IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Criminal Revision Case No.825 of 2019

State represented by
Superintendent of Police
CBI, ACB, Chennai ... Petitioner

Vs.

Annal ... Respondent

Prayer: This Criminal Revision Case has been filed under Section 397 read with 401 of the Criminal Procedure Code, to set aside the discharge order dated 28.11.2018 passed by the learned XIV Additional Special Judge for CBI Cases, Chennai in C.C.No.6/2018.

For Petitioner : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)

For Respondent : M/s.R.Krithika

O R D E R

This Criminal Revision Case has been filed by the petitioner to set aside the discharge order dated 28.11.2018 passed by the learned XIV Additional Special Judge for CBI Cases, Chennai in C.C.No.6/2018.

2.The respondent was originally A6 in C.C.No.6 of 2018. A charge sheet has been filed against the respondent for the offences u/s.109 IPC r/w 13(2) r/w 13(1)(e) of Prevention of Corruption Act. The Trial Court by order dated 28.11.2018 in Crl.M.P.Nos.3520 of 2018, had discharged the petitioner from the above case as the charges against her are groundless and also passed a detailed order in this regard.

3.The contention of the respondent is that the check period fixed by the prosecution is 01.01.2010 to 17.01.2016 and that the property in dispute is purchased by the respondent in the year 2006 and that to allege acquisition of assets by the 1st accused on the above abetment of the respondent, there should be some material facts to substantiate the instigation, conspiracy or aiding to support the offence and that the petitioner acted mechanically and not relied upon the fact that the property was purchased well prior to the check-period, and that the respondent even thought not acquired any movable or immovable property during the check period was dragged as abettor and the entire records do not reveal any material to invoke the provision of abetment against the respondent and there is no prima facie case made out by the prosecution to proceed against the respondent and that therefore the respondent is liable to be discharged.

4.The case of the prosecution is that the 1st accused Shri Durga Prasad while functioning as Public Servant during the period from 01.01.2010 to 17.01.2016 acquired assets abetted by his wife / 2nd accused, son / 3rd accused, father-in-law / 4th accused. Mother-in-law /5th accused and the respondent, who is the sister of the 1st accused, which were disproportionate to the known source of income of the 1st accused as on 17.01.2016, to an extent of Rs.4,28,50,092/- as shown in Statement A to D of final report against their known source of income of Rs.1,37,21,040/- for which the 1st accused could not satisfactorily account for. Further, the specific case of the prosecution is that the 1st accused and his family members acquired assets in question and the 1st accused was abetted by 2nd accused to 6th accused.

5.The prosecution has mentioned that the respondent is a house wife and she had no source of income and has no property and purchased the property in item No.10 of Statement A and thereafer, she settled the property in the name of the 1st accused through settlement deed No.8414/2014(D.51) on 10.10.2014. There is no dispute with regard to the check period is from 01.01.2010 to 17.01.2016. The check period is fixed by the prosecution in order to calculate the disproportionate assets if any acquired by the accused is disproportionate to the assets acquired from known source of income during the check period.

6.The listed document No.50 is the sale deed dated 19.04.2006 in favour of the respondent and the settlement deed is LD.No.51 document No. 8414 of 2014 dated 10.10.2014 the recitals of the document, categorically state that the property was settled in favour of A1 out of love and affection. A1 is none other than the brother of the respondent. Further, though the property pertaining to this document is included as Item No.10, in Statement A (Assets at the beginning of the check period). This property is included as Item No.15 in Statement B (assets at the end of check period) mentioning the value of the properties as zero. Hence, the mentioning of the property in the statement B in no way further the case of the prosecution.

7.Admittedly, check period fixed by the prosecution is during 01.01.2010 to 17.01.2016, the property has been purchased by the respondent in the year 2006 much before the check period and it has been settled to the respondent in the year 2014. The case came to be registered on 17.01.2016.

8.In sum and substance, the inclusion of property in statement A as well as in B no way further the case of the prosecution in arriving at the disproportionate asset of A1. This property is not part of disproportionate asset against A1. The Trial Court after proper analysis of Statement A and B and the final report had discharged the respondent/A6. This Court on considering the submissions made and on a perusal of the materials and perusal of the well reasoned order of the Trial Court discharging the respondent / A6 from the above case, finds no interference.

9.In the light of the above, the revision case filed by the petitioner / CBI stands dismissed, confirming the discharge of the respondent / A6 from the case in C.C.No.6 of 2018 by order dated 28.11.2018 passed by the learned XIV Additional Special Judge for CBI Cases, Chennai.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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1.The XIV Additional Special Judge
for CBI Cases, Chennai

2.The Public Prosecutor
High Court, Madras.

+1cc to Mr.K.Srinivasan, Advocate SR.84349

Crl.R.C.No.825 of 2019

AD(CO)
CB(19/11/2019)