

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.520 OF 2015

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-accused No.2 to set aside the order of dismissal dated 26.02.2015 passed in CrI.M.P. No.918 of 2014 in C.C. No.4 of 2010 on the file of the Principal Special Judge for C.B.I. Cases, Visakhapatnam (for short, 'the trial Court') filed to discharge the petitioner-A.2 in C.C. No.4 of 2010 for the offences punishable under Sections 13(e) read with Section 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act') and Section 109 I.P.C.

2. Heard the learned counsel for the petitioner-accused No.2 and the learned Special Public Prosecutor for C.B.I., apart from perusing the material on record.

3. Learned counsel for the petitioner-accused No.2 would submit that the petitioner-A.2 is working as Assistant in the Statistical Department, she is a government servant, the cheque period was taken from 01.04.1997 to 30.06.2005, however, the petitioner has been working from 1999 onwards as government servant; the income prior to the cheque was not taken; the property purchased in her name is self-acquired property; her father was also an Ex.M.L.C.; she also got some property and money as gift from her father; the trial Court had not appreciated the material on record in proper perspective and erroneously dismissed the discharge application; and ultimately, prayed to set aside the dismissal order passed by the trial Court.

4. On the other hand, learned Special Public Prosecutor for C.B.I. opposed the discharge application and contended that substantial

material is placed on record to show that the petitioner-A.2 had indulged in malpractice and she is rightly being prosecuted for the offences punishable under Sections 13(e) read with Section 13(2) of the PC Act and Section 109 I.P.C.; the petitioner-A.2 is the abettor; the trial Court rightly dismissed the discharge application; there are no merits to allow this petition; and ultimately, prayed to dismiss this application.

5. In view of the submissions made on behalf of both sides, the point that arises for determination is, whether the impugned order is liable to be set aside and the petitioner-A.2 can be discharged in C.C. No.4 of 2010 for the offences punishable under Sections 13(e) read with Section 13(2) of the PC Act and Section 109 I.P.C.?

6. As per the material placed on record, huge property had been found in the name of the petitioner-A.2 and also in the name of her husband, who is accused No.1 in the subject case. There are number of valuable items of movable and immovable properties in the name of the petitioner-A.2. Those are specifically shown in the charge sheet. At this juncture, it is not appropriate to make mathematical calculations with regard to the income and expenditure of the petitioner-A.2 to hold that no case is made out against the petitioner-A.2. But from the record, the property found in the name of the petitioner-A.2 clearly demonstrate that the same is more than the known source of income of the petitioner-A.2 and there are sufficient grounds to proceed against the petitioner-A.2 for the offences alleged against her. The trial Court has analysed the entire record and rightly dismissed the discharge application filed by the petitioner-A.2. There are no circumstances or grounds to take a different view. There is no error manifest to interfere with the impugned order passed by the trial Court in exercise of power conferred under Sections

397 and 401 Cr.P.C. The criminal revision case is devoid of merits and is liable to be dismissed.

7. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

Date: 23-10-2018

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Dr. SHAMEEM AKTHER, J

