

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Criminal Revision Case No.968 of 2013

Between :-

M.Madana Mohana Rao .. Petitioner

And

State ACB, Hyderabad
Rep.by PP, High Court, Hyderabad. .. Respondent

DATE OF JUDGMENT PRONOUNCED: 22nd July, 2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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|---|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of Judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether His Lordship wish to see
the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.968 of 2013

ORDER:-

This petition is filed under Section 482 Cr.P.C., challenging the orders of the learned Principal Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad, in CrI.M.P.No.466 of 2012 in C.C.No.6 of 2011, dated 10-10-2012, by and under which, the petition of the petitioner/A.1 to discharge him of the offences under Sections 7 and 13 (1)(d) read with 13 (2) of the Prevention of Corruption Act, 1988 and read with Section 34 I.P.C., was dismissed.

2. The petitioner is A.1. He along with two others were charged with the offences under the provisions of the Prevention of Corruption Act. The petitioner/A.1 has filed CrI.M.P.No.466 of 2012 for discharge on the ground that absolutely there are no grounds to proceed against him, that he is innocent and the accusations made against him are frivolous and there is no prospect of the prosecution being able to establish that he committed the offences.

3. The said petition was filed on 23-07-2012 with SR No.969 of 2012, dated 23-07-2012. The respondent/State filed counter and after hearing both sides, the learned trial Judge held that since the charges have already been framed, the petition to discharge is not maintainable and hence the same was dismissed.

4. The contention of the petitioner/A.1 is that before framing the charges, no opportunity of hearing was afforded and hence the petitioner/A.1 be discharged.

5. Learned Special Public Prosecutor submits that as a matter of fact, the learned trial Judge ought not to have taken the petition on file and it was liable to be returned on the ground of it being not maintainable. Learned Special Public Prosecutor submits that, however, having erroneously taken on file, the learned trial Judge has correctly followed the legal position and dismissed the petition.

6. The material that is produced by the petitioner has been perused

and also the original records have been called for from the learned trial Court. The same are perused. It is noticed from the record that the case was taken on file on 01-03-2011. The petitioner and two other accused made their appearance. Copies were furnished to them on 25-05-2011. The matter was posted to 15-06-2011 for hearing on charges. From 15-06-2011, the matter was adjourned to 16-08-2011 and 27-09-2011. The matter was again adjourned to 03-11-2011 and 12-12-2011 for consideration and framing charges. On 12-01-2012, the accused were examined and charges under Sections 7 and 13 (1)(d) read with 13 (2) of the Prevention of Corruption Act, 1988 and read with Section 34 I.P.C. have been framed and the petitioner/A.1 along with other accused pleaded not guilty and claimed to be tried. More than six months thereafter, the petitioner/A.1 filed the petition under Section 239 Cr.P.C., to discharge him.

7. The learned trial Judge by placing reliance upon the Judgment of the Supreme Court reported in **RATILAL BHANJI MITHANI v. STATE OF MAHARASHTRA AND OTHERS**^[1], held that since the charges are already framed, the petition to discharge is not maintainable. However, while delivering such finding, certain dates have been wrongly noted. It is observed in the order of the learned trial Judge that charges were framed on 12-01-2006 and the application in hand is filed on 12-01-2012. Both the dates are factually incorrect and they are contrary to the record. As already stated, charges were framed on 12-01-2012 and the petition to discharge is filed on 23-07-2012. The fact, however, remains that the petition to discharge is filed more than six months after the charges have been framed and the case was posted for trial. The learned trial Judge has given valid and cogent reasons for rejecting the petition.

8. In view of the foregoing discussion, there is no material irregularity or illegality in the order passed by the Court below and the same is not liable to be interfered with. There are no merits in the revision and the same is liable to be dismissed.

9. In the result, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

The records that are called for from the learned trial Court are directed to be returned forthwith.

M.S.K.Jaiswal, J

22nd July, 2015

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HON'BLE SRI JUSTICE M.S.K.JAISWAL

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[\[1\]](#) AIR 1979 S.C., 94