

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.Rc. No.802 of 2017

and

CrI.M.P.Nos.7332 & 73333 of 2017

S.R.Srinivasan

.. Petitioner/Accused-3

Vs

State represented by
Inspector of Police,
CBI/BS&FC/Bangalore

.. Respondent/Complainant

Prayer:The Criminal Revision Petition filed under Section 397 r/w.401 of the Criminal Procedure Code, against the order dated 31.05.2017 made in CrI.M.P.No.1697 of 2017 in C.C.No.65 of 2000 on the file of the XI Additional Special Judge for CBI Cases, (CBI cases relating to Bank and Financial Institutions), Chennai.

For Petitioner : Mr.R.Loganathan

For Respondent : Mr.K.Srinivasan

Special Public Prosecutor for CBI Cases

O R D E R

This Criminal Revision Case has been filed challenging the ordering to split up the case against the eighth accused.

2. The facts leading to filing of the charge sheet is A1 to A7, who are bank officials, have allegedly defrauded the bank and extended financial support to A8 and A9 company and it is also brought to the notice of this Court that A9 company was represented by one of the representative and A8 company has not been represented by any representative. Though A8 and A9 companies are originally represented by A1, it appears that A1 has died by committing suicide. Therefore, in the earlier order of this court dated 19.12.2014 in CrI.R.C.No.1236 of 2011 in para 11 has held as follows :

"Considering the submissions of the learned counsel for the petitioner and the learned Special Public Prosecutor for the respondent, the order, dated 20.07.2011, passed on the basis of the memo filed by the public prosecutor in C.C.No.65 of 2000 in so far as the accused No.8 is concerned, is set aside, and the matter is remanded to the lower Court to enable the company/accused No.8 to nominate any person of its choice to represent it. For the said purpose, the learned XI Additional City Civil and Sessions Judge is directed to issue notice to the accused No.8/Company to nominate its representative by giving reasonable time and the said exercise shall be completed within a period of three months from the date of receipt of a copy of this order."

3. Subsequently, the prosecution has filed an application before the trial Court in Crl.M.P.No.2710 of 2015 stating that summons could not be served to A8 as the office of A8 has been vacated from the original address and whereabouts of the new address is not known to the prosecution and sought for splitting up of the case as against A8 and the above application was allowed by the trial court. As against which the present revision has been filed.

4. Heard both sides and perused the entire materials available on record.

5. On a perusal of the Section 305 Cr.P.C. and also the orders specifically passed by this Court as referred above, I am of the view that it is the duty of the prosecution to serve summons on the 8th accused. Therefore, the prosecution shall take summons to the eighth accused and ascertain the present status of the company in Registrar of Companies office and if the company exists, serve summons to the persons who are representing the eighth accused. If the prosecution is able to establish before the Court of law that the eighth accused is not in existence, then the trial court shall proceed as against the remaining accused, since the case is pending for more than seventeen years.

6. With the above observations, this Criminal Revision is disposed of. The above exercise of servicing of summons to the eight accused shall be completed within a period two months from the date of receipt of a copy of this Order. The trial court shall proceed with the case, after completion of the

exercise of summons to the eighth accused, as referred above.
Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

vrc

To

1. The XI Additional Judge,
(Special Cases for CBI -
CBI cases relating to Bank
and Financial Institutions)
City Civil Court, Chennai,
2. The Investigation Officer,
The Central Bureau of Investigation,
Bank Securities and Frauds Cell,
36, Bellary Road, Ganganagar,
Bangalore - 560 032.
3. The Inspector of Police,
CBI/BS & FC
Bangalore
4. The Public Prosecutor,
High Court, Chennai 104.

+1cc to Mr.R.Loganathan, Adovate in sr.no.40882

Cr1.Rc. No.802 of 2017

KS(CO)
NR 03/07/2017

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