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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1737/2017

M/S BUFFALO NETWORK PVT LTD Petitioner

Through Mr. Pramod Kumar Dubey,
Mr. Saurabh Kumar and Mr. Hitaish
Chauhan, Advs

versus

C B I Respondent

Through Mr. Nikhil Goel and Mr. Ashutosh
Ghade, Advs

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **20.03.2018**

By this petition under Section 482 of Code of Criminal Procedure, 1973, petitioner has prayed for quashing of trial court proceedings in session case no. 03/2013 arising out case FIR RC No. 01(S)/2001 under section 3(1)(c),5(1)(c),5(1),5(1),5(4) of Official Secrets Act, 1923 read with section 120B IPC.

It is contended that Aniruddha Bahal, Niraj Kumar, Mathew Samuel, and Thomas Mathew were the co-accused and Trial Court vide order dated 16.10.2012 framed charges under Section 3(1)(c) and 5(1)(2) and (4) of Official Secret Act, 1923 r/w Section 120-B IPC against all the accused including the petitioner. Charge under Section 5(1)(a) punishable under Section 5(4) of Official Secret Act, 1923 was also framed against Niraj and under Section 5(2) punishable under Section 5(4) of Official Secret Act, 1923 against Mathew Samuel and Thomas Mathew.

It is contended that Aniruddha Bahal, Niraj Kumar and Thomas Mathew filed Criminal Revision Petitions bearing numbers 683/12, 707/12

and 34/13 respectively against the framing of charges. Vide judgment dated 26th May, 2014 aforesaid Revision Petitions were allowed by the learned Single Judge; whereby Aniruddha Bahal, Niraj Kumar and Thomas Mathew were allowed. The fourth accused Mathew Samuel also filed a Criminal Revision Petition No.671/14 which was disposed by the learned Single Judge vide judgement dated 17th February, 2016 and by the following the judgment dated 26th May, 2014 the order on charge was set aside against Mathew Samuel also. As of now all the co-accused have been discharged and trial is pending only against the petitioner. No Special Leave petition has been preferred by the respondent against the aforesaid judgments.

Petitioner's role is no different than co-accused, inasmuch it is inextricable with the co-accused. In the judgment dated 26th May, 2014 learned Single Judge has categorically held that cognizance of offence was itself void in law. Accordingly, it is submitted that Trial Court proceedings may be quashed against the petitioner as well.

Learned SPP submits that CBI has no intention of filing any Special Leave Petition against the aforesaid judgments. It is not in dispute that present case is squarely covered by the judgments dated 26th May, 2014 and 17th February, 2016 passed in the petitions of the co-accused.

For the foregoing reasons, present petition is allowed and petitioner is discharged and trial court proceedings are closed.

Dasti.

A.K. PATHAK, J.

MARCH 20, 2018/nk