

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.928 of 2018

Order Reserved on : 28.11.2018

Order Passed on : 25.2.2019

Ramlal Jagne, S/o Late Hiraram Jagne, aged about 65 years, R/o House No.A-4, Amaltashpuram, Gokulpur, Dhamtari, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through State House Officer, P.S. Economic Offences Wing (Anti Corruption Bureau), Raipur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Kanak Tiwari, Senior Advocate with Ms. Richa Shukla, Advocate
For State/Respondent	:	Shri Bhaskar Payashi, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. ORDER

1. The instant revision has been preferred against the order dated 20.7.2018 passed by the Special Judge under the Prevention of Corruption Act (henceforth 'the PC Act'), Raipur in Special Criminal Case No.266 of 2016, whereby the Special Judge has refused to discharge the Applicant and has framed charge against him under Section 13(1)(e) read with Section 13(2) of the PC Act.
2. Facts of the case, in brief, are that the Applicant had been working as a Forest Range Officer and subsequently retired from the post on 31.5.2016. Prior to that, on 24.3.2009, First Information Report was registered against him for an offence punishable under Section 13(1)(e) read with Section 13(2) of the PC Act. He was not satisfied with the way the investigation was being carried out by the

Respondent, who did not take into consideration several documents which he offered to file in his defence. Therefore, he preferred a writ petition, being Writ Petition (Cr.) No.96 of 2015 before this Court. Vide order dated 18.6.2015, the writ petition was disposed of with a direction to the Respondent to consider the documents filed by him relating to his income tax returns and the returns filed by his family members before filing of a charge-sheet in accordance with law. It was further directed by this Court that the investigating agency would further be at liberty to consider all the relevant documents produced by the parties. Thereafter, he submitted a representation on 24.6.2015. On 9.11.2016, a charge-sheet was filed. Though the charge-sheet was filed on 9.11.2016, it had already been prepared on 27.5.2014. The charge-sheet was prepared ignoring the directions issued by this Court vide order dated 18.6.2015. He was arrested on 10.1.2018. On 2.2.2018, Learned Counsel for the Applicant submitted an application for grant of adjournment before consideration for framing of charge, but the Trial Court did not adhere to such request and framed charge on the same day against which the Applicant preferred a revision, being Criminal Revision No.240 of 2018 before this Court. Vide order dated 28.2.2018, the revision was allowed and the order dated 2.2.2018 was quashed and the matter was remanded to the Trial Court with a direction that the Trial Court shall afford sufficient and proper opportunity to the Applicant for hearing on the point of framing of charge against him and thereafter it shall pass a reasoned order in accordance with law keeping in mind the guiding principles of the Supreme Court issued in **(2010) 9 SCC 368 (Sajjan Kumar v. Central Bureau of Investigation)**. Thereafter, the Applicant again preferred an application for his discharge

before the Trial Court on 8.3.2018, but, without considering the submission made by the Applicant, vide the impugned order dated 20.7.2018, the Trial Court framed the charge against the Applicant under Section 13(1)(e) read with Section 13(2) of the PC Act. Hence, the instant revision.

3. Learned Senior Counsel appearing for the Applicant submitted that the Trial Court has failed to consider that the prosecution had failed to comply with the directions issued by this Court on 18.6.2015 in Writ Petition (Cr) No.96 of 2015. Details of the properties of the family members of the Applicant and their income tax returns have not been given any consideration by the prosecution agency nor by the Trial Court. In the event the Respondent had not considered the documents of the Applicant in defence, the Trial Court ought to have directed the Respondent to forthwith accept such documents for due consideration under the applicable law before filing of the charge-sheet, which was till then not filed but was filed subsequently deliberately ignoring the directions issued by this Court. He further submitted that the Applicant has been denied proper opportunity to defend himself which is against the principle of fair trial and justice. The impugned order is based on surmises and conjectures. The Trial Court has failed to appreciate validity of documents filed by the Applicant. Hence, the impugned order deserves to be set aside and the Applicant deserves to be discharged.
4. Learned Counsel appearing for the State supported the impugned order and submitted that at the time of framing of charge, the Trial Court would not inquire as to whether the allegations in the matter are likely to be established by evidence or not. At the stage, the

