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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 27th August, 2018

+ CRL.M.C. 781/2015 and Crl. M.A. 2959-2960/2015

KRISHNA MURARI BANGAR

.... Petitioner

Through: Mr. Jayant K. Mehta, Mr.
Shubhankar, Ms. Drishti Aarpalani and Mr.
Sajal jain, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Prateek Kumar, Advocate for
Mr. Sanjeev Bhandari, SPP, CBI

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner was summoned as accused by the court of the Chief Metropolitan Magistrate, by order dated 31.01.2013, on the basis of report under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) submitted by the respondent / Central Bureau of Investigation (CBI) upon conclusion of investigation into case registered as RC no.AC-1/2011/A0008 involving offences punishable under Section 120B read with Sections 217 and 218 of Indian Penal Code, 1860 (IPC). He filed the present petition challenging the said

order seeking quashing of the criminal case arising out of the said charge-sheet.

2. The petition has been pending since 27.02.2015. Meanwhile, the proceedings before the trial court have continued and, as pointed out by the Additional Public Prosecutor representing CBI, by order dated 13.10.2014, the trial court found charge made out for offences punishable under Sections 120B, 217 and 218 of the IPC against the petitioner and co-accused Syed Sajid Ali. It has also been pointed out that co-accused Syed Sajid Ali had assailed the said order dated 13.10.2014 and formal charges framed on 21.01.2015 in its wake – before the court of Sessions by Crl. Revision No.05/2015. The criminal revision, however, was dismissed by the Sessions court by a detailed order dated 07.11.2017.

3. The contentions of the petitioner in the present proceedings have been that his prosecution on the basis of the evidence gathered during investigation in the aforementioned FIR is *ex facie* malicious, his name being unnecessarily dragged into the proceedings with the sole motive of causing harassment to him. It is his argument that the charge-sheet which was presented pursuant to the aforementioned investigation would not show any intent on his part to be a party to the criminal conspiracy with the co-accused and further that the evidence presented fails to establish any understanding between the two persons who have been arraigned as accused. It is also his argument that no previous sanction as required under Section 197 Cr. PC for taking of cognizance had been obtained.

4. As noted at the outset, the petition was filed challenging the order summoning the petitioner as accused. The case before the trial court, in the meanwhile, has made substantial progress. It is inherent in the order whereby charge has been framed by the trial court that it has found sufficient grounds to raise grave suspicion as to his complicity in the crimes that include criminal conspiracy with the co-accused. In this view of the matter, it would not be proper to consider the contentions of the petitioner with reference to the initial order of summoning only. The appropriate course for the petitioner would be to challenge, if he is so advised, the order whereby charge has been found made out particularly against the backdrop of further fact that the challenge to the said order by the co-accused has been repelled even by the revisional court by its judgment dated 07.11.2017.

5. Thus, the petition at hand against the summoning order is dismissed. The contentions of the petitioner, however, are kept open and he is given liberty to raise the same by appropriate petition against the order framing charge to be brought or at the trial in accordance with law.

6. This disposes of the pending applications as well.

R.K.GAUBA, J.

AUGUST 27, 2018

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