

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.367 of 2019

R.Pandurangan

... Petitioner/Accsed

/Vs/

State rep. By
Inspector of Police
Central CBI / ACB / Chennai.

... Respondent

PRAYER:

Criminal Revision Case filed under sections 397 and 401 of Cr.P.C., to set aside the order dated 02.04.2019 made in Crl.MP.No.213 of 2019 in C.C.No.10 of 2007 passed by the II Additional District Special Judge for CBI Cases, Coimbatore.

For Petitioner : Mr.B.Nambiselvan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI

O R D E R

The Criminal Revision Case has been filed, to set aside the order dated 02.04.2019 made in Crl.MP.No.213 of 2019 in C.C.No.10 of 2007 passed by the learned II Additional District Special Judge for CBI Cases, Coimbatore, dismissing the petition seeking permission to leave India for a temporary visit to United Kingdom.

2.The petitioner had filed Crl.M.P.No.213 of 2019 in C.C.No.10 of 2007 before the trial Court, seeking permission to travel to United Kingdom to visit his daughter and her children who are residents of United Kingdom. The respondent had filed a counter stating that the trial is in the midway and out of 85 witnesses, 36 witnesses have been examined so far and that the trial is pending from the year 2007 for about 12 years and that the petitioner was earlier permitted to travel to United Kingdom for four months during the year 2011 and that if he is permitted to travel frequently it will hamper the progress of the trial. The Trial Court by order dated 02.04.2019 had dismissed the

petition.

3.The learned counsel for the petitioner would submit that the petitioner is a 2nd accused in C.C.No.10 of 2007, pending trial on the II Additional District Special Judge for CBI Cases, Coimbatore, for the offences under Sections 120B, 420, 419, 467, 468, 471 IPC and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988. The petitioner was working as a Manager in Central Bank of India, Siddhapudur Branch, Coimbatore, and the case was registered during the year 2007 and the trial commenced on 28.01.2008 during the past 10 years, the respondents have examined only 36 witnesses out of 85 witnesses. He would further submit that at no point of time, the petitioner was responsible for delay in the trial. He would also submit that the witnesses examined so far have been duly cross examined by the counsel without any delay.

4. The learned counsel for the petitioner would further submit that the petitioner was earlier granted four months permission by this Court in Crl.O.P.No.19299 of 2011 to travel to United Kingdom and that in due to compliance in the order, the petitioner came back and he has been regularly appearing before the Trial Court. He would further submit that after the year 2011, the petitioner has not absconded or evaded appearance before the Trial Court and after a long time, the petitioner had approached the Court seeking permission. He would further submit that the petitioner as a father and grand father earnestly wants to spend time with his daughter and grand children and that the Trial Court without taking into consideration the plight of the petitioner, who is now aged 70 years had dismissed the petition, stating that if he allowed to go to abroad it will hamper the progress of the trial.

5. The learned counsel for the petitioner would further submit that the case of the prosecution rests mostly on documentary evidence and that there is no question of disputing the identity of the witnesses. He would further submit that during his absence, the petitioner will be duly represented by his counsel on all hearing dates and that the petitioner is also prepared to give an undertaking that the counsel appearing for him will cross examine the witnesses on the same day of their examination in chief and that he will not seek for any adjournment on the ground of the petitioner's absence and that he will not question or dispute the identity of the witnesses and would pray that the permission may be granted to the petitioner to travel abroad pending trial.

6.The learned Special Public Prosecutor for CBI Cases would submit that the trial is at crucial stage and that out of 85 witnesses, 36 witnesses have been examined so far and 49

witnesses remains to be examined. He would submit that if the petitioner is granted permission to travel abroad and if he does not come back, it will delay the progress of the trial.

7. Heard the learned counsel for the petitioner and learned Special Public Prosecutor for CBI cases and also perused the materials available on record.

8. This Court is able to see that on an earlier occasion the petitioner was permitted to travel abroad by the order of this Court in Crl.OP.No.19299 of 2011 dated 07.09.2011 and that in due compliance of the order, he had appeared before the trial Court after return from abroad. Further, C.C.No.10 of 2007 is pending from the year 2007 and only 36 witnesses have been examined so far. It is also submitted that the petitioner will be duly represented by a counsel on all hearing dates and that he will not dispute the identity of the witnesses and that his counsel will cross examine the witnesses on the same day of their examination in chief. Further, the petitioner had been earlier granted permission to travel to United Kingdom in the year 2011 and after coming back he has been regularly appearing before the Trial Court.

