

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.10.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.No.1343 of 2013

R.Sankaranarayanan

.. Petitioner

vs.

State rep.by
The Inspector of Police
Central Bureau of Investigation
Anti Corruption Branch
Chennai 6

.. Respondent

Revision under Sections 397 and 401 of Criminal Procedure Code to call for the entire records of C.C.No.17 of 2010 from the file of XI Additional Special Judge for CBI Cases relating to Banking and Financial Institutions, Chennai-1 and set aside the charges framed against the petitioner/accused.

For petitioner : Mr.A.V.Somasundaram for
M/s.Lakshmipriya Associates
For respondent : Mr.K.Srinivasan,
Spl.Public Prosecutor

O R D E R

This Criminal Revision Case has been directed against the charges framed in Calendar Case No.17 of 2010 by the XI Additional Special Judge for CBI Cases relating to Banks and Financial Institutions, Chennai.

2. It is averred in the petition that the petitioner has been arrayed as sole accused in Calendar Case No.17 of 2010 pending on the file of the court below. Further, it is averred in the petition that on 8.3.2013, four charges have been framed against the petitioner/accused. Both the first and fourth charges have not been properly framed in consonance with the offences alleged to have been committed by the petitioner/accused. Under such circumstances, present Criminal Revision Case has been filed for getting the relief sought therein.

3. The learned counsel appearing for the revision petitioner has sparingly contended that in the first charge, it has been mentioned in many places that the petitioner/accused has dishonestly misappropriated Government money, but the first charge has been framed under section 420 of IPC. Further, the fourth charge has been framed under section 13(2) r/w 13(1)(c) and (d) of Prevention of Corruption Act, 1988, but as per law, a separate charge has to be framed under section 13(1)(c) and also 13(1)(d) of Prevention of Corruption Act, but the court below has committed a stupendous mistake in framing charges.

4. The learned Special Public Prosecutor appearing for the respondent has contended that the fourth charge framed by the court below is erroneous and a distinct and separate charge should be framed under section 13(1)(c) as well as 13(1)(d) of Prevention of Corruption Act.

5. On the basis of the rival submissions made on either side, the Court has to analyze as to whether the court below has properly framed charges in accordance with the allegations made on the side of the respondent. In the first charge, it has been mentioned throughout that the petitioner/accused has dishonestly misappropriated Government money. But, as rightly pointed out on the side of the petitioner/accused, the first charge has been framed under section 420 of IPC. Therefore, it is quite clear that the court below has erroneously framed the first charge.

6. Now the Court has to look into the fourth charge framed by the court below. The learned counsel appearing for the petitioner/accused as well as learned Special Public Prosecutor have uniformly contended that a separate and distinct charge should be framed under section 13(1)(c) as well as 13(1)(d) of Prevention of Corruption Act, 1988. But, in the instant case, the Court below has framed fourth charge under section 13(2) r/w 13(1)(c) & (d) of Prevention of Corruption Act and therefore, the fourth charge also is erroneous.

7. Considering the fact that charges can be altered at any time before pronouncing the judgment, necessary direction can be given to the court below.

In fine, this Criminal Revision Case is allowed. The XI Additional Special Judge for CBI Cases relating to banks and financial institutions, Chennai is directed to amend the charges properly in accordance with the concerned law and proceed with the trial of C.C.No.17 of 2010 and further it is directed to

dispose of the same before the end of February, 2016 and report the same to the Registry without fail.

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

ajr

To

1. XI Additional Special Judge for CBI Cases
relating to banks and financial institutions, Chennai
 2. The Inspector of Police
Central Bureau of Investigation
Anti Corruption Branch
Chennai 6
 - 3.The Special Public Prosecutor, (CBI)
High Court, Madras.
- + 1 cc to Mr.K. Srinivasan, Advocate SR.57313

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SV(CO)
EU 5.11.15

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