

HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Revision Case No.706 of 2015

ORDER:

This revision is preferred challenging the order dated 20-03-2015 passed by the Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore in CrI.M.P. No.9 of 2015 in C.C. No.9 of 2014, wherein the learned trial Judge dismissed the petition filed by the petitioner invoking the provisions under Section 239 of Cr.P.C. to discharge him from the charges under Sections 7, 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988.

The learned counsel for the petitioner raises the following points for consideration before the Court concerned :

1. There is unexplained and inordinate delay in preferring report and registration of the case.
2. There was no permission for registration of the case and laying the trap from the DG, ACB, AP, Hyderabad.
3. Investigation conducted by L.W.21 into the case is not in accordance with the provisions of Section 17 of the Prevention of Corruption Act, 1988.
4. No details with regard to making of the entries in the General Diary of ACB Police Station.
5. The place, date and time of delivery of the intended bribe amount was not mentioned in the report of L.W.1.
6. Suspicious conduct of L.W.1 with strong motive to lay the trap.
7. There was no demand by the A.O. for illegal gratification from L.W.1.
8. There was no official favour pending execution by the A.O. and the official favour mentioned by L.W.1 is varying from time to time.
9. There is no acceptance of bribe amount.

10. "Sanction Order" was issued mechanically without application of mind to the facts of the case.

The learned trial Judge, after hearing the arguments of the learned counsel for the petitioner/accused and also the learned Public Prosecutor passed the impugned order.

Now the main grievance of the petitioner herein is that even though the petitioner has raised 10 points for consideration before the trial Court, the trial Court without discussing the said points based on the documents filed by the prosecution, merely relying on the decisions of the Apex Court and incorporating the said decisions passed the impugned order. Further, it is the contention of the learned counsel for the petitioner that the application of the said judgments to the present facts and circumstances of the case is not discussed by the learned trial Judge.

On a perusal of the impugned order, this Court is of the view that the learned trial Judge only relied on the decisions which are in the nature of guidelines to decide the discharge application, but, at the same time, the trial Judge miserably failed to incorporate the arguments and also the arguments, which are contrary to the prayer of the petitioner, is also not discussed at length. Merely relying on the judgments which are in the nature of guidelines to decide the issue before the Court itself is not enough to pass any order for allowing the application or for dismissing the application. It is the prime duty of the trial Court to look into the materials and also the facts and circumstances of each and every case, whether it fit-in with the decisions of the Apex Court. Hence, the order dated 20-03-2015 passed by the Special Judge for SPE & ACB Cases-cum-II Additional District & Sessions Judge, Nellore in CrI.M.P. No.9 of 2015 in C.C. No.9 of 2014 is hereby set side and the learned trial Court is directed to pass appropriate orders in the matter within a period of three months from today.

Accordingly, the Criminal Revision Case is allowed.

Consequently, the Miscellaneous Petitions pending, if any, in this revision shall stand closed.

RAJA ELANGO, J.

08th June, 2015

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