IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

Criminal Revision Case No. 987 of 2020

B.Purushothaman .. Petitioner

Vs.

The Assistant Director,
Directorate of Enforcement,
Government of India,
Ministry of Finance,
Department of Revenue,
2nd and 3rd Floor,
Murugesa Naicker Complex,
No.84, Greams Road,
Chennai.
(ECIR No.01/CZO/PMLA/2012) .. Respondent

Petition under Sections 397 and 401 Cr.P.C. to call for the records pertaining to the order dated 30.09.2020 in Crl.M.P.No.1235 of 2019 in C.C.No. 48 of 2016 passed by the Principal Special Judge for CBI Cases (VIII Additional City Civil Court), Chennai and set aside the same, and to discharge the petitioner/A1 from the charges levelled against him made in the above said C.C.No.48 of 2016.

For Petitioner .. Mr.C.Sivakumar
For Respondent .. Mr.V.Parivallal
Special Public Prosecutor
(Enforcement Directorate)

ORDER

(Order of the Court was made by *P.N.PRAKASH, J.*)

The police registered six FIR's against the petitioner for the offence under Section 420 IPC, pursuant to which, the Enforcement Directorate registered an ECIR and took up the investigation of the case and thereafter has filed complaint in C.C.No.48 of 2016 before the Principal Sessions Court for CBI Cases (VIII Additional City Civil Court/ Special Court for PML Act), Chennai, for the offence under Section 3 read with Section 4 of the Prevention of Money Laundering Act, 2002.

2. The petitioner filed a discharge petition in Crl.M.P.No. 1235 of 2019 in C.C.No. 48 of 2016, under Section 227 of the Cr.P.C., which has been dismissed by the trial Court on 30.09.2020. Aggrieved by the same, the petitioner has filed the present petition.

3. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor for the respondent.

4. From a reading of the complaint in C.C.No. 48 of 2016, it is seen that the petitioner and others had purchased goods from various persons on credit, given cheques to them, which were dishonoured and thereafter sold the goods so-purchased in the open market and shared the sale proceeds. This is the sum and substance of the allegations in the six criminal cases that were registered against the petitioner and his associates by the police on various dates.

5. From the proceeds of the crime, the petitioner is said to have purchased an immovable property in No.18-A, Kanagalakshmi Nagar, Vellalore Village, Singanallur SRO, Coimbatore, vide Document No.1980/2009, dated 06.04.2009, in the name of his minor daughter represented by his mother, B.Kamalam.

6. Learned counsel for the petitioner submitted that Section 420 IPC was included as schedule offence only subsequently and, therefore, the petitioner cannot be prosecuted on that basis. He further contended that the petitioner was acquitted in the case in Crime No.63 of 2007 by the Criminal Court and therefore that case also cannot be taken into consideration. It is seen from paragraph 5.19 of the complaint that the petitioner has obtained a sum of Rs. 15 lakhs as his share from the commission of the offence in Crime No.24 of 2002 and Crime No. 63 of 2007. With this amount, it appears that he has purchased the said property on 06.04.2009.

7. With regard to the contention that Section 420 IPC was not originally a schedule offence, the issue is no more *res integra,* in the light of the amendment made to Prevention of Money Laundering Act, whereby the date of commission of the predicate offence has been made immaterial and that the amendment states that it is a continuing offence.

8. As against the contention of the petitioner that the property was purchased by him not from the proceeds of crime but only lawfully, this can be looked into by the trial Court since under Section 24 of the Prevention of Money Laundering Act, there is a reverse burden that operates against the accused.

9. Thus, when there are *prima facie* materials against the petitioner, the prosecution cannot be quashed nor the petitioner discharged. Hence the criminal revision case is dismissed accordingly. Whatever observed above is only for determining the present petition and the trial Court shall proceed with the trial without in any manner influenced by what is stated above. Consequently, connected Crl.M.P.Nos. 6880 & 6881 of 2020 are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Director,
   Directorate of Enforcement,
   Government of India,
   Ministry of Finance,
   Department of Revenue,
   2nd and 3rd Floor,
   Murugesa Naicker Complex,
   No.84, Greams Road,
   Chennai.

2. The Public Prosecutor,
   High Court, Madras.

+1cc to Mr.C.Sivakumar, Advocate SR.No.4511

AKM/19.2.21 /3P-4C/

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