

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.04.2016

CORAM

THE HON'BLE Dr.JUSTICE P.DEVADASS

Criminal Revision Case No.575 of 2016

and

Crl.M.P.No.3848 of 2016

Thanikaivelan ... Petitioner

vs.

State represented by its
Inspector of Police

SPE : CBI : ACB : Chennai
(RC MAI 2003 A 0015)

... Respondent/Complainant

Criminal Revision against the order dated 10.07.2013 made in Crl.M.P.No.2438 of 2012 in C.C.No.12 of 2005 by the learned XI Additional Special Judge for CBI cases relating to Banks and Financial Institutions), Chennai.

For petitioner : Mr.K.Shanker

For respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI
Cases

ORDER

An interesting question has been raised in this case, it is whether in the facts and circumstances so far as A5 is concerned, the case is to be tried by ordinary criminal Court or by a Special Court constituted under Prevention of Corruption Act.

2. In this case, there are A1 to A10. It relates to some bank fraud case. It is alleged that the borrowers, guarantors and V.A.O. conspired together with some bank officials to cause loss to a public sector bank, to commit cheating, forgery and other offences coming under IPC and also PC Act. The case against the bank officials has been quashed. The remaining are guarantors, borrowers and also the petitioner, A5 / V.A.O / a public servant. The allegation as against him is that he had

conspired together with other accused in making interpolation in E.C and chitta in order to enable the borrowers and guarantors to present distorted version of the property documents to the bank.

3. Before the trial Court, V.A.O sought for transfer of his case to the regular criminal court hearing IPC offences. According to him, even taking the allegations as such, it would warrant an IPC offence. In such circumstances, when PC Act is not attracted, the Special Judge under PC Act will have no jurisdiction.

4. However, the learned Special Public Prosecutor would repel him.

5. I have considered the rival submissions and also perused the materials on record.

6. Petitioner/A5 is alleged to have conspired together with other accused. The conspiracy is to commit certain offences under PC Act. A5 is V.A.O, a public servant. The transactions are so intermixed. The offences are alleged to have been committed in the same transaction. Charges were framed and the witnesses also now being produced from time to time. In such circumstances, it cannot be stated that the Special Judge under PC Act has no jurisdiction to try the case. Further, it is for the Special Judge to record a finding after appreciation of evidence that no offence as alleged as against the accused or no PC Act offence is made out or only IPC offence is made out against him. If the Special Judge comes to the conclusion that IPC offence is made out, under relevant provisions of the Code, he can render justice. In the facts and circumstances, we are not to halt the proceedings pending before the Special Judge as against A5. Let the Special Judge go ahead and conclude the trial and give his verdict according to law.

7. In the result, this Revision fails and it is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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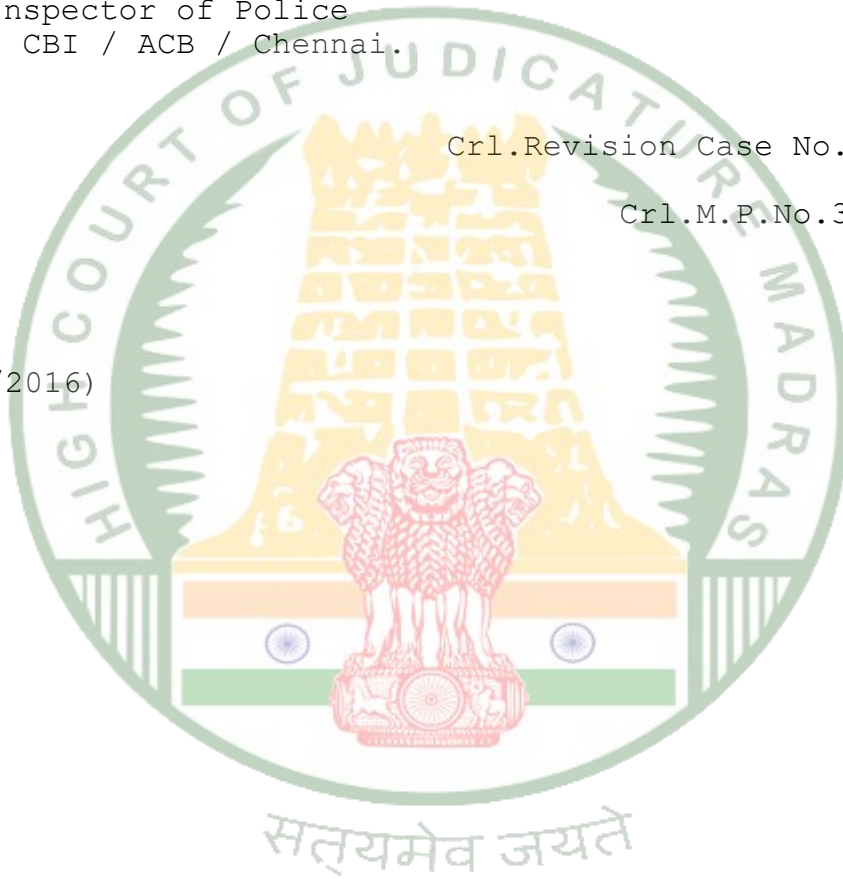
Sub Assistant Registrar

To

1. The XI Additional Special Judge
(CBI cases relating to Banks and Financial Institutions),
Chennai.
2. The Special Public Prosecutor for CBI Cases
High Court, Madras.
3. The Inspector of Police
SPE / CBI / ACB / Chennai.

Crl.Revision Case No.575 of 2016
and
Crl.M.P.No.3848 of 2016

vgi (CO)
srg (04/05/2016)



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