

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2018

CORAM:

THE HON'BLE MR.JUSTICE M. DHANDAPANI
Crl.R.C.No. 1190 of 2018
and
Crl.M.P.Nos.13989 and 13990 of 2018

1.M/s. ORJ Electronics Oxides Limited
Represented by its Managing Director,
2.O.R.J. Jaffar Batcha
3.Sundaram Petitioners/A 6,7,8/ Petitioner

/Vs/

State represented by :
The Inspector of Police,
SPE, CBI, Economic Offences Wing,
Chennai. Respondent/ Respondent

Prayer:

Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 03.10.2018 in Crl.M.P.No.2001 of 2015 in E.O.C.C.No.05 of 2004 on the file of the learned Additional Chief Metropolitan Magistrate [E.O.I], Egmore, Chennai.

For Petitioners : Mr. B. Kumar, Senior Advocate
for S. Ramachandran

For Respondent : Mr. R. Srinivasan,
Special Public Prosecutor [CBI Cases]

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सत्यमेव जयते

O R D E R

The petitioners/A6 to A8 have filed the Criminal Revision Case challenging the order in Crl.M.P.No.2001 of 2015 in E.O.C.C.No.5 of 2004, dated 03.10.2018.

2. The petitioners had been implicated for the offences under section 120(B) IPC r/w Sec. 420, 467, 468 and 471 IPC and under Section 132 and 135 of Customs Act, 1962 and substantive offences under Section 420, 467, 468 r/w 471 IPC, 420 r/w 511 IPC and u/s. 132 and 135 of Customs Act, 1962.

3. Thereafter, the respondent/Economic Offences Wing /Law Enforcing Agency has filed a final report dated

15.12.2003. After receiving the final report, the trial court also assigned E.O.C.C.No.5 of 2004. Thereafter, the petitioners/accused have filed their discharge petition under Section 239 of CrPC before the learned Additional Chief Metropolitan Magistrate, (E.O.I), Egmore at Allikulam, Chennai-600 003. The above said discharge petition was dismissed by the trial Court on 03.10.2018. However, the discharge petition was dismissed as if that the court presumed is a private complaint whereas the records shows that it is a final report filed by the Law Enforcing Agency/Economic Offences Wing.

4. On perusal of the impugned order especially para 11, 12 and 13, the learned Special Public Prosecutor admitted the mistake committed by the trial court and further pointed out that the said petition was dismissed on the ground of premature. Though the lower Court presumed as a private complaint, however, the said discharge petition is filed before framing of charges and examining the prosecution witness. So, in view of the above order in CrI.M.P.No.2001 of 2005 in E.O.C.C.No.05 of 2004, dated 03.10.2018 is set aside and liberty is granted to the petitioners/accused to file fresh discharge petition under Section 239 of CrPC before the trial court and the same has to be considered on merits in accordance with law.

5. However, by setting aside the impugned order in CrI.M.P.No.2001 of 2015 in E.O.C.C.No.5 of 2004, this Court has not expressed any opinion with regard to the merits of the case and I am not discharging the accused from the C.C.

6. Accordingly, the Criminal Revision Case is disposed of with above terms. Consequently, connected Miscellaneous Petitions are closed.

09.11.2018

msm

To

The Inspector of Police,
SPE, CBI, Economic Offences Wing,
Chennai.

2.The Additional Chief Metropolitan Magistrate [E.O.I],
Egmore, Chennai.

3. THE SPECIAL PUBLIC PROSECUTOR (CBI CASES),
HIGH COURT
MADRAS.

+1cc to Mr. S. Ramachandran, Advocate SR.No. 76672

CrI.R.C.No. 1190 of 2018

ASK(10/12/2018)