IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE JAGADISH CHANDIRA

Crl.O.P.No.18657 of 2019
and Crl.M.P.No.9490 of 2019

S. Navaneethakrishna Pandian ... Petitioner

vs.

State represented by
Deputy Superintendent of Police,
CBI/AC-III/New Delhi
Crime No.RC.8(A)/2018/
CBI/AC.III/New Delhi ... Respondent

Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in Cr.No.RC.8 (A)/2018/CBI/AC.III/New Delhi on the file of Deputy Superintendent of Police, CBI, AC-III, New Delhi, now pending before the Principal Special Judge for CBI Cases, Chennai and quash the proceedings.

For Petitioner : Mr.M. Jawahar

For respondents : Mr.K. Srinivasan
Spl. Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings of the Deputy Superintendent of Police, CBI, AC-III, New Delhi in Cr.No.RC.8(A)/2018/CBI/AC.III/New Delhi, now pending on the file of Principal Special Judge for CBI Cases, Chennai.

2. Heard both sides.

3. The learned counsel for the petitioner would submit that the necessary ingredients and the conditions to satisfy Sections 7 as well as 13(2)(d) read with 13(1)(d) of the

Prevention of Corruption Act are absent in the First Information Report. He would further submit that no materials have been produced by the prosecution against the accused to prove that the petitioner, being a public servant, had demanded and accepted illegal gratification, as alleged by the prosecution and when the prosecution is not able to produce valid evidence to prove the foundational facts of demand and acceptance of the said amounts towards illegal gratification, the presumption under Section 20 of the Prevention of Corruption Act, 1988 does not arise. Since the case has been registered without any valid material and with vague allegations, the first information report is liable to be quashed.

4. Today when the matter is taken up for hearing, the learned Special Public Prosecutor appearing for CBI Cases would submit that the investigation has been completed and based on the valid materials against the petitioner and the other accused, the respondents have filed the Final Report on 02.11.2018 before the learned Special Judge for CBI Cases and the petitioner has been arrayed as A.5 in this case and the petitioner is aware of the same.
He would further submit that the petitioner/A.5 was working as Superintendent of Central Excise (Technical), Ambattur Range-II, Chennai during the period from 10.07.2013 to 22.07.2014 and also working as Superintendent/Range Officer, Ambattur-II Range, Chennai during the period from 22.07.2014 to 18.07.2016 and would further submit that the petitioner, being a public servant, abusing his official position, did not do any unsealing and sealing activities based on the request received from M/s Annamalai Industries, whereas, he deliberately allowed the Gutkha manufacturers to run the packing machines throughout the year and thereby caused a wrongful loss to Government Exchequer and corresponding wrongful gain to M/s Annamalai Industries and to him and for showing the above undue favour the petitioner/A.5 had received bribe of Rs.28,500/- per month from Shri A.V. Madhava Rao/A.1 during the period from 2014 to 2016. The respondents have recovered the loose sheets entries with regard to the above said monthly payments being made to the petitioner.

5. He would further submit that the statement of one Mr.Nandakumar, employee of Mr.A.V. Madhava Rao/A.1 recorded under Section 164(5) of the Criminal Procedure Code substantiates the above facts. Further the petitioner has also availed hotel facility at Hotel Carlton, Kodaikanal for Rs.48,150/- on 18.04.2015 from A.1 and A.1 had paid an advance amount of Rs.48,150/- through his employees viz., Ms.Rekha and Mr.Damodharan for the stay of the petitioner and his family members at Hotel Carlton, Kodaikanal. The said amount of Rs.48,150/- was deposited by Mr.Damodharan at Indian Bank,

Rengarajapuram Branch, Chennai to the credit of M/s Ferani Hotels Pvt Ltd on 18.04.2015. Further, the amount of Rs.48,150/- was reflected in the loose sheets as general expenses, maintained by one Mrs.Yogeswari, Accountant of Mr.A.V. Madhava Rao/A.1. Based on the above prima-facie materials, the respondents have filed the Final Report.

6. The learned Special Public Prosecutor would further submit that after filing of the Final Report, the respondents have obtained permission from the concerned Court for conducting further investigation to recover/unearth further materials/evidence and that since Final Report has been filed as early as 02.11.2018, the prayer sought for in the Petition, seeking to quash the First Information Report cannot be maintained at this stage.

7. I have perused the materials available on record.

8. It appears that there are prima-facie materials against the petitioner for having obtained illegal gratification, which is also supported by documents, collected during investigation and statement of witnesses recorded under Section 164 of Criminal Procedure Code.

9. In view of the availability of prima-facie materials against the petitioner, this Court is of the opinion that it would not be proper to interfere with the proceedings of the Deputy Superintendent of Police, CBI, AC-III, New Delhi in Cr.No.RC.8(A)/2018/CBI/AC.III/New Delhi and thereby, the petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

sr

To
1. The Deputy Superintendent of Police,
CBI/AC-III/New Delhi
Crime No.RC.8(A)/2018/
CBI/AC.III/New Delhi

2. The Special Public Prosecutor for CBI Cases,
High Court, Madras

3. The Principal Special Judge,
for CBI Cases,Chennai

+1cc to Mr.M. Jawahar, Advocate SR.No.63189

+1cc to Government Pleader SR.No.

Crl.O.P.No.18657 of 2019

PP(CO)
GMY(28/08/2019)