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HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 240 of 2017

R.K. Katakwar, S/o. Late Shri D.P. Katakwar, Aged About 61 Years, Occupation Retired District Manager, Chhattisgarh Rajya Beej Awam Vikas Nigam Limited, Ambikapur, Chhattisgarh, at Present Housing Board Colony, Quarter No B/34, Chakradhar Nagar Raigarh, Tahsil & District Raigarh, Chhattisgarh.

---- Petitioner

Versus

Chhattisgarh State Economic Offence Investigation Bureau Chhattisgarh, Raipur, Through : Officer In- Charge (C.G. State Economic Offence Investigation Bureau) Raipur, Chhattisgarh.

-----Respondent

For Petitioner	: Ms. Hamida Siddique, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

14/07/2017

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with prayer to quash the criminal proceedings against the petitioner on the basis of FIR registered against him in Crime No.1/1998 by State Economic Offences Investigation Bureau, Madhya Pradesh, Bhopal, under Section 120-B of Indian Penal Code read with Section 13 (1) (d)/13 (2) of Prevention of Corruption Act, 1988.

2. An FIR was registered against petitioner on 08.01.1998 for offence under Section 120-B of Indian Penal Code read with Section 13 (1)

(d)/13 (2) of Prevention of Corruption Act, 1988 by the State Economic Offence Investigation Bureau, Madhya Pradesh, Bhopal, on the basis of reliable information received that M.P. State Agro Industries Development Corporation (In Short 'Corporation') had fixed rates on higher side for purchase of PVC rigid pipes by Regional Managers & Branch Managers. Later on due to decrease in the prices, Corporation by letter HO/MKTG-1/95-96/390(2), dated 06.12.1995 and by letter HO/MKTG-1/95-96/17/13116, dated 04.11.1995 issued direction for purchase to be made at the reduced rate. It is stated in the FIR that petitioner being manager of Corporation office at Raigarh and others, despite this direction placed orders for purchase at the higher rates previously fixed by the Corporation, because of which, loss was caused to the Corporation to the tune of Rs.19,17,230/-. Hence, the offence was registered against the petitioner and others.

3. It is submitted by the counsel for the petitioner that M.P. State Agro Industries Development Corporation initiated a process for fixing the rates for purchase of commodities required by the Corporation by inviting proposals from various suppliers. On the basis of quotations submitted by the suppliers M/s. Ajay Industries Corporation, Delhi and M/s. Movilex Plastic Limited, Indore their quotation of being lowest, their proposal for supply at the rate quoted were accepted and agreements were entered into vide Annexure P/4 on 25.11.1994 and 22.11.1994. Subsequently, the orders were placed to the suppliers for purchase of articles by different branches of the Corporation. It is submitted that on noticing the reduction of price, Corporation sent a request vide letter dated 06.12.1995 (Annexure

P/2), which is mentioned in the FIR, to the supplier companies to reduce the prices of the commodity to be supplied. A letter dated 04.11.1995 (Annexure P/3) was authored by General Manager, addressed to Regional Manager and Branch Manager that agreement has been entered with Jain PVC Product Pvt. Ltd. for supply of rigid PVC pipes. There is nothing mentioned in the letter that agreement with M/s. Jain PVC Product Pvt. Ltd was a result of subsequent proposal of reduced rates of the commodity.

4. It is further submitted that Corporation had earlier issued a letter dated 25.11.1994 (Annexure P/5) informing all the Regional and Branch Managers about the rate contract with M/s. Ajay Industries Corporation, Delhi and M/s. Movilex Plastic Limited, Indore with direction to place orders as per requirement on the basis of rate agreed. This letter does not mention any time limit for placing orders. It is also submitted that regional office issued letter dated 27.12.1996 vide Annexure P/6, directing the branch managers to pay pending bills of suppliers on the basis of rate contract. It is further submitted by the counsel for the petitioner that on query made by EOW, Raipur, reply was given vide letter dated 02.11.2006 vide Annexure P/7, in which it was stated that on request being made to the suppliers to reduce the rate, no supplier agreed to it and gave any proposal and revised the rates. Thereafter, a meeting of joint committee was held in which it was resolved that rate contract as entered between the Corporation and supplier companies shall be followed as it is. Hence for this reason, the offence registered against the petitioner is totally without any substance and proof, therefore, prayer has been made to quash the

entire proceedings against the petitioner.

