

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM:

THE HON'BLE MR.JUSTICE S. BASKARAN

Crl.R.C.No.1652 of 2016

V.M.Mohan
Executive President
(Corporate Finance),
The India Cements Limited,
"Coromandel Towers",
No.93, Santhome High Road,
Karpagam Avenue,
R.A.Puram,
Chennai 600 028. ... Petitioner

Vs.

State represented by
The Sub-Inspector of Police,
CBI/ACB,
Chennai 600 006. ... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to discharge the petitioner of the undertaking provided before the learned CBI Court pursuant to the directions of this Court and permit the petitioner to deal with the above 11 cars freely without any obligation in Crl.M.P.No.4478 of 2016 XIV Additional Judge for CBI Cases, Chennai.

For Petitioner : Mr.N .Chandrasekaran

For Respondent : Mr.B.Mohan,
Special Public Prosecutor

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O R D E R

The petitioner has come forward with the petition seeking discharge of undertaking furnished by him before the trial Court and seeks return of documents of eleven cars, seized by the respondent police.

2. The respondent, in respect of Crime No.Rc.12(A)2013 of 2013 for the alleged offences under Sections 120(b), 420, 467, 468 r/w 471 of IPC and 13(2) r/w 13(i) (d) of Prevention of

Corruption Act 1988, had seized eleven cars from the petitioner and had also taken the original RC Books, Tax Tokens and Insurance Policies on 21.03.2013 under the cover of a Mahazar. The petitioner signed in the said Mahazar. Subsequently, all the cars were returned to the petitioner. Thereafter, the petitioner filed an application seeking return of various documents and the same was ordered on condition that the petitioner shall furnish an undertaking stating that the original documents should be produced before the Court as and when required. Accordingly, the petitioner took delivery of all the documents by giving an undertaking to the respondent that the vehicles will not be alienated without permission. Thereafter, the petitioner filed a petition in CrI.M.P.No.4478 of 2016 in C.C.No.37 of 2015 seeking discharge of the undertaking furnished by him before the Court below while taking delivery of the documents relating to the eleven cars seized by the respondent police on 21.3.2013 and the same was dismissed as not maintainable on 15.11.2016. Hence, the present criminal revision petition has been filed by the petitioner.

3. The learned counsel for the petitioner submitted that the documents pertaining to the eleven cars involved in the petition are not required by the investigating officer for investigation since the investigation against the said cars has been closed. Moreover, in the counter affidavit filed by the respondent/CBI before the Court below, it is stated that no case has been made out against the import, customs clearance, registration and subsequent sale of the said eleven cars. The learned counsel for the petitioner further submitted that since the said cars were purchased about 20 years and 5 to 10 years back, its spare parts have to be replaced by spending huge amount and also have to be disposed of. Hence, the learned counsel prayed to allow the criminal revision petition.

4. The learned Special Public Prosecutor submitted that no case has been made out against the eleven cars and hence, he has no objection for discharging the undertaking submitted by the petitioner before the Court below.

5. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor and perused the materials available on record.

6. It is useful to extract the third paragraph of the counter affidavit filed by the respondent/CBI before the Court below:

"It is respectfully submitted that since no case has been made out against the import, customs clearance, registration and subsequent sale of the above mentioned 11 imported & Indian made vehicles, possessed by India Cements Ltd.,

Chennai, the respondent/complainant has no objection for relaxation/discharge the undertaking submitted to this Hon'ble Court by the petitioner."

7. Considering the facts and circumstances of the case and in view of no objection expressed by the learned Special Public Prosecutor, this Court is inclined to allow this Criminal Revision.

8. In the result, the order passed in CrI.M.P.No.4478 of 2016 dated 15.11.2016 by the learned XIV Additional Judge for CBI Cases, Chennai is set aside and the Criminal Revision stands allowed. The learned XIV Additional Judge for CBI Cases is directed to discharge the petitioner forthwith from the undertaking given by him after completing the necessary formalities.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

cla

To

1.The XIV Additional Judge for CBI Cases,
Chennai.

2.The Sub-Inspector of Police,
CBI/ACB,
Chennai 6.

3.The Public Prosecutor,
High Court, Chennai.

1 cc to Mr.N. Chandrasekaran, Advocate, Sr. 461

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RSY (CO)
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