BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.08.2018

DELIVERED ON : 21.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.440 of 2018

C.P.Ramakrishnan : Petitioner/Accused

Vs.

Central Bureau of Investigation (CBI),
(ACB), Chennai, rep. By
its Inspector of Police. : Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order of the Principal Special Court for CBI Cases, Madurai, dated 10.01.2018 passed in Crl.M.P.No.1557 of 2017 and discharge the petitioner from the case in C.C.No.5 of 2009 pending before the Principal Special Court for CBI Cases, Madurai.

For Petitioner : Mr.C.Jeganathan
for M/s.Veera Associates.

For Respondent : Mr.S.Sivakumar
for Mr.N.Nagendran,
Spl. Public Prosecutor for CBI cases.

ORDER

This Criminal Revision Case is directed against the order of dismissal dated 10.01.2018, passed by the Trial Court in Cr.M.P.No.1557 of 2017 in C.C.No.5 of 2009, filed under Section 227 Cr.P.C. to discharge accused No.4.

2.ACB, CBI, Chennai, registered the complaint in Crime No.RC.MA1. 2007.A0030 on 29.06.2007, on a complaint received from Shri.Bhikoo Ram, Commissioner of Central Excise, Trichy. The allegation found in the complaint is that Srinivasan [A.1], Superintendent of Central Excise, Trichy, Shri Suresh Kumar Jain [A.3], Director of M/s.Sweety International Private Limited, Chira Bazar, Mumbai and Shri.C.P.Ramakrishnan [A.4], Partner of M/s.Trend Shetter, Goutam Centre, Coimbatore, entered into a criminal conspiracy to defraud and exploit the scheme of the Government of India, namely, Duty Entitlement Exemption Certificate Scheme (DEEC) , exported wrinkled and soiled cloth bits and pieces, by mis-declaring it as genuine goods. In pursuant to the said conspiracy, during the year 2002, Srinivasan (A.1) and Suresh Kumar Jain (A.3), to avail pre-export benefit given to the exporters under DEEC Scheme in the name of M/s.Sweety International Private Limited, imported raw materials to the extent of Rs.3,54,73,356/- and availed duty exemption entitlement. After importing textile raw material, under the guise of exporting ladies dress [long coat] stuffed wrinkled and soiled cloth bits and pieces in the container, prepared shipping bill. Accused No.1 issued false examination report as if genuine goods were exported and got the duty exemption.

3.The petitioner herein, who is arrayed as accused No.4 has filed discharge petition contending that there is no evidence against this petitioner to indicate his involvement in the crime. It is contended before the Trial Court that L.W.43, L.W.44 and L.W.65 alone are the witnesses, who were spoken about this petitioner. The entire reading of their statements does not implicate the petitioner in the offence.

4.Whereas the learned counsel for the respondent would say that the Trial Court after considering the petition and the counter filed by the prosecution has observed that a perusal of the records filed along with the final report, reveals that accused No.3, Suresh Kumar Jain obtained a registration for manufacturing of articles of apparels and clothing accessories and also obtained house-stuffing approval from the Commissionerate of Customs, Cochin at No.140, NH-7 Road, Manalmedu, Karur, TamilNadu, but stuffing was not made in the said address. Shri.Suresh Kumar Jain during June, 2002, met Shri.Cibi (L.W.43), Senior Executive of the Customs House Agents, M/s.Air Travels Enterprises (I) Limited, handed over 12 shipping bills purportedly for export of ladies long coat from M/s.Sweety International Private Limited, Mumbai, in which Shri.Suresh Kumar Jain is the director. 12 containers were stuffed with cartons containing wrinkled and soiled cloth bits/pieces. The first accused, Srinivasan, Superintendent of Central Excise, abusing his power falsely, certified the above shipping bills were opened and examined, verified the description and found the containers contained ladies long coat. Though, Srinivasan is the Superintendent of Central Excise, Viralimalai, Trichy and have no jurisdiction over the house stubbing area falling within the jurisdiction of Manalmedu, Karur, accused No.1 has issued the report. The petitioner herein, who is the partner of M/s.Trend Shetter, Goutam Centre, Coimbatore, had found along with accused No.3, while the containers were stuffed with soiled and wrinkled cloths instead of brand new ladies long coat. For the said reasons, the Trial Court has dismissed the discharge petition.

5.The learned counsel appearing for the revision petitioner would contend that L.W.43 and L.W.44 have not whispered about anything about the petitioner herein. The reading of evidence of L.W.43 and L.W.44 clearly indicates that C.P.Ramakrishnan, the petitioner herein, was found along with the other accused while stuffing the wrinkled cloth and soiled cloth pieces. The statement of L.W.43, Cibi, reads as under:

"*In the afternoon Shri Roy called me and told that*

Shri Kutty asked Shri Roy to come to stuffing point. I told the same to Shri Raju. Shri Raju agreed to come to Karur. We (myself and Shri Raju) proceeded to Karur by evening after office hours. Enroute we picked Shri Roy from Coimbatore. We reached Karur around 3 AM in the morning. By that time, stuffing was almost finished and I found three North Indians sealing the containers with Central Excise seal. When I checked the Central Excise seal, I found they had sealed the container in the wrong way, that is after sealing it should have been in the butterfly model. But they had just tied and sealed. I broke the seal and showed them how to do correct and I sealed one container. When I asked them about the Central Excise official, they told me that he was in the hotel. After that we followed the North Indians to a hotel. There I found Shri Kutty, Shri Suresh Kumar Jain and the Central Excise officer Shri Srinivasan, whom I have seen earlier at Pollachi. I saw Shri Srinivasan writing the examination report".

Statement of L.W.43 also implicates this petitioner that he misled the witness by falsely representing that Viralimalai and Karur fall under the same jurisdiction and Viralimalai is sub area in Karur, which is not fairly correct. The statement of L.W.43 details about how the 12 containers stuffed with wrinkled clothes has been mis-declared as ladies long coat and the consignment required by A.Srinivasan, as if he examined the 25% of the goods to be exported and declaration found correct by exporting old cloth, crudely stitched and not usable as garments, were declared as ladies dresses in the shipping bill and in order to fraudulently avail the duty entitlement.

6.L.W.44, Mr.Roy had also implicated this petitioner for his involvement in stuffing waste clothes, fraudulently prepared stuffing report as if to goods stuffed in these 12 containers are ladies dress [long coat]. The statement of L.W.44 reads as under:

"Sometime during June, 2002, myself, Shri Cibi, PA and my brother Shri Raju Mathew went to the stuffing point at Karur. I was picked up at Palladam. We reached the godown at Karur sometime in the early morning at 0330 or 0400 hours. We were guided to the place by Shri Kutty over phone. We say the stuffing having been completed and we also saw some carton box in the godown. Shri Cibi saw the container to have been sealed with Central Excise seal in the wrong way. He removed the old seal and had put it again the correct way. Then we went to a hotel at Karur, where we say Shri Suresh Kumar Jain, Shri Kutty, Shri Joshy Mathew, Shri Srinivasan, Central Excise officer and some North India guys, whom I do not know. Shri Srinivasan was writing the stuffing report".

7.When there is adequate material sufficient to frame charge against the revision petitioner for offence under Sections 120-B IPC read with 420 IPC and also offence under the Prevention of Corruption Act against accused No.1, being a public servant, as far as this petitioner is concerned, his role in the conspiracy and overtact of stuffing waste cloths is well spoken through L.W.43 and L.W.44. Therefore, this Court finds no merit in the revision petition. The order of the Trial Court dismissing the discharge petition is well fortified by records. Hence, this revision is dismissed. The order, dated 10.01.2018, passed in Cr.M.P.No.1557 of 2017 in C.C.No.5 of 2009, by the Trial Court is confirmed.

Sd/
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar (CS-III)

To

1.The Principal Special Court for CBI Cases,
Madurai.

2.II Additional District Court for CBI Cases,
Madurai.

3.The Inspector of Police,
Central Bureau of Investigation (CBI),
(ACB), Chennai.

4.The Special Public Prosecutor for CBI cases,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C(MD)No.440 of 2018
21.08.2018

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