

HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE NOS. 4 and 5 OF 2015

-

COMMON ORDER:

-

Both the revision cases are filed challenging the Common Order dated 02.01.2005 passed in Crl.M.P.No.659 of 2014 in C.C.No.15 of 2012 and Crl.M.P.No.660 of 2014 in C.C.No.12 of 2012, wherein the learned Principal Special Judge for SPE & ACB Cases-cum-IV Additional Chief Judge, City Civil Court, Hyderabad, dismissed both the petitions filed by the revision petitioner herein.

2. Both Crl.M.P.Nos.659 of 2014 and 660 of 2014 in C.C.Nos.15 and 12 of 2012 respectively filed by one Gali Janardhan Reddy under Section 219 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to club both the cases i.e. C.C.No.12 of 2012 and C.C.No.15 of 2012 for conducting common trial on the ground that the allegations made against the petitioner in both the cases are one and the same and the core of the allegations against the petitioner is also one of the same.

3. The learned counsel for the revision petitioner/accused No.7 argued that the majority of the witnesses are common in both the cases; that the offences alleged are of the same kind; that the accused are common; that the activity was committed within a span of three months by all the accused; that except witnesses 4 to 15, all other witnesses are common in both the cases; that if both the cases are not clubbed and tried together, the defence of the petitioner/accused will be known to the prosecution, and therefore, prayed the Court to order for clubbing of both the cases for conducting common trial and also prayed the Court that the trial shall go on together by giving the schedule simultaneously.

4. On the other hand, the learned Special Public Prosecutor who filed the counter contended that after careful consideration of the factual aspects, the trial court rightly dismissed the petitions; that C.C.Nos.12 of 2012 and 15 of 2012 are registered against the public servants and others invoking different provisions of law carrying different quantum of punishments and the offences being totally different i.e. in one case, attempt made by the accused was failed and in another case, the attempt of the accused was successful and the revision petitioner herein got the bail; that the persons who attempted the first case are different than the second case and the provisions of Section 219 Cr.P.C. has no application; that the other accused in C.C.Nos.12 of 2012 and 15 of 2012 also opposed for joint trial; that the contention of the revision petitioner that taking criteria of successful in obtaining bail in C.C.No.12 of 2012 and unsuccessful in getting bail in C.C.No.15 of 2012, is not a legitimate ground for clubbing both the cases.

It is also argued that in one case, charges were framed and in another cases, charges were not framed; that the criminal law does not bar the Investigating Officer to show the witnesses as accused in another case; that both the revision cases are devoid of merit and prayed the Court to dismiss both the revision cases.

5. As per the allegations in Charge sheet in C.C.No.15 of 2012, the third accused tried to influence the former judge of the Special Court for CBI Cases, Hyderabad in the month of April, 2012 in order to lure him with a possibility of getting a huge amount as *quid pro quo* for granting bail to the revision petitioner and on refusal of the judge to yield to the pressure of the third accused, the third accused in collusion with A.1 and A.2, resumed fresh efforts to influence the judge who was holding the charge of the post of the Principal Special Judge for CBI Cases, Hyderabad on the vacation availed by the regular judge

and that the attempts made by them could not fructify since the said judge was won over by other group in C.C.No.12 of 2012 and on that, A.1 and A.2 in C.C.No.15 of 2012 desperately tried to ascertain from the in-charge judge about the source of other influences over him in granting bail to the revision petitioner herein. There was no recovery of any graft money during the course of searches conducted in the residences of some of the accused in C.C.No.15 of 2012.

6. The investigation in C.C.No.12 of 2012 is about some different facts of criminal conspiracy of the accused which achieved the object of criminal conspiracy with a successful bail order obtained by the revision petitioner/accused from the in-charge judge on 11.05.2012. According to the State, the conspiracy in this case is commenced from 06.05.2012 and lasted till the end of May, 2012 with the attempt of some of the accused including the petitioner to get the balance bribe amount from A.2 to A.4 as promised by them.

7. The contention of the Special Public Prosecutor is that the facts stated in C.C.No.12 of 2012 are different from the facts stated in C.C.No.15 of 2012 except the solitary fact that the revision petitioner made attempts through his brother and other relatives for securing bail from the CBI Court and the bail was finally granted on 11.05.2012, and also conspiracy alleged in the two offences are different and distinct. It is further contended that C.C.No.12 of 2012 is about the successful criminal conspiracy yielding its object and the facts in C.C.No.15 of 2012 are about the unsuccessful and abortive criminal conspiracy which failed to achieve its object. Therefore, the offences alleged in both the cases are different and distinct facts and further, it is the prerogative of the prosecution to deal with how to proceed with the trial of the cases.

8. Section 219 Cr.P.C. is silent about the clubbing of the cases.

Further, the facts and circumstances of the present cases are entirely different from that of the nature of the dacoit cases to apply Section 219 Cr.P.C. Therefore, after considering the facts of both the cases, the trial judge rightly dismissed the petitions and the findings of the trial Court in the impugned order needs no interference. Further, no notice is necessary for the other respondents against whom no adverse order has been passed.

9. Accordingly, both the Criminal Revision Cases are dismissed, confirming the Common Order dated 02.01.2005 passed in CrI.M.P.No.659 of 2014 in C.C.No.15 of 2012 and CrI.M.P.No.660 of 2014 in C.C.No.12 of 2012 on the file of the learned Principal Special Judge for SPE & ACB Cases-cum-IV Additional Chief Judge, City Civil Court, Hyderabad.

10. Miscellaneous petitions pending, if any, in these Criminal Revision Cases shall stand closed.

ANIS, J

Date: 03.02.2015
Anr