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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 18th July, 2018

+ CRL. M.C. 913/2018 & CrI.M.A. 3383-84/2018

A K. SINHA

..... Petitioner

Through: Mr. Chirag Jamwal, Adv.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Anupam S. Sharma, Spl.
PP for CBI with Mr. Prakash
Airan, Adv.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner is facing trial in criminal case no. 12/2016 registered on the basis of charge-sheet submitted on conclusion of investigation into RC no. 02/1986 of the respondent Central Bureau of Investigation on the charge for offence under Section 5 (2) read with Section 5 (1) (e) of Prevention of Corruption Act, 1947 in the Court of Special Judge at Karkardooma Courts Complex. The present petition has been filed on 17.02.2018 with the prayer that this Court, in exercise of its inherent power under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), set aside the order dated 03.02.2018 of the Special Judge whereby the application of the petitioner contending that the sanction for his prosecution was vitiated and on that account the proceedings were liable to be dropped, was

disposed of with the observations that the contentions raised would be considered at the time of final adjudication of the case, the case having already reached by then the stage of defence evidence. The petitioner places reliance on judgments of the Supreme Courts in *Mohd. Iqbal vs. State of Andhra Pradesh* AIR 1979 SC 677 and *Central Bureau of Investigation vs. Ashok Kumar Aggarwal* (2014) 14 SCC 295 to contend that the view taken by the Special Judge is not correct and further that the trial court was duty bound to consider the contentions and take a call on the same *vis-à-vis* the validity of the sanction and pass a reasoned order dealing with the issues raised.

2. *Per contra*, the CBI argues that the application is highly belated and, therefore, the view taken by the trial judge cannot be taken exception to, it being settled law that objection to the validity of the sanction must be raised at the earliest. It is pointed out that even the defence evidence has been concluded and the case is now ripe for final arguments to be heard, the Special Judge having taken a very balanced view by observing that the contentions urged regarding validity of sanction would be heard in the final analysis.

3. The orders granting sanction for prosecution against the petitioner were issued on 13.06.1990 and 22.11.90 on the basis of prosecution that was launched. The charges were framed against him on 31.05.2005. Thereafter, the trial commenced. The prosecution concluded its evidence some time in 2016 and thereafter the statement of the petitioner as accused was recorded under Section 313 Cr.P.C. followed by he being given opportunity to lead defence evidence. It was at that late stage that the application was moved by him

questioning the validity of sanction. By no stretch of imagination, it can be said that he has raised the issue concerning validity of sanction at the earliest.

4. The view taken by the Special Judge is very fair. The contentions of the petitioner would be taken up by the Special Judge at the time of final adjudication, the case having already ripened for final arguments to be heard.

5. In these circumstances, this Court ought not interfere at this stage of process.

6. The petition and the pending applications are dismissed.

R.K.GAUBA, J.

JULY18, 2018

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