Trial Court has to consider only that *prima facie* material for framing of charge is available or not. Appreciation of evidence is not permissible. It was further submitted that in exercise of revisional jurisdiction, ordinarily the Court does not interfere with the matter except in cases where the Trial Court has committed gross illegality and manifest error. However, in the present case, there is *prima facie* material available against the Applicant to prosecute him for the aforesaid offence. By way of the instant criminal revision, the Applicant wants pre-trial finding from this Court which is not permissible under the law. It is for the Trial Court to decide as to whether the charge framed against the Applicant is sustainable or not. After conducting trial, at this stage, it cannot be said that the evidence against the Applicant are reliable/sufficient or not. It was further submitted by the State Counsel that though vide order dated 18.6.2015 passed in Writ Petition (Cr) No.96 of 2015, it was directed by this Court that on submission of the documents by the Applicant the same will be taken into consideration. Thereafter, despite being given several opportunities to the Applicant by the Respondent to produce documents and evidence, the Applicant did not produce any document for consideration of the Respondent relating to his income tax returns and the returns filed by his family members. It was further submitted that vide order dated 28.2.2018 passed in Criminal Revision No.240 of 2018, the matter was remanded to the Trial Court with a direction that the Trial Court shall afford sufficient and proper opportunity to the Applicant for hearing on the point of framing of charge and thereafter it shall pass a reasoned order keeping in mind the guiding principles of the Supreme Court issued in **Sajjan Kumar case** (supra). As per this Court's order, on

remanding the matter, the Trial Court considered the matter in view of the guiding principles of the Supreme Court issued in **Sajjan Kumar case** (supra). The Trial Court, after giving proper opportunity of hearing to the Applicant and considering all the materials available on record, framed the charge against the Applicant.

5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
6. It is true that vide order dated 18.6.2015 passed in Writ Petition (Cr) No.96 of 2015, this Court had directed the Respondent to consider the documents filed by the Applicant relating to his income tax returns and the returns filed by his family members before filing of a charge-sheet in accordance with law. It was also directed by this Court that the investigating agency would further be at liberty to consider all the relevant documents produced by the parties. But, from the record, it is clear that thereafter, despite being given several opportunities to the Applicant by the Respondent to produce documents and evidence with regard to income tax returns of the Applicant and the returns of his family members, the Applicant could not produce any document before the Respondent/Investigating Agency before filing of the charge-sheet. Though charge-sheet had been prepared on 27.5.2014, it was filed before the Court on 9.11.2016 and before filing of the charge-sheet, as contended above, no document was submitted by the Applicant. There is nothing on record to show that the Applicant produced any document either before the prosecution agency or before the Trial Court before framing of the charge against him. Vide order dated 28.2.2018, Criminal Revision

No.240 of 2018 was allowed and the order dated 2.2.2018 was quashed and the matter was remanded to the Trial Court with a direction that the Trial Court shall afford sufficient and proper opportunity to the Applicant for hearing on the point of framing of charge and thereafter it shall pass a reasoned order in accordance with law keeping in mind the guiding principles of the Supreme Court issued in **Sajjan Kumar case** (supra). From perusal of the impugned order dated 20.7.2018, it is clear that the Applicant was afforded sufficient opportunity of hearing by the Trial Court to defend himself and thereafter the Trial Court has framed the charge based on the material available on record against him. From perusal of the impugned order, it is also clear that before filing of the charge-sheet, the prosecution agency has duly considered the documents submitted before it by the Applicant and the Applicant has not filed any additional document after the issuance of the direction by this Court on 18.6.2015 in Writ Petition (Cr) No.96 of 2015. Thus, it is clear that the Trial Court has complied with all the directions issued by this Court on 28.2.2018 in Criminal Revision No.240 of 2018 and has considered the entire material available on record and thereafter has framed the charge against the Applicant. Therefore, I find that no error or illegality has been committed by the Trial Court in framing the charge against the Applicant.

7. Consequently, the instant revision is dismissed.

Sd/-

(**Arvind Singh Chandel**)
Judge