

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2017

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.1225 OF 2017

State represented by
Inspector of Police,
CBI, ACB, Chennai

..Petitioner

vs.

G.Kanadasan

..Respondent

Prayer:- Criminal Revision Petition is filed under Section 397 & 401 Cr.P.C., praying to call for the records pertaining to the order dated 28.12.2016 passed in Crl.M.P.No.7403/2015 in C.C.No.15 of 2007 on the file of the XII Additional Special Judge for CBI Cases, Chennai examine the correctness, legality or propriety of the findings made in the impugned order and set aside the same.

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

ORDER

सत्यमेव जयते

This criminal revision petition has been filed against the order passed by the learned XII Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No.77403 of 2015 in C.C.No.15 of 2007 discharging the accused on the ground that, the prosecution has not obtained sanction under Section 195 (i) (a) of the Cr.P.C., to prosecute them and the court has taken cognizance without sanction order.

2. Since the matter is squarely covered by the judgment of the Hon'ble Supreme Court arising out of the very same C.C.No.15 of 2007, notice is not required to be sent to the respondent.

3. In an identical case filed by the co-accused by name M.Sivamani in the same C.C.No.15 of 2007, the matter has been considered by the Hon'ble Supreme Court in ***Central Bureau of Investigation v. M.Sivamani dated 01.08.2017***, wherein it was held at paragraph no. 11, which reads as under:

"We have considered the rival submissions. We find merit in the contention raised on behalf of the appellant. While the bar against cognizance of a specified offence is mandatory, the same 5 (2000) 1 SCC 278 has to be understood in the context of the purpose for which such a bar is created. The bar is not intended to take away remedy against a crime but only to protect an innocent person against false or frivolous proceedings by a private person. The expression the public servant or his administrative superior cannot exclude the High Court. It is clearly implicit in the direction of the High Court quoted about that it was necessary in the interest of justice to take cognizance of the offence in question. Direction of the High Court is at par with the direction of an administrative superior public servant to file a complaint in writing in terms of the statutory requirement. The protection intended by the Section against a private person filing a frivolous complaint is taken care of when the High Court finds that the matter was required to be gone into in public interest. Such direction cannot be rendered futile by invoking Section 195 to such a situation. Once the High Court directs investigation in to a specified offence mentioned in

Section 195, bar under Section 195 (i)(a) cannot be pressed into service. The view taken by the High Court will frustrate the object of law and cannot be sustained. "

4. Therefore, the order passed by the trial court discharging the petitioner is bound to be set aside in view of the judgment of the Hon'ble Supreme Court as cited supra. Hence, this revision petition filed by the prosecution is allowed. It is made clear that the Hon'ble Supreme Court, in this case, has already fixed the time limit for disposal of the case, which has to be scrupulously adhered by the trial court and dispose of the case within the time limit as directed by the Hon'ble Supreme Court.

15.09.2017

Speaking / Non-speaking order
Index : Yes/No
Internet : Yes/No
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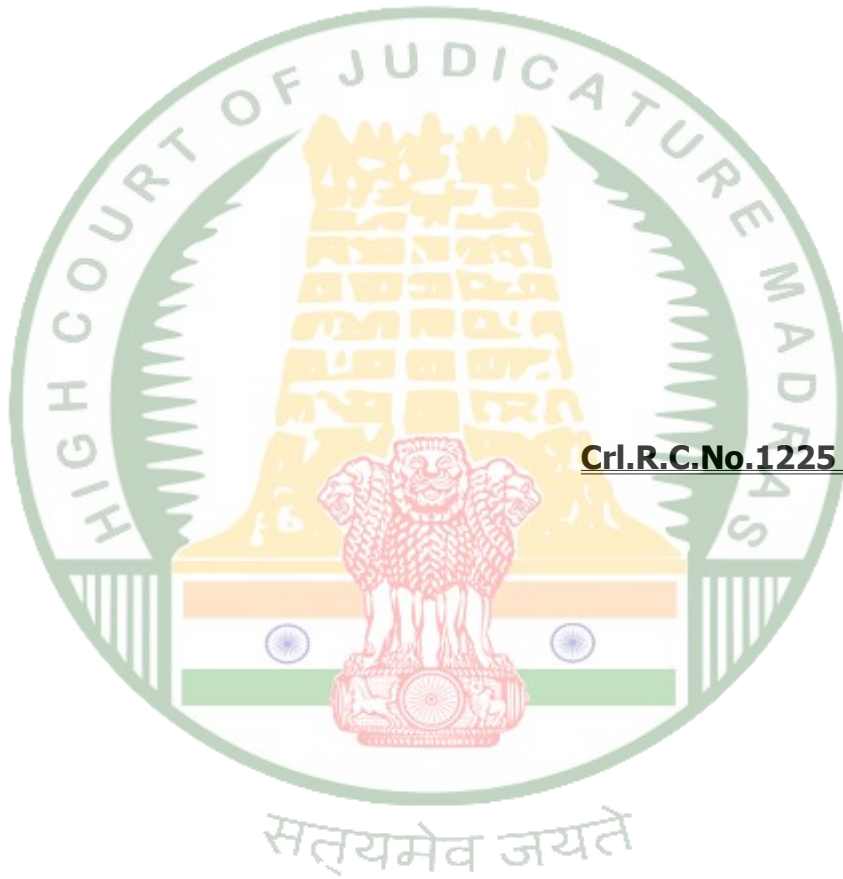
1.The XII Additional Special Judge for CBI Cases, Chennai.

2.The Special Public Prosecutor for CBI Cases, High Court, Madras.

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Dr.G.Jayachandran, J.

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