9. Taking into consideration the above facts, permission is granted to the petitioner to travel to United Kingdom during the period between 01.06.2019 to 31.08.2019 and the petitioner shall comply with the following conditions:-

(i) the petitioner shall file an affidavit of undertaking before the Trial Court stating that he will be duly represented by his counsel on all hearing dates and that the counsel for the petitioner shall cross examine the witnesses on the same day of their examination in chief.

(ii) the counsel for the petitioner shall not dispute or question the identity of the witnesses examined during his absence and will not seek adjournment on the ground of absence of the petitioner.

(iii) the petitioner shall furnish the address and details of stay in United Kingdom, E-mail ID and contact telephone numbers in United Kingdom. Further in the event of the trial Court insisting for the petitioner's appearance before completion of the above said period i.e., on 01.06.2019 to 31.08.2019, the petitioner shall appear before the Trial Court without any delay.

(iv) the petitioner shall after completion of the trip appear before the Trial Court within one week of reaching India or on 04.09.2019 whichever ever is earlier.

10.With these directions, the Criminal Revision Case is allowed and the order passed by the learned II Additional District Special Judge for CBI Cases, Coimbatore, in CrI.MP.No.213 of 2019 in C.C.No.10 of 2007 dated 02.04.2019 is set aside.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

kv/jer

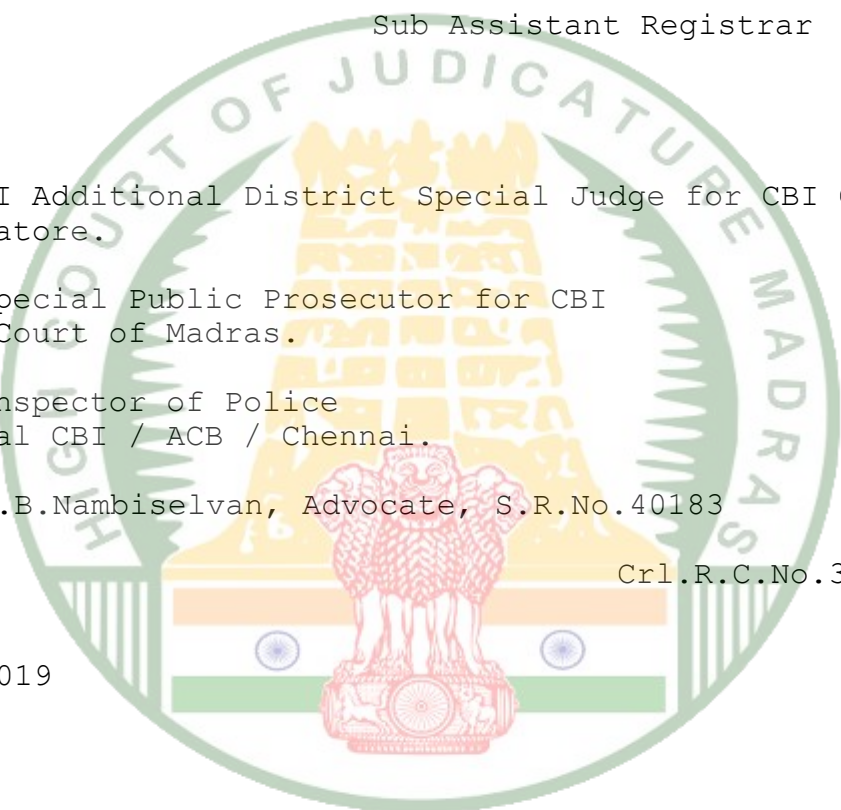
To

1. The II Additional District Special Judge for CBI Cases, Coimbatore.
2. The Special Public Prosecutor for CBI High Court of Madras.
3. The Inspector of Police Central CBI / ACB / Chennai.

+1cc to Mr.B.Nambiselvan, Advocate, S.R.No.40183

CrI.R.C.No.367 of 2019

KJ(CO)
CS/27/04/2019

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. The gopuram is flanked by two green trees. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green circle around the central image. Below the gopuram is a red lion capital on a base. At the bottom of the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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