

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HON'BLE MR.JUSTICE P. VELMURUGAN

Crl.R.C.Nos.1598 to 1613 of 2016

and

Crl.MP.Nos.13136, 13138, 13140, 13142,
13144, 13146, 13148, 13150, 13152, 13154,
13156, 13158, 13160, 13162, 13164 & 13166 of 2016

Dr. Dilip Kumar Baliga ... Petitioner in Crl.R.Nos.1598 to 1613 of 2016

Vs.

The Inspector of Police,
C.B.I, ACB,
Chennai. ...Respondent in Crl.R.C.Nos.1598 to 1613 of 2016

PRAYER: Criminal Revision Cases are filed under section 397 and 401 of the Criminal Procedure Code praying to set aside the order dated 19.09.2016 passed in Crl.M.P.Nos.1173, 1176, 1180, 1177, 1175, 818, 819, 820, 698, 702, 703, 704, 706, 708, 710 & 699 of 2015, in Special Calendar case Nos.22, 21, 20, 18, 17, 47, 13, 12, 10, 9, 08, 07, 06, 5, 3, & 2 of 2015 by the learned Special Judge (under the P.C.Act 1988) at Puducherry.

For Petitioner : Mr. A.Natarajan, Senior Counsel for
A.Madhumathi

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

COMMON ORDER

These Criminal Revision Cases filed by the petitioner to set aside the order dated 19.09.2016 passed in Crl.M.P.Nos.1173, 1176, 1180, 1177, 1175, 818, 819, 820, 698, 702, 703, 704, 706, 708, 710 & 699 of 2015, in Special Calendar case Nos.22, 21, 20, 18, 17, 47, 13, 12, 10, 9, 08, 07, 06, 5, 3, & 2 of 2015 by the learned Special Judge (under the P.C.Act 1988) at Puducherry.

2. The case of the petitioner is that the respondent herein had registered number of cases against the petitioner and few others on 30.11.2013 and subsequent dates on the allegations that they had committed offence under sections 120 r/w 420 IPC, 13(2) r/w 13(1)(d) of Prevention of Corruption Act.

3. The case of the prosecution is that the State Licensing Authority, Department of Drug Control, Ministry of Health, Government of Pondicherry had issued Manufacturing Licenses to Drug manufacturers without prior approval/permission from the Drugs Controller General(I) New Delhi, Government of India (DCGI) and caused wrongful loss to Government of India, and a corresponding wrongful gain to themselves.

4. On 30.11.2013 on the basis of Source information the respondent had registered number of cases on the allegation that Shri.P.Rajkumaran (A1) licensing authority, Department of Drugs and Control, Ministry of Health, Government of Pondicherry had entered into criminal conspiracy with private drug manufacturers (Accused) at Pondicherry and other places to cheat the Government of India in the matter of issuance of license for manufacturing new drugs/Fixed dose combinations (FDCs) thereby causing wrongful loss to the Government of India, and a corresponding wrongful gain to themselves. Further the manufacturers have not submitted the requisite Form No.44 nor paid the requisite fee of Rs.50,000 for each FDC or obtained mandatory permission/approval from the Drug Controller General of India, New Delhi, as per the provision of the Drugs and Cosmetics Rule 1945.

5. On completion of investigation, charge sheet was laid on 07.01.2015 implicating the petitioner as fourth accused and the overtact attributed against the petitioner is that during his tenure as Director of Health and Family Welfare Services Government of Pondicherry, he had accorded approval to the Licensing Authority Shri.P.Rajkumar (A1), for issuance of manufacturing license.

6. The petitioner herein had filed discharge petition in

Crl.M.P.Nos.1173, 1176, 1180, 1177, 1175, 818, 819, 820, 698, 702, 703, 704, 706, 708, 710 & 699 of 2015, in Special Calendar case Nos.22, 21, 20, 18, 17, 47, 13, 12, 10, 9, 08, 07, 06, 5, 3, & 2 of 2015 on the file of the learned Special Judge (under the P.C.Act 1988) at Pondicherry, and the same were dismissed on 19.09.2016. Aggrieved by the above said orders the petitioner(A4) has filed the revision petitions.

7. Mr. A.Natarajan, Senior Counsel for A.Madhumathi, learned counsel for the petitioner would submit that, the petitioner has no role in this case and he has not committed any offence. There is no specific rules under any law to accord approval to the licensing authority to issuance of license and the petitioner has not violated any rule. Therefore when there is no specific rule for according approval no question of violation will arise for conspiracy and no materials to connect the petitioner in these cases. Further this petitioner only granted administrative approval for issuing license to the manufacturers and the same was subsequently ratified by the Central Government by issuing circulars on 30.11.2013 and subsequent dates the respondent police had registered the cases for the alleged offence committed between the years 2009 to 2012 which is contrary to law and principles of natural justice, therefore he has not committed any offence. However, there is no materials to show the conspiracy under section 120 (B) and he would place reliance on the

following judgments in the case of *State of Madhya Pradesh Vs. Sheetla Sahai and Ors. reported in MANU/SC/1425/2009* and another *State Vs Nitin Gunwant Shah and Ors. reported in MANU/SC/1015/2015* and would submit that there is no prima facie materials to show that the petitioner has conspired with some other accused and also there is no prima facie materials to connect this petitioner. Since this petitioner has not committed any offence and no incriminating materials available against this petitioner to proceed further, he need not face the trial. The learned Special Judge has not considered these aspects and dismissed the petition mechanically, therefore the order passed by the trial Judge is liable to be dismissed.

