

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

CrI.O.P No.21296 of 2009
& M.P.Nos.1 and 2 of 2009

Nithya Reddy

.. Petitioner/A5

Vs.

Central Bureau of Investigation
Rep.by V.P.Muralidharan
The Inspector of Police
CBI, BS & FC
Bangalore

... Respondent/Complainant.

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.15007 of 2008 pending on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai 8 and quash the same in respect of this petitioner.

For Petitioner : Ms.R.Antitha for
Mr.S.Ratnasabapathy

For Respondent : Mr.K.Srinivasan,
Spl. Public Prosecutor for CBI cases

ORDER

This Criminal Original Petition has been filed under section 482 of Code of Criminal Procedure, 1973 praying to call for the records pertaining to Calendar Case No.15007 of 2008 pending on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai 8.

2. It is averred in the petition that the petitioner and others have been charged under sections 120(B), r/w 420, 468, 471 and 474 of Indian Penal Code and also under sections 13(2) r/w 13(1) (B) (1) (D) of Prevention of Corruption Act, 1988. Further, it is averred in the petition that the petitioner has been arrayed as 5th accused. The respondent, after conducting investigation, has laid a final report on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai 8 and the same has been taken on file in C.C.No.15007 of 2008. Further, it is averred in the petition that the petitioner is an innocent person and he has no connection whatsoever with the offences alleged to have been mentioned in the final report. Under the said circumstances, present petition has been filed for getting the relief sought for therein.

3. On the side of the respondent, a detailed counter has been filed, wherein it has been contended inter alia to the effect that most of the averments made in the petition are false and further in C.C.No.15007 of 2008, 48 witnesses have been examined and Exhibits P.1 to P.256 have been marked and therefore, present petition deserves to be dismissed.

4. The learned counsel appearing for the petitioner has simply reiterated the averments made in the petition and ultimately prayed to grant the relief sought for therein.

5. The learned Special Public Prosecutor has contended that in C.C.No.15007 of 2008, P.Ws.1 to 48 have been examined and Exhibits P.1 to P.256 have been marked. Under the said circumstances, relief sought for in the petition cannot be granted.

6. In support of the contentions raised on the side of the respondent, a decision reported in 2007 (1) Law Weekly (Crl.) 493 (S.N.Venkatakrisnan vs. State through the Inspector of Police, Central Crime Branch is relied upon, wherein also three witnesses have been examined by the prosecution and that too under the direction of the High Court in the revision petition filed by the accused. In the said decision, this Court has relied upon the decision reported in AIR 1973 Sc 799 = 1974 L.W. (crl.) 40 (Amar Chand v. Shanti Bose). Further, this Court has also relied upon another decision reported in 2000 SCC (Crl.) 1486 (State of Delhi v. Gyan Devi). In both the decisions, the Hon'ble Supreme Court has categorically held that in a criminal case, on the side of the prosecution, when most of the witnesses have been examined, the question of quashing the proceeding is not proper.

7. In the instant case, as pointed out earlier, on the side of the prosecution, 48 witnesses have been examined and Exhibits P.1 to P.256 have been marked.

8. Considering the stage of C.C.No.15007 of 2008, this Court is of the view that the relief sought for in the present petition cannot be granted.

In fine, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

ajr

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. Additional Chief Metropolitan Magistrate,
Egmore, Chennai 8
2. The Inspector of Police
Central Bureau of Investigation
rep. by Mr.V.P.Muralidharan
CBI, BS & FC, Bangalore.
3. The Special Public Prosecutor for CBI Cases, High Court, Madras.

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Crl.O.P No.21296 of 2009



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