

Crl.M.P.Nos.11624 and 11625 of 2016
in
Crl.R.C.No.513 of 2016

R.SUBBIAH, J

Crl.M.P.No.11624 of 2016 in Crl.R.C.No.513 of 2016 is filed for grant Certificate of Leave to Appeal to the Supreme Court of India as against the judgment of this Court made in Crl.R.C.No.513 of 2016, dated 22.07.2016. Crl.M.P.No.11625 of 2016 in Crl.R.C.No.513 of 2016 is filed for an order of stay or keep in abeyance the judgment of this Court made in Crl.R.C.No.513 of 2016, dated 22.07.2016.

2. This Court, by judgment dated 22.07.2016, allowed the criminal revision petition filed by the CBI in Crl.R.C.No.513 of 2016 by setting aside the order dated 06.02.2014 passed by the learned IX Additional Special Judge for CBI cases, Chennai in Crl.M.P.No.103 of 2013 in C.C.No.3 of 2013. The petition filed by the CBI seeking permission to include A4 to A6 whose names have been mentioned in the final report in the second column as 'not sent up for trial' as additional witnesses, was dismissed by the trial Court. By the said judgment, dated 22.07.2016, this Court directed the trial Court to permit the prosecution/CBI to include A4 to A6 as additional witnesses so as to examine them and proceed with the trial of the case in accordance with law and complete the trial and dispose of the case as expeditiously as possible.

3. The second respondent in the revision petition has filed these Crl.M.Ps.

seeking leave to appeal to the Supreme Court and for grant of interim stay pending leave petition. It is stated by the learned Senior Counsel appearing for the petitioner/second respondent that substantial questions of law arise for consideration in the appeal and the petition to leave is filed within prescribed time limit.

4. Learned Special Public Prosecutor appearing for the first respondent/CBI submitted that no question of law, much less substantial questions of law arise for consideration in the appeal sought to be filed and hence, the petition may be dismissed.

5. Heard both sides and perused the materials available on record.

6. This Crl.M.P. seeking leave to appeal is filed under Article 134-A of the Constitution of India. It is worthwhile to extract Article 134-A of the Constitution of India:

"Article 134-A: Certificate for appeal to the Supreme Court: Every High Court, passing or making a judgment, decree, final order, or sentence, referred to in clause (1) of Article 132 or clause (1) of Article 133 or clause (1) of Article 134,--

(a) may, if it deems fit so to do, on its own motion; and

(b) shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence,

determine, as soon as may be after such passing or making, the question whether a certificate of the nature referred to in clause (1) of Article 132, or clause (1) of Article 133 or, as the case may be, sub-clause (c) of clause (1) of Article 134, may be given in respect of that case."

7. This Court will not grant special leave to appeal, unless it is shown that exceptional and special circumstances exist and that substantial and grave injustice had been caused to the petitioner and the case present features of sufficient gravity to warrant a review of the decision appealed against.

8. The power to grant leave to appeal to Supreme Court, shall be invoked not in routine fashion, but in very exceptional and peculiar facts and circumstances of the case and only when question of law of general public importance arise for consideration in the appeal. Though the power of the Court to grant special leave to appeal is discretionary in nature, but the same has to be used only sparingly in deserving cases.

9. It is seen that the petitioner has not chosen to seek leave to appeal orally, while pronouncing the judgment in Crl.R.C., as stipulated under Article 134-A(b) of the Constitution of India. Only after obtaining the judgment copy in the Crl.R.C., the petitioner has chosen to file the petition for leave to appeal.

10. As there is no case made out for grant of leave to appeal to the Supreme Court, and as no question of law involving public/general importance arises for consideration in the appeal, this petition has to be necessarily dismissed. Accordingly, Crl.M.Ps. are dismissed.

10.11.2016

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