

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2016

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.R.C.No.456 of 2015 &

M.P.Nos. 1 and 2 of 2015

D.Sivarajan

... Revision Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Economic Offence Wing II,
Chennai.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure to set aside the order of rejection dated 24.4.2015 made in Crl.M.P.SR 453/2014 in C.C.No.6 of 2013 on the file of the Special Judge TNPID Act 1997 Cases, Chennai and to direct the said Court to deal with the petition on merits.

For Petitioners: Mr.R.Loganathan

For respondent : Mr.V.Arul,
Government Advocate (Crl. Side)

O R D E R

This revision has been directed by A2 in C.C.No.6 of 2013 on the file of the learned Special Judge under TNPID Act, 1997 at Chennai.

2. The respondent proceeded as against A1 to A10 relating to Sri Ekambareswarar Saswatha Nidhi Limited, Chennai for commission of offence under section 5 of TNPID Act and certain other IPC offences. The petitioner/A2 filed a petition in S.R.453/2014 under section 239 Cr.P.C. to discharge him from the case, namely, C.C.No.6 of 2013 on the ground that he was a former Director and he was not a Director at the time when the offences were committed. In the meanwhile, some co-accused have filed Crl.O.P.No.16069 of 2013 and 28989 of 2014 in this Court under section 482 Cr.P.C. in which all further proceedings were stayed by this Court. Even now these Criminal Original

Petitions are pending. Taking note of the stay Order in Criminal Original Petitions, the learned Special Judge passed the impugned Order on 24.4.2015 rejecting his discharge petition at the SR stage itself as not maintainable.

3. I have anxiously considered the submission of the learned counsels and perused the impugned Order and the materials on record.

4. Merely because the co-accused have invoked jurisdiction of this Court under section 482 of Cr.P.C., A2 cannot be forfeited his right to file a petition under section 239 Cr.P.C. before the Trial Court. But, there is some difficulty because all further proceedings in this case has been stayed in CrI.O.P.Nos.160069 of 2013 and 28989 of 2014. That does not mean the Trial Court can reject the discharge petition of A2. The petition filed for discharge has to be numbered and counter of the respondent has to be called for and its disposal shall await the result in the High Court's stay Order.

5. In such circumstances, Ordered as under :

1) The impugned Order passed by the learned Special Judge, under TNPID Act at Chennai in S.R.No.453 of 2014 dated 24.4.2015 is set aside.

2) The learned Special Judge will restore the CrI.M.P.S.R.No.453 of 2014 and number it as CrI.M.P. and call for counter from the respondent and shall await as the stay of the High Court is in force.

3) Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vrc

To,

1. The Special Judge under TNPID Act, 1997,
at Chennai.

2. The Public Prosecutor,
High Court, Chennai.

3. The Inspector of Police,
E.O.W.II, Chennai.

+1 cc to M/s.R.Loganathan Advocate sr.16238

CrI.R.C.No.456 of 2015 &
M.P.Nos. 1 and 2 of 2015

aa28/03/2016