same. In the order passed in CrI.O.P.No.7249 and 7263 of 2015 in paragraphs 8 to 12, it is observed as follows:

"8. It is an admitted fact that the Investigating Officer has submitted a report on 05-04-2004 wherein at Paragraph No.4, it is stated like thus:

"However, when the materials gathered so far in this case have been scrutinized thoroughly, it came to light some irretrievable shortcomings, which would prove fatal to prosecution in the event of launching of prosecution. A detailed report narrating the shortcomings is enclosed. The report and the C.D files were already perused by Senior Legal Advisor, CBCID and approved."

9. The Inspector General of Police has submitted a report on 28-04-2004, wherein it is stated thus:

"During investigation, no evidence has come forth whether the accused public servants had gained any pecuniary benefit following the commercial decision taken by the accused in the purchase of silk sarees, directly purchased from the two Societies (i) M/s. Mahalakshmi Silk Handloom Weavers Co-operative Society, Bangalore

and (ii) M/s. Kamakshipala Silk Handloom weavers Production and Sales Co-operative Society Ltd., Bangalore, Karnataka State. Further witnesses have clearly spoken that the sarees procured from the two Societies were good in quality and there is no material available to establish that Co-optex actually incurred loss due to the transaction made with the two Societies.

It is further stated that due to efflux of time and change of circumstances it will not throw any new light in this case even if further investigation is conducted."

10. In a confidential report it is stated like thus:

"On the assumption that the various lacunae are found upon the records perused by me, I am of the considered opinion that in the context of the short comings in the investigation, the case may not be pursued further and further action against all the accused may be dropped."

11. In the concluding report, it is stated that,

"During investigation, no evidence has come forth whether the accused public servants had gained any pecuniary benefit following the commercial decision taken by the accused in the purchase of silk sarees directly purchased from the two societies (i) M/s. Mahalakshmi Silk Handloom Weavers Co-operative Society, Bangalore and (ii) M/s. Kamakshipalya Silk Handloom weavers Production and sales Co-operative Society Ltd, Bangalore, Karnataka State. Further witnesses have clearly spoken that the the sarees procured from the two Societies were good in quality and there is no material available to establish that Co-optex actually incurred loss due to the transaction made with the two Societies."

12. Further, it is observed in the concluding report that "Dropping of further action as Mistake of fact."

8. Considering the circumstances mentioned supra and also considering the fact that CrI.O.P.Nos.7249 and 7263 of 2015 have already been allowed, it is needless to say that the order passed by the Court-below is perfectly correct and the same need not be set aside.

In fine, the criminal revision case is dismissed. The order passed in CrI.M.P.No.476 of 2015 in Spl.C.C.No.1 of 2014 by the Court-below is confirmed.

Sd/-
Assistant Registrar(CCC)
Dated: 16/12/2015

*Corrected as per
letter dated 11/1/16

Sd/-
Assistant Registrar(CCC)
Dated: 28/1/16

True Copy

Sub Assistant Registrar

To

1.The X Additional special Judge,
Chennai.

2.The Deputy Superintendent of Police
Crime Branch CID,OCU-II,
Chennai-8.

3.The Public Prosecutor,
High court Chennai.

To be Substituted to
the Order already
despatched on 17/12/2015

+1cc to Mr.M.NirmalKumar, Advocate sr.66098

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CrI.R.C.No.1012 of 2015

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srg 17/12/2015
srg 29/01/2016

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