

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.23420 of 2018

Dr. M.Rajan

... Petitioner

/Vs/

State Represented by
The Inspector of Police,
SPE/CI/ACB, Chennai.

.... Respondent

Prayer: This Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for records of charge sheet in C.C.No.1 of 2018 on the file of the learned XIII Additional Judge (Special Court for CBI cases) Chennai and quash the proceedings of same so far as the petitioner is concerned.

For Petitioner : Mr.V.S.Kesavan

For Respondent : Mr.K.Srinivasan,

Special Public Prosecutor (CBI Cases)

O R D E R

This petition has been filed to quash the proceedings in C.C.No.1 of 2018 in so far as the petitioner, pending on the file of the learned XIII Additional Judge (Special Court for CBI cases) Chennai. The petitioner who is arrayed as A10, along with other accused has been charged for the offences under Sections 120-B, 420, 201, 209 and 109 of IPC read with Section 13(2), read with Section 13(1)(e) of the prevention of Corruption Act 1988.

2. The learned Counsel for the petitioner would submit that the allegation in respect of the petitioner is that he in conspiracy with A3/Adithya Chozan, had created fake and unregistered back dated sale agreements as if Mr.Adithya Chozan got the total amount of Rs.52,lakhs from the purported purchasers "in cash" from them towards purchase of plots by them at Adithya Chozan City, Puthukkudi, Tanjore. Based on the above said fake unregistered and back dated sale agreements, A3 had filed a

false criminal revision petition dated 24.01.2015 before the High Court of Madras and that, based on the false affidavit filed before this Court, got return of the amount of Rs.24,81,000/-. The further allegation is that the above said acts of A3/Adithya Chozan and other purported buyers and witnesses to the unregistered back dated fake sale agreements constitutes the above mentioned offences under Section 120-B read with 420 IPC, 201, 209 IPC and 109 of IPC.

4. The learned Counsel for the petitioner would submit that the petitioner had not entered into any such agreement with the said Adithya Chozan(A-3) nor paid any amount to him as alleged by the respondent and he has denied the execution of such document. He further submitted that when such being the case, due to offence committed by A3/Adithya Chozan, the petitioner is unnecessarily roped in this case and arrayed as A-10.

5. The Special Public Prosecutor appearing for the respondent would submit that the petitioner conspired with the main accused and that they fabricated the documents and projected as if the amount was paid to A3 as advance. He further submitted that there are materials against the petitioner and the issue involved is that he conspired with the main accused and that the issues in the case are matter for trial and that the petitioner has not made out a case for invoking the powers of this Court under Section 482 Cr.P.C. He would also submit that apart from the documents there are other materials to prove the conspiracy between the petitioner and the main accused.

6. At this juncture, the learned Counsel for petitioner would submit that without going to the merits of the case, would seek liberty to withdraw this petition and would seek the indulgence of this court to dispense with the personal appearance of the petitioner before the learned XIII Additional Judge (Special Court for CBI cases) Chennai in C.C.No.1 of 2018, stating that the petitioner is a senior citizen, aged about 69 years who is under dialysis as both of his kidneys have failed and that his movements is restricted to the wheel chair. He has also filed the medical certificates regarding the same. He has also submitted that the petitioner is undergoing dialysis everyday.

7. Taking in to consideration the medical certificate filed and the age of the petitioner and that he is undergoing dialysis everyday, this court is inclined to pass an order dispensing with the personal appearance of the petitioner, before the learned XIII Additional Judge (Special Court for CBI cases) Chennai. However, the

petitioner shall make himself available at the time of framing of charges before the learned XIII Additional Judge (Special Court for CBI cases) Chennai on 17.10.2018 and would also appear on the date of questioning under Section 313 Cr.P.C and also on the dates when the learned XIII Additional Judge (Special Court for CBI cases) Chennai, insists for his appearance. The petitioner shall also engage an advocate to represent him by special vakalath, and the petitioner shall appear as and when the trial Court finds the presence of the petitioner is essential for the progress of trial. Further, the petitioner shall file an undertaking before the learned XIII Additional Judge (Special Court for CBI cases) Chennai, that adjournment will not be sought for by the counsel citing reason of non presence of the petitioner during trial.

8. With this observation the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CS v)

//True Copy//

Sub Assistant Registrar

ssi/ksa-2

To

1. The XIII Additional Judge (Special Court for CBI cases),
Chennai.

2. The Inspector of Police, SPE/CI/ACB,
Chennai.

3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.V.S.Kesavan , Advocate SR.No. 69494

Crl.O.P.No.23420 of 2018

ASK(30/10/2018)