8. The learned Special Public Prosecutor for CBI, appearing for the respondent would submit that based on the allegations, the CBI conducted investigation and laid charge sheet before the learned Special Court and was taken on file in C.C.No.22 of 2015 on the file of the Special Court (under the P.C.Act 1988) at Pondicherry, during the pendency of the case the petitioner had filed the discharge petitions in CrI.M.P.Nos.1173, 1176, 1180, 1177, 1175, 818, 819, 820, 698, 702, 703, 704, 706, 708, 710 & 699 of 2015, wherein the CBI has filed a elaborate counters and after considering all the materials placed before the Special Judge, he has rightly dismissed the petition. There is no perversity or infirmity in the order passed by the Special Judge, therefore it is

liable to be dismissed, and also further submitted that even the charge sheet reveals the role played by the petitioner in these cases. In the charge sheet there is an allegation levelled against the petitioner and also the statement of witnesses recorded by CBI, documents collected during the investigation which sent with charge sheet reveal the commission of offence by the petitioner. Prima facie case has been made out against this petitioner. There is no perversity or infirmity in the order passed by the Court below.

9. Heard both sides.

10. On ready of statements of LW1 Sanjeev Kumar, Assistant Drugs Controller (1), CDSCO, LW3 V.Karthikeyan, Pharmasist and document nos.41 and 43 clearly speak about the involvement of this petitioner. At this juncture it is relevant to place reliance on the decision of the Apex Court ***State (CBI) Vs S.Bangarappa reported in 2001 Crl.LJ 111(SC)*** wherein it is held as "***Heavy lengthy arguments and passing elaborate orders not necessary while deciding to frame charges. The Court should not evaluate the evidence by deciding its worth and credibility***".

11. On careful perusal of the records placed before this Court such as charge sheet and other documents it shows that there are sufficient

incriminating materials available to proceed further against this petitioner. Therefore, under these circumstances the order passed by the trial Judge does not require any interference. There is no valid grounds made out in the revision petition and this Court does not find any reason to interfere in the order passed by the learned trial judge. There is no quarrel with the preposition laid down by the Hon'ble Supreme Court in the decisions referred by the learned counsel for the petitioner, at the same time every case has got its own facts and merits and the above cited authorities are not applicable to the present case on hand as the facts of those cases are entirely different from the present cases. On perusal of the entire records, prima facie case has been made out against this petitioner and incriminating materials are available against the petitioner to proceed further. Therefore the submissions made by the counsel for the petitioner is not sustainable.

12. In the light of the above discussion, these Criminal Revision Cases are dismissed. Consequently, connected Miscellaneous Petitions are also closed.

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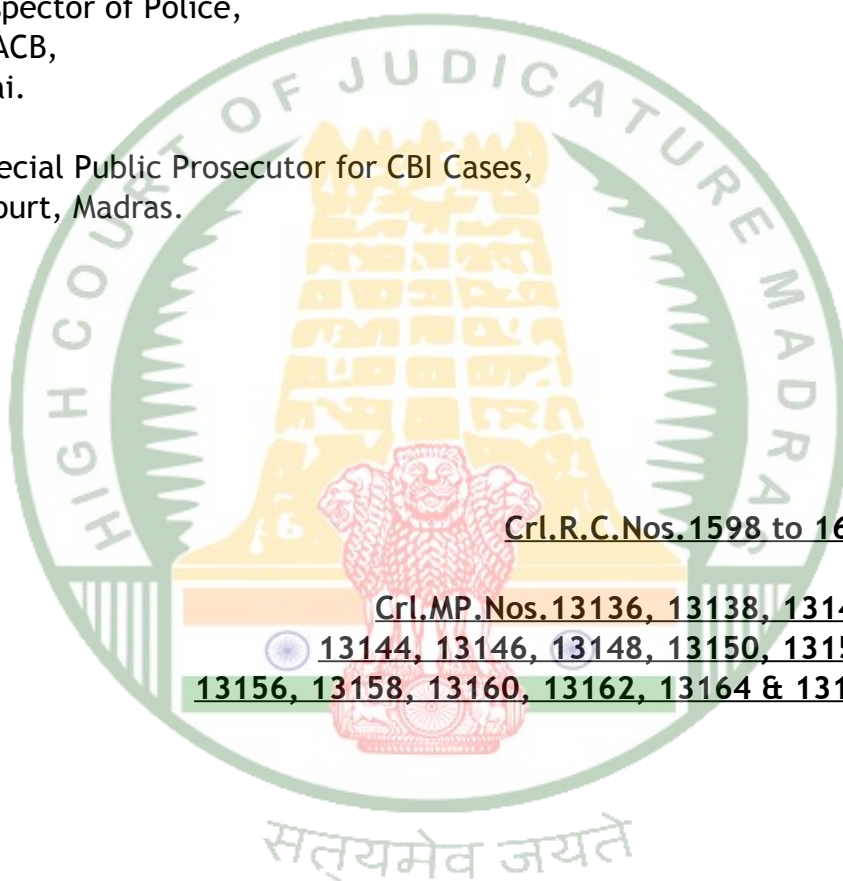
Index : Yes/No
Internet: Yes/No
dpq/bri

P. VELMURUGAN, J

dpq/bri

To

1. The Inspector of Police,
C.B.I, ACB,
Chennai.
2. The Special Public Prosecutor for CBI Cases,
High Court, Madras.



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