

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No. 521 of 2015

ORDER:

1. The revision is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (Cr.P.C.), challenging the order dated 26.02.2015 in CrI.M.P. No. 635 of 2013 in C.C. No.4 of 2010 on the file of the Principal Special Judge for C.B.I. Cases, Visakhapatnam, whereby petition filed by the petitioner/A.5 under Section 239 Cr.P.C. for discharge, was dismissed.

2. Heard the learned counsel for the petitioner/A.5 and Sri K.Surender, learned Special Public Prosecutor for CBI Cases appearing for respondent/State. Perused the record.

3. The petitioner herein is A.5 in C.C. No.4 of 2010 on the file of the Principal Special Judge for C.B.I. Cases, Visakhapatnam. He was charge sheeted for the offences punishable under Sections 13 (e) read with 13 (2) of the Prevention of Corruption Act, 1988 and 109, 468 and 471 IPC.

4. Learned counsel for the petitioner/A.5 would contend that the petitioner has been working as Inspector in Central Excise Department and he got independent source of income; that he purchased the Honda City car from his

funds; that there is no sufficient material collected against the petitioner/A.5 to proceed further with the trial, and ultimately, prayed to allow the revision case.

5. On the other hand, learned Special Public Prosecutor appearing for respondent/State would contend that there is sufficient material available on record to proceed with trial against the petitioner/A.5 for the offences alleged, and the learned Special Judge rightly dismissed the petition filed for discharge, and there is no infirmity, and ultimately, prayed to dismiss the revision case.

6. The allegation is that A.1 in the above C.C. purchased a Honda City car from one A.V.S. Murthy and got it registered in the name of the petitioner/A.5 and that the sale consideration therefor i.e. Rs.4.75 lakhs, was paid by A.1, and that the petitioner had no enough money to purchase the said car, and that the application submitted by the petitioner for transfer of ownership is forged one. Except the said allegation, there are no other allegations against the petitioner/A.5. Petitioner is a salaried employee working as Inspector in Central Excise Department. More over, the subject car purchased is a second hand car. There is no material to substantiate the allegation. Even if the material on record is considered true, there is no possibility of petitioner/A.5 being

convicted of the alleged offences. Therefore, it can safely be concluded that there are no sufficient grounds to proceed against the petitioner-A.5 for the offences alleged. In a criminal trial, the accused cannot be prosecuted without there being sufficient material. Except alleging that A.1 purchased the subject car for Rs.4.75 lakhs from one A.V.S.Murthy and got it registered in the name of petitioner/A.5, there is no material to substantiate the allegations. Under these circumstances, proceeding with the trial of the case against the petitioner-A.5 would be a futile exercise. If it is proceeded with, certainly, it would cause hardship to the petitioner/A.5. The learned Special Judge had not evaluated the material on record in corrected perspective. Therefore, the impugned order is liable to be set aside.

7. In the result, the Criminal Revision Case is allowed setting aside the order dated 26.02.2015 in CrI.M.P. No. 635 of 2013 in C.C. No.4 of 2010 on the file of the Principal Special Judge for C.B.I. Cases, Visakhapatnam. Consequently, CrI.M.P. No.635 of 2013 stands allowed. The petitioner/A.5 is discharged of the offences alleged against him in C.C. No.4 of 2010 on the file of the Principal Special Judge for C.B.I. Cases, Visakhapatnam.

Miscellaneous petitions pending, if any, in the revision case shall stand closed.

25.10.2018
DRK

Dr.SA, J.



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