

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.9576 of 2016

S.Kumar @ S.Vijayakumar

... Petitioner/Accused 3

Vs.,

The Inspector of Police,
SPE, CBI : ACB, Chennai,
Crime No.46(A) of 2011

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to set aside the charges framed in C.C.No.23 of 2013 on the file of the learned XI Additional Sessions Judge, (Spl. Court for CBI cases), Chennai and to afford an opportunity to the petitioner to present a petition for discharge under Section 239 of Cr.P.C.

For Petitioner : Mr.Prakash Goklaney

For Respondent : Mr.K.Srinivasan,
Spl. PP for CBI Cases

ORDER

This Criminal Original Petition has been filed by the petitioner, praying to set aside the charges framed against the petitioner herein, in C.C.No.23 of 2013 on the file of the learned XI Additional Sessions Judge, (Spl. Court for CBI cases), Chennai and to afford an opportunity to the petitioner to file a petition for discharge under Section 239 of Cr.P.C.

2.The petitioner here has been arrayed as A3 in C.C.No.23 of 2013 and charged for the alleged offence under Sections 120-B r/w 420, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

3.It is the case of the petitioner that before charges were framed on 19.10.2015, the petitioner had sought to file a petition for discharge. On the said date i.e., on 19.10.2015, there were other connected matters posted for framing of charges and necessary discharge petitions were filed in such matters, viz., C.C.Nos.20, 21, 22 and 24 of 2013. He had represented

through the Court below, through a junior counsel that a discharge petition was being filed in this matter also; but, the Court below proceeded to proceed further and framed charges against the petitioner and issued summons to the witnesses. It is further case of the petitioner that denial of an opportunity to the petitioner to avail of a remedy open to the petitioner under law, is wholly unwarranted. Hence, the petitioner has come forward with the present petition before this Court.

4.Opposing the prayer of the petitioner herein, the learned Special Public Prosecutor that after framing charges, witnesses were examined on the side of the prosecution and now, the trial is in a part heard stage.

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

6.The petitioner has come forward with the present petition seeking to give direction to the Court below to permit him to file petition for discharge. But, it is seen that after framing charges, prosecution witnesses were examined and the trial is in part heard stage. Hence, the prayer sought for by the petitioner in this petition has become infructuous. Hence, the criminal original petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To,

1.The XI Additional Sessions Judge,
(Spl. Court for CBI cases), Chennai.

2.The Inspector of Police,
SPE, CBI : ACB, Chennai.

3.The Public Prosecutor,
Special PP for CBI Cases.

+1cc to Mr.Prakash Goklaney, Advocate Sr.32102

Cr1.O.P.No.9576 of 2016

GJ II[co]
srg 11/07/2016