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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 3821/2018

R P S PANWAR & ORS. Petitioners

Through Mr. Rishi Malhotra and Mr. Utkarsh
Singh, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through Mr. Ripu Daman Bhardwaj Spl. PP
for CBI with DSP Rajeev Ranjan
(I.O.)

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **27.02.2019**

By this petition under Section 482 Cr. P.C. petitioner has assailed the framing of charge by the Trial Court against the petitioners.

The Trial Court has framed the charges under Section 13 (2) read with 13 (1) (e) of the Prevention of Corruption Act, 1988 against the petitioner No.1 and under Section 109 of India Penal Code, 1860 against petitioner Nos. 2 to 4.

At the relevant time the petitioner no.1 was working as General Manager, BSNL. Petitioner Nos. 2 to 4 are wife and sons of petitioner No.1. The petitioner No.1 contended before the trial court that he was working as General Manager of BSNL and was equivalent to the rank of Joint Secretary, thus, the investigation could not have taken place without prior approval of Central Government, in view of the Section 6A(1) of Delhi Special Police Establishment Act, 1946 ('DSPE Act' for short). It was contended that prosecution could have not been launched in view of the

violation of Section 6A(1) of DSPE Act. Thus, no charge can be framed. This contention has been rejected by the trial court in view of the law laid down in Dr. Subramaniam Swamy v. Director CBI & Anr. (2014) 8SCC 682 whereby section 6A(1) of the DSPE Act was declared unconstitutional and invalid.

It is noted that petitioner nos. 1 and 2 had earlier filed Crl. Rev. P. Nos. 88/2008 and 89/2008 in this Court but the same were dismissed vide judgement dated 17th April, 2015 in view of law laid down in Dr. Supramaniam Swamy (Supra).

The plea taken by learned counsel for the petitioners is devoid of merit in view of the law laid down in Dr. Subramaniam Swamy (Supra).

Learned counsel for the petitioners has contended that the Supreme Court has referred the issue as to whether law laid down in Dr. Subramaniam Swamy (Supra) is applicable prospectively or retrospectively to a larger bench in CBI v. Dr. R. R. Kishore vide order dated 10th March, 2016, therefore, charges could not have been framed by the trial court awaiting the outcome of R.R. Kishore (Supra). It is contended that trial court ought to have stayed the proceedings. He has placed reliance on an order dated 08.01.2019 passed by the Aurangabad Bench of High Court of Judicature at Bombay in Crl. Rev. Application No. 196/2017 titled as N. Rajshekhhar v. The State of Maharashtra to contend that the proceedings before the trial court should be stayed. I am not persuaded by this contention of the learned counsel.

It is trite that law declared by the Supreme Court binds all pending proceedings. The law laid down by the Supreme Court shall be binding on all the court subordinate to it till the time same is overruled by a larger

Bench. There is no such law that all proceedings shall have to be kept in abeyance merely because the ratio-decidenti of the judgment has been referred to a larger bench. All the proceedings in the trial court cannot be stayed awaiting future pronouncement for an indefinite period.

For the foregoing reasons, I am of the view that the Trial Court has rightly framed the charges. The present petition is dismissed.

A.K. PATHAK, J

FEBRUARY 27, 2019

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