5. Counsel for the State has submitted that case has been investigated and charge-sheet has been submitted against the petitioner and other co-accused persons. Copy of charge-sheet is submitted as Annexure R/4. It is submitted that Economic Offence Investigation Bureau has investigated the case and has charge-sheeted the petitioner and other co-accused persons on the basis of evidence found in the investigation. Hence there is no scope for exercising the inherent powers under Section 482 of Cr.P.C.

6. Counsel for the petitioner has submitted that although the charge sheet has been prepared but it has not been filed in the Court till date, the petitioner has no notice of filing of charge-sheet against him.

7. Perused all the material on record and considered the submission made by both the parties.

8. The fact is that Corporation invited proposals for fixing rates for purchase of rigid PVC pipes by regional office and branch office within the State. M/s. Ajay Industries Corporation, Delhi and M/s. Movilex Plastic Limited, Indore were singled out as their proposal was lowest and the rate contract was entered with these suppliers by Corporation, which is not disputed at all.

9. On perusing FIR dated 08.01.1998 (Annexure P/1), it is clear that letter dated 06.12.1995 (Annexure P/2) and letter dated 04.11.1995 (Annexure P/3) was made the basis, that by these letters, the Corporation had revised the rate contract for purchase of rigid PVC pipes, despite which purchase was made by petitioner and others

on higher rate causing losses to the Corporation. On perusal of letter dated 06.12.1995 (Annexure P/2) and letter dated 04.11.1995 (Annexure P/3) it is clear and apparent that these letters were not intended and circulated or communicated any revised or reduced rate for purchase of rigid PVC pipes. On the other hand, these letters demonstrate that request was made to the supplier namely M/s. Ajay Industries Corporation, Delhi and M/s. Movilex Plastic Limited, Indore to submit proposal of reduced rates to which supplier companies had not responded.

10. On going through the reply of Corporation to the query made by C.G. State Economic Offence Investigation Bureau, Raipur vide Annexure P/7 dated 02.11.2006, it is further clarified that by the alleged letters, the supplier companies were only requested to reduce rates to which they did not agree thereafter joint committee took decision to abide by rate contract as entered earlier with these supplier companies.

11. After due consideration, it appears that petitioner and others were bound by the rate contract dated 22.11.1994 and 25.11.1994 in case they were to place any order for purchase of PVC pipes. It is also clear from the submission made on behalf of the petitioner and reply submitted by the State that rate as agreed with suppliers in the contract mentioned above were never revised and reduced. Further the letters (Annexure P/2 & P/3), which are referred to in FIR do not inform the regional managers and branch managers to make purchase of articles at the reduced rate. Neither there was any order passed by Corporation to stop purchasing the articles as per

the rate contract. Hence for these reasons, it is amply clear that no error or financial irregularities were committed by petitioner in placing orders with the suppliers for supply of PVC rigid pipes on the basis of rate contract existing at the time. Hence the FIR registered against the petitioner is totally without any basis and clearly an abuse of criminal process.

12. After due consideration and on the basis of above discussion, this is a fit case for exercise of inherent powers under Section 482 of Cr.P.C. Hence this petition is allowed. The criminal proceedings initiated against the petitioners by FIR dated 08.01.1998 in crime No.1/1998, for offence under Section 120-B of Indian Penal Code read with Section 13 (1) (d)/13 (2) of Prevention of Corruption Act, 1988 is hereby quashed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram