

HONOURABLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.990 of 2018

ORDER:

Heard the learned Counsel for the petitioner as well as the learned Standing Counsel appearing for the C.B.I.

2. The present Criminal Revision Case is filed challenging the orders passed in Criminal M.P. No.732 of 2017 in C.C. No.27 of 2014, dated:26.2.2018 on the file of the Court of the III Additional Special Judge for C.B.I. Cases, Visakhapatnam, dismissing the Petition filed under section 239 of Criminal Procedure Code to discharge the petitioner herein from the charges leveled against her.

3. The brief facts of the case are as follows:

The petitioner herein who is accused No.2, charged for the offence under section 13 (2) read with section 13 (1) (e) of Prevention of Corruption Act, 1988 and section 109 of IPC, on the file of the Principal Special Judge for CBI Cases Visakhapatnam. Pursuant to the source of information, a case has been registered in RC:05(A)/2012-CBI/VSP against the petitioner herein and her husband for the offence under section 13(2) r/w 13(1) (e) of Prevention of Corruption Act, 1988 and section 109 of IPC. After investigation, charge sheet has been filed on 21.4.2014. The learned Principal Special Judge after taking cognizance of the offence against the petitioner numbered the case as C.C.No.27 of 2014.

4. During the pendency of the said C.C., the petitioner herein filed Criminal M.P. No.732 of 2018 under section 239 of the Criminal

Procedure Code to discharge her from the charges levelled against her. The petitioner has specifically stated in her petition that she has her own independent source of income to acquire the properties, apart from this fact that there is no prima facie case against her for framing of above said charges.

5. Per Contra, the learned Public Prosecutor appearing on behalf of the C.B.I., submitted that the petitioner herein miserably failed to explain that she has independent her own source of income to acquire the properties. The Court below after hearing was pleased to dismiss the Petition by orders dated:26.2.2018. Aggrieved by the same, the present Criminal Revision Case is filed,

6. The learned Counsel for the petitioner appearing for the petitioner, vehemently contends that the Court below has committed grave error in not appreciating the contentions raised by the petitioner that she has her own source of income to acquire the properties during the course of check period.

7. Per Contra, the learned Standing Counsel for the C.B.I., brought to the notice of this Court with regard to value of the properties acquired during the check period and the source of income of the petitioner herein.

8. Be that as it may, when once a disputed question of fact is brought with regard to acquisition of the properties as to whether the petitioner is having any independent source of income, at this stage, this Court cannot go into those aspects since the scope of section 239 of Criminal Procedure Code is very limited. What all is to be looked

into at this stage is whether any prima facie case is available with regard to framing of charge and proceeding further in the matter. The Courts are not supposed to make any roving enquiry and appreciating the evidence available and come to a conclusion whether the material available will lead to conviction or not. In these circumstances, this Court is not inclined to interfere with the orders passed by the Court below. As such, there are no merits in the Criminal Revision Case. Accordingly, the Criminal Revision Case is dismissed.

However, the learned Counsel appearing for the petitioner, request this Court to dispense with the presence of the petitioner during the course of trial since the petitioner is aged woman suffering from age related ailments. Taking the said submission into consideration, the presence of the petitioner in C.C. No.27/2014 on the file of the Principal Special Judge for CBI Cases, Visakhapatnam, is dispensed with except whenever her presence is required.

Pending Miscellaneous Petition/s, if any, shall stand closed.

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JUSTICE P. KESHA RAO

Dated: 17-07-2018

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HONOURABLE SRI JUSTICE P. KESHAVA RAO



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