

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1525 of 2018

Naresh Mahato

.. Petitioner/Accused 5

Vs.

State rep. by

Inspector of Police

SPE / CBI / ACB : Chennai

(RC/MA-1/2015 A0003)

... Respondent/Complainant

PRAYER: The Criminal Revision Petition has been filed under Section 397 & 401 Cr.P.C., to call for the original records from the Lower Court for considering the police report and documents sent along with final report and also for making necessary examination of the above documents and to discharge the petitioner / accused-5 by setting aside the order passed by the learned Principal Special Judge for CBI Case cum learned VIII Additional City Civil Judge, at Chennai in Crl.M.P.No.4632/2016 in C.C.No.24 of 2015.

For Petitioner : Mr.K.Shanker

For Respondent : Mr.K.Srinivasan
Spl.P.P. (CBI cases)

O R D E R

The petitioner has filed this Criminal Revision Petition under Section 397 & 401 Cr.P.C., to call for the original records from the Lower Court for considering the police report and documents sent along with final report and also for making necessary examination of the above documents and to discharge the petitioner / accused-5.

2.The discharge petition was filed by the petitioner before the VIII Additional City Civil Court, Chennai in Crl.M.P.No.4632 of 2016 in C.C.No.24 of 2015 and the same was dismissed on 27.09.2017. Hence, the present Revision has been preferred by the petitioner on the ground that the final report did not disclose any triable offence under Prevention of Corruption Act. 1988.

3.The case of the prosecution is that the petitioner is arraigned as A5 and facing trial for alleged offences under Sections 120B r/w 420, 471 of IPC and under Sections 8, 10 & 13 (2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. The petitioner along with other accused had defrauded some unemployed youth as if the Petitioner has close relationship with the Railway Minister and promised them that a job will be provided in the Indian Railways as Khalasi and Ticket Collector and received money from the innocent youths. Thereby, the petitioner was implicated in the above said offence on the ground that some witnesses have spoken about the involvement of the petitioner in the above said crime.

4.The learned counsel appearing for the petitioner would submit that though there are some allegations against the petitioner from the evidence collected by the prosecution, while recording statement under Section 161 of Cr.P.C., it attracted only other IPC offences and not Prevention of Corruption Act, 1988. The Trial Court failed to consider the above said offence, dismissed the discharge application, which is unsustainable one. Accordingly, prays for allowing this Revision.

5.The learned Special Public Prosecutor (CBI Cases) appearing for the respondent would submit that if there is no case against the petitioner, the discharge petition can be entertained. If some evidence is available against the petitioner, the only remedy available to him is to face the trial. The statement of LW 61, clearly implicates that the accused received money from the unemployed youths allegedly claiming that he has influence with the Railway Minister. The very statement of LW61 would suffice to implicate the petitioner under Section 8 of the Prevention of Corruption Act, 1988 along with 120B r/w 420, 471 of IPC. Accordingly, prays for dismissal of the revision.

6.Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor (CBI Cases).

7.Considering the facts and circumstances of the case and on a perusal of the records, it is seen that there are some prima facie materials and evidence available against the petitioner with regard to the involvement of the petitioner in the above said offence. Hence, this court do not find any error or infirmity in the order passed by the Trial Court.

8.In view of the above, this Court without going into the merits and without expressing any opinion, inclined to grant liberty to the petitioner to raise all the grounds at the time of Trial. The learned Trial Judge is hereby directed to proceed

the trial against the petitioner and pass appropriate orders without influencing any of the observations made by this Court.

9. Accordingly, this Criminal Revision Petition stands dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To.

- 1.The VIII Additional City Civil Court
Chennai
- 2.The Inspector of Police
SPE / CBI / ACB : Chennai
(RC/MA-1/2015 A0003)
- 3.The Special Public Prosecutor (CBI)
High Court of Madras
Chennai 600 104
- 4.The Section Officer
Criminal Section
High Court of Madras.

+1cc to Mr.K.Shankar, Advocate Sr.930

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