

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Revision Case No.512 of 2015

S.Manivannan

... Petitioner (Accused)

vs.

State rep. By
Inspector of Police, Special Police Establishment
Central Bureau of Investigation, Anti-corruption Branch
Chennai-600 006
R.C.No.MA1 2014A A 0034
CBI/ACB/Chennai

... Respondent (Complainant)

Criminal Revision Case filed under Section 397 and 401 r/w.27 of Code of Criminal Procedure, 1973 praying to call for the records in Special C.C.No.15 of 2014 pending on the file of Special Judge for CBI Cases, Puducherry, Principal District and Sessions Judge and to set aside the charges framed by Special Judge, Puducherry.

For Petitioner : Mr.A.L.Somasundaram
for M/s.Lakshmipriya Associates

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

ORDER

This Criminal Revision Case has been directed against the framing of charges done by the Special Judge, Puducherry in Special C.C.No.15 of 2014.

2. The learned counsel appearing for the petitioner has contended that the respondent has filed final report against the petitioner under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 on the file of the court below and the same has been taken on file in Special C.C.No.15 of 2014 and on 15.04.2015, the revision petitioner as petitioner has filed a petition under Section 239 of the Code of Criminal Procedure 1973 praying to discharge him, instead of passing separate order on it, the court below has framed charges and further, the court below has erroneously framed charges against the petitioner and under the said circumstances, this Revision Petition has been filed for getting the relief sought for therein.

3. The learned Special Public Prosecutor for CBI Cases has contended that in Special C.C.No.15 of 2014, already charges have been framed and only after framing of charges, the Revision Petitioner has filed a petition under Section 239 of the Code of Criminal Procedure, 1973 and therefore, the said petition cannot be disposed of.

4. Since diverging contentions have been taken on either side, this Court has called for a report from the concerned court and accordingly, a report dated 11th August, 2015 has been submitted, wherein, it has been clearly stated that on 15.04.2015 itself, a petition under Section 239 of the Code of Criminal Procedure has been filed by the revision petitioner. In the report it has not been distinctly stated that only after framing of charges, the said petition has been filed. Therefore, it is quite clear that at the time of framing charges, a petition under Section 239 of the Code of Criminal Procedure is pending. Since the said petition is pending, a primordial duty is cast upon the court below to dispose of the said petition and then to frame necessary charges. But in the instant case, the court below has not done it and therefore, this Court is of the considered view that the charges framed in Special C.C.No.15 of 2014 are liable to be quashed, however, the court below is having ample power to dispose of the petition filed under Section 239 of the code of criminal procedure and subsequently to frame proper charges.

In fine, this Criminal Revision Case is allowed. The charges framed on 15.04.2015 in Special C.C.No.15 of 2014 by the Special Judge, Puducherry for CBI Cases (Principal District and Sessions Judge, Puducherry) are quashed. However, the Special Judge, Puducherry is directed to dispose of the petition filed under Section 239 of the Code of Criminal Procedure, 1973 in CrI.M.P.No.684 of 2015 and proceed further.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

nvsri

To :

1.The Inspector of Police, Special Police Establishment
Central Bureau of Investigation, Anti-corruption Branch
Chennai-600 006, R.C.No.MA1 2014A A 0034, CBI/ACB/Chennai

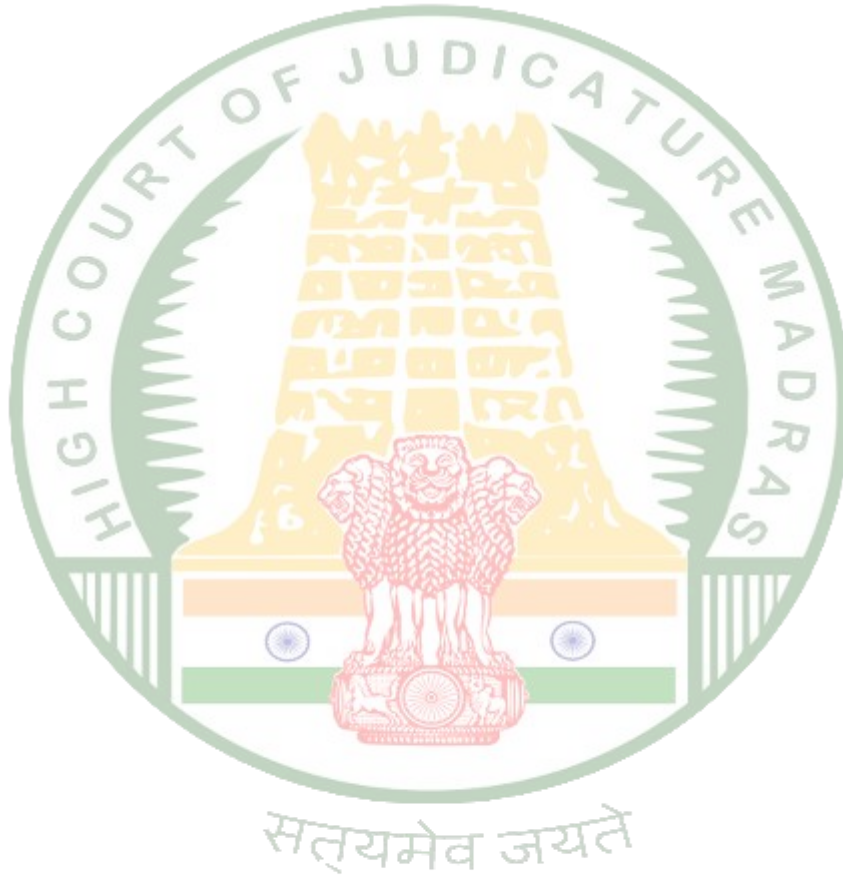
2.The Special Judge for CBI Cases, Puducherry,
(Principal District and Sessions Judge), Special Judge, Puducherry.

3.The Spl Public Prosecutor, for CBI Cases, High Court, Madras.

1 cc to M/s.Lakshmipriya Associates , Advocate Sr.No.44394

Crl. Rev.Case No.512 of 2015

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pmk.8.9.2015



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