

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS

CRL.R.C.No.449 of 2016

and

Crl.M.P.No.3015 of 2016

M.N.Amar Veer

.. Petitioner

vs.

The State rep.by
The Inspector of Police
Central Bureau of Investigation
Economic Offences Wing
Chennai.

.. Respondent

Criminal Revision Case filed under Section 397 read with Sec. 401 of Cr.P.C against the order dated 01.03.2016 passed by the learned Additional Metropolitan Magistrate, Egmore in Crl.M.P.No.572 of 2016 in C.C.No.286 of 2002.

For Petitioner : Mr.K.M.Aasim Shehzad
for M/s.BFS Legal

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor
[CBI cases]

O R D E R

A2 in C.C.No.286 of 2002 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai canvassing the correctness of the order of the trial court passed in Crl.M.P.No.572 of 2016 dated 01.03.2016 in dismissing his petition to recall NBW, has directed this revision.

2. It has been contended by the learned counsel for the petitioner that for no fault of him, now the petitioner has been shown as a faulty person and in the circumstances in order to participate in the trial proceedings, when he had filed the petition to recall NBW, it has been dismissed. It is not in accordance with law.

3. The learned Special Public Prosecutor, CBI Cases contended that it is more than a decade old case. Earlier also, opportunity was given to him, but the petitioner went into oblivion. Under these circumstances, the impugned order has been passed.

4. It has been further contended by the learned Special Public Prosecutor, that the prosecution is not standing in the way of giving him an opportunity, but he shall not be permitted to repeat his past behaviour. Some concrete efforts should be taken to end this age old case.

5. I have anxiously considered the rival submissions, perused the impugned order and the materials on record.

6. Right of the accused, at the same time, duty of the prosecution has to be considered. It should be a balancing act. Defence should not be prejudiced and at the same time, prosecution also should not be prejudiced, in any case, justice should not be prejudiced.

7. The accused should be enabled to participate in the trial, as a free man because now NBW is hanging over his head. At the same time, the case is ready for further progress. It is stated that few witnesses are yet to be cross-examined. These are matters to be placed before the trial court. But it is the duty of the trial court to end this litigation at an early date. Now, there is a recent directive from the High Court to the trial court's to submit weekly progress report for 5 year old cases. So, now, there is a system of monitoring of such old cases.

8. In these special circumstances of this case, ordered as under:

(i) The impugned order of the trial court dated 01.03.2016 passed in CrI.M.P.No.572 of 2016 in C.C.No.286 of 2002 is set aside.

(ii) Petitioner/A2 shall appear on 18.03.2016 before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

(iii) On his such appearance, the trial court will recall the NBW and also send a memo to the Investigation Officer to return the NBW.

(iv) Petitioner shall attend on all the hearing dates unless his absence is condoned by a petition filed under Section 317 Cr.P.C., which will be considered by the trial court on merits on the same day.

9. Accordingly, this Criminal Revision Case is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Metropolitan Magistrate,
Egmore,
Chennai-8.
2. The Special Public Prosecutor,
CBI Cases,
High Court, Madras.
3. The Inspector of Police,
CBI/EOW,
Chennai.

+1cc to M/S.BFS Legal, Advocate Sr.16767

CRL.R.C.No.449 of 2016

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srg(17/03/2016)

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