

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2017

CORAM:

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P.No. 6994 of 2017

A.N.Dyaneswaran

... Petitioner

Vs

The State rep. by
Deputy Superintendent of Police,
SPE/ACB/CBI Chennai.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in C.C.No.9 of 2001 on the file of the 12th Additional Principal Special Judge for CBI cases, Chennai dated 20/3/2001 and quash the same.

For Petitioner : No appearance

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

O R D E R

When the matter was posted yesterday i.e., on 20.6.2017, the learned counsel appearing for the petitioner requested to pass over the matter. This court waited till afternoon and ordered to list the matter today. Today morning also the same representation was made by the counsel for the petitioner and the matter was passed over. When the case was taken up for argument at 1.05 p.m., there is no representation for the petitioner. Hence, this Court is inclined to dispose of the case on merits.

2. This petition is filed to quash the order of the learned trial Court taking cognizance of the case in C.C.No.9 of 2001 on 20.3.2001. The main contention raised in this petition is that without obtaining the sanction u/s 197 Cr.P.C., the trial court has taken cognizance of the case. On the above main ground alone, the entire trial proceedings are sought to be quashed. It is admitted by the prosecution that the case was taken cognizance by the trial Judge u/s 13(2) r/w.13(1)(e) of Prevention of Corruption Act, 1988 and 109 I.P.C.r/w.13(2) r/w 13(1)(e) of Prevention of Corruption Act, as against the petitioner and 2 other accused. It is also admitted by the

prosecution that the trial court framed charges against the petitioner/accused-1 under Section 13(2) r/w 13(1) (e) r/w 13 (2) of the Prevention of Corruption Act.

3. Learned Special Public Prosecutor for CBI Cases submitted that the petitioner had already filed a similar petition before this Court in Cr.O.P.No.7079 of /2015 to quash the proceedings pending before the trial court on various grounds and this Court has dismissed the above quash petition on 26.08.2016. Further, the Learned Special Public Prosecutor for CBI cases has filed a counter in which it is stated that sanction u/s 197 Cr.P.C. is not required in this case since the alleged offence is in no way connected with the discharge of the official duties of the petitioner. It is further pointed out by the learned Special Public Prosecutor that out of 261 prosecution witnesses 196 witnesses have already been examined and more than 500 exhibits were marked before the trial Court and only few of the witnesses have to be examined and the trial is yet to be completed. Hence it is the contention of the learned Special Public Prosecutor for CBI cases that at this stage this petition is filed only to stall the trial proceedings.

4. Though many contentions have been raised in this petition, one of the main contentions is that there is no sanction under Section 197 of Cr.P.C., for taking cognizance against the petitioner/accused-1 by the trial Court which is bad in law. It is to be noted that the cognizance of the offence taken by the trial Court was as early as on 14.3.2001 and on the prosecution side 196 witnesses were examined. Only few remaining witnesses have to be examined for completion of the trial. At this stage, filing this type of application is nothing but a delaying tactics. It is curious to note that similar application for quashing the proceedings was dismissed by this Court on 26.08.2016 in CrI.O.P.No.7079 of 2010. The above dismissal order has been suppressed in this petition.

5. It is to be noted that the question, whether sanction is required or not can be raised before trial court during final arguments. Now, the prosecution have already examined 196 witnesses and the trial is almost completed. It is not for this court to go into the merits of the case. The petitioner can raise any of the defence before the trial Court itself and not for quashing the entire proceedings. Apart from this petitioner, other two accused have also been charged and arrayed as 2nd and 3rd accused before the trial Court. Admittedly they are not public servants. It also appears that they have also filed Writ Petitions challenging the cognizance taken by the trial Court. Those Writ Petitions were adjourned to some other day, due to the death in the family of the counsel.

6. Therefore, this Court is of the view that the trial Court need not wait for the disposal of the writ petitions filed by the other accused and shall continue to examine the remaining

witnesses. With this observation, the court holds that the petition filed for quashing of the case at this stage cannot be entertained. The trial Court is directed to proceed with the case and examine the remaining witnesses and to dispose of the case expeditiously without any further delay, since the case is of the year 2001.

7. With the above observation, this petition is dismissed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ggs

To

1. 12th Additional Principal Special Judge for CBI cases, Chennai
2. The Deputy Superintendent of Police, SPE/ACB/CBI Chennai.
3. The Public Prosecutor, High Court, Madras.

CrI.O.P.No.6994 of 2017

nm(co)
ss(8/8/2017)

सत्यमेव जयते

WEB COPY