

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.10.2017
CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CRL.R.C.NO.378 of 2016

S.Manivannan

... Petitioner/Accused

Vs.

State Represented by
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.

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 (1) and 401 of the Code of Criminal Procedure r/w 27 of PC Act 1988, to call for the records in Special C.C.No.15 of 2014 pending on the file of the learned Special Judge for CBI Cases Principal District & Sessions Judge, Puducherry and to set aside the order of the lower Court dated 28.01.2016 in Crl.M.P.No.684 of 2015 in Special C.C.No.15 of 2014 and discharge the petitioner.

For Petitioner : M/s.Lakshmipriya Associates
A.V.Somasundaram

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

ORDER

This revision petition is directed against the order dated 28.01.2016 passed by the Trial Court dismissing the petition in Crl.M.P.No.684 of 2015 in Special C.C.No.15 of 2014 filed under Section 239 of the Code of Criminal Procedure, on the file of the Court of the Special Judge for CBI Case, Puducherry.

2. The learned counsel for the petitioner contended that the sanction order rendered by the prosecution is not issued by the person competent who accord sanction. According to

the petitioner, he is a Special Secretary (GA) Chief Secretariat, Puducherry belonging to Group - B officer and the person competent to remove him from the service is the Lieutenant Governor of Puducherry. Whereas the sanction to prosecute under Section 19 of the Prevention of Corruption Act is not issued by the Lieutenant Governor of Puducherry, but by the Special Secretary to Government.

3. The trial Court, after considering the rival contentions made by the respective parties and on a perusal of the G.O.Ms.No.29, Department of Personnel and Administrative Reforms (Personnel Wing), Government of Puducherry, dated 21.03.2012 has observed that vide the said Government Order, the Lieutenant Governor has specified the Secretaries to Government in the Administration of Government of Puducherry shall henceforth be the Head of department for the purpose of exercising the powers and function as Disciplinary Authority in respect of Group-B posts carrying the Grade Pay upto Rs.4,600/- and relied upon the Judgment of the Hon'ble Supreme Court of India in the case of State of Goa -Vs- Babu Thomas reported in 2005 (8) SCC 130. When there is such an authorization by the Lieutenant Governor to the Secretaries, Home Department, Government of Puducherry, there is no flaw in the sanction order.

4. It is also now submitted by the learned counsel appearing for the respondent that the trial commenced and the officer was examined on behalf of the prosecution. The contention of the prosecution is that being Group-B officer, except the Lieutenant Governor, none other is competent to remove him from the service. However, the G.O.Ms.No.29, Department of Personnel and Administrative Reforms (Personnel Wing), Government of Puducherry, dated 21.03.2012 reads contrary. The learned counsel submits that yet another Government Order is in favour of the petitioner and on the basis of the said Government Order, he challenge the competency of the sanctioning authority.

5. Thus, by way of revision, this Court cannot entertain evidences and pass orders for the relief sought. In the case of Dinesh Kumar Vs. Chairman Airport Authority of India and Another reported in (2012) 1 Supreme Court Cases (Cri) 509. The Hon'ble Supreme Court in an identical situation has clearly held that, since cognizance was already taken against the appellant by the trial Court, no interference warranted and liberty was granted to raise the issue concerning validity of sanction in course of trial.

6.For the reasons stated above, this Revision Petition stands dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Judge for CBI Cases
Principal District & Sessions Judge,
Puducherry

2.The Inspector of Police
Special Police Establishment
Central Bureau of Investigation
Anti-Corruption Branch,
Chennai-600 006

3.The Special Public Prosecutor
CBI Cases High Court Madras

+1 cc to Mr.A.V.Somasundaram Advocate sr 74391

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