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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 17th May, 2017

+ W.P. (CRL.) 1834/2016 and CrI.M.A.9529/2016, 9530/2016

TUNCAY ALANKUS ESQ. Petitioner
Through: Mr. Bahar U. Barqi, Advocate with
Mr. Mahmood Alam, Advocate

versus

CENTRAL BUREAU OF INVESTIGATION.... Respondent
Through: Mr. Sanjay Jain, ASG with Mr. N.N.
Ojha, Special Public Prosecutor and
Ms. Ruchi Jain, Advocate

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is a foreign national, who was extradited to India in October, 1997 in the context of proceedings of the criminal case arising out of the crime registered by Central Bureau of Investigation (CBI) as RC 3(A)/96/CBI/ACU(1). On the basis of charge sheet filed on 26.12.1997, *inter alia*, involving offences punishable under Sections 120-B read with Section 409/420 of the Indian Penal Code, 1860 (IPC) and under Sections 7/11 and 13(2) read with Section 13 (1) (c) and (d) of the Prevention of Corruption Act, 1988 (PC Act), the court of special judge took cognizance and issued process.

2. By the petition at hand filed on 31.05.2016, the petitioner invokes the jurisdiction of this court under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) praying for the order dated 27.07.1996 issuing warrant of arrest leading to the extradition and prosecution to be quashed.

3. When the petition came up before the court for the first time on 03.06.2016 it was noted that the order impugned herein was rendered by the special judge as far back as on 27.06.1996. This was, as would be recorded on 19.07.2016, to put the petitioner to notice that the petition appeared to be barred by delay and laches. The matter had been adjourned by proceedings of 03.06.2016. Since the counsel for the petitioner had made a request. On 19.07.2016, the Additional Solicitor General (ASG) for India appeared for the respondent CBI. He submitted that the petition had been filed with a view to delay the ongoing trial. This submission having been refuted, respondent was called upon to place on record details of the relevant facts and events with liberty also given to the petitioner to file his own synopsis. The matter was adjourned to 21.10.2016. Eventually, when the matter came up for hearing on 03.02.2017, the petitioner took adjournment as his counsel was not available.

4. The respondent has submitted details of the proceedings, duly tabulated, of the criminal case in which the petitioner is facing prosecution. A synopsis has also been filed by the petitioner.

5. It is noted that the charge was framed in the trial against the petitioner on 11.02.1999. The prosecution had concluded its evidence on 19.02.2004. The statement of the accused persons, including the petitioner herein, had been recorded on 26.02.2004 and 19.05.2004. Thereafter the case entered the stage of defence evidence. The petitioner submitted list of sixty three defence witnesses. Questions were raised as to the relevancy of the evidence of such witnesses. The trial court by order dated 11.10.2004 allowed seven witnesses to be examined. Later, in November, 2004, the co-accused submitted a list of twenty-five defence witnesses. The trial court by order dated 29.11.2004 allowed two witnesses to be examined in defence. The gist of the proceedings thus far indicates that the recording of the evidence in defence is still not complete. The delay has been mostly for the reasons attributable to the petitioner or his co-accused.

6. The trial is now in its final legs. Questioning the issuance of warrant of arrest which led to the extradition of the petitioner from his native State twenty years after the event with no reason explained for such inordinate delay is incomprehensible.

7. Given the fact that trial court found sufficient evidence to not only cognizance under Section 190 Cr.P.C. and issue process under Section 204 Cr.P.C. against the petitioner but also later put him on trial by framing charges, said orders having attained finality, itself shows that no illegality can be attached to the issuance of warrant of arrest.

8. The petition is not only badly time barred, but also devoid of any substance. Clearly, it is an attempt to stall the proceedings before the trial court even further.

9. Petition along with accompanying application stand dismissed.

R.K.GAUBA, J.

MAY 17, 2017
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