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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 29.10.2021

PRONOUNCED ON 01.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH  
and

THE HONOURABLE MRS. JUSTICE S. SRIMATHY

Crl.O.P. No.20519 of 2021

K. Liyakat Ali

Petitioner

vs.

State represented by the Deputy Director  
Directorate of Enforcement  
Chennai Zonal Office  
Chennai

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records and set aside the order dated 21.10.2021 passed by the XII Additional Special Court, (CBI Cases), Chennai in Crl.M.P. No.6961 of 2021 in C.C. No.3 of 2017.

For appellant

Mr. L. Infant Dinesh

For respondent

Mr. N. Ramesh  
Special Public Prosecutor for  
Enforcement Directorate

ORDER

P.N.PRAKASH, J.

The petitioner is facing a prosecution in C.C. No.3 of 2017 under Sections 3 and 4 of the Prevention of Money-Laundering Act, 2002, before the Special Court for PMLA Cases (XII Additional Special Court for CBI Cases), Chennai. He filed an application in Crl.M.P. 6961 of 2021 in C.C.No. 3 of 2017 under Section 311 Cr.P.C. for recalling P.W.1, P.W.2 and P.W.9 for further cross-examination, which has been dismissed by the trial Court, aggrieved by which, the petitioner has filed the instant quash application.

2 Heard Mr. L. Infant Dinesh, learned counsel for the



petitioner and Mr. N. Ramesh, learned Special Public Prosecutor for the Enforcement Directorate.

3 This Court carefully perused the impugned order. A reading of the impugned order shows that P.W.1, P.W.2 and P.W.9 have been extensively cross-examined by the accused on various dates. In fact, the petitioner had earlier filed CrI.M.P. No.1664 of 2020 under Section 311 Cr.P.C. for recalling P.W.1 and P.W.2, which was allowed by the trial Court on 04.03.2020 and thereafter, those witnesses were further cross-examined by the petitioner extensively. As regards P.W.9, the petitioner has cross-examined him on 08.10.2020, 14.10.2020, 22.10.2020 and 18.11.2020. After the prosecution had completed their evidence, the petitioner was examined under Section 313 Cr.P.C., after which, the petitioner examined five persons as defence witnesses, D.W.1 to D.W.5. Further, the petitioner has engaged one Mr.Subramaniam, Advocate, to defend him, who sought several adjournments for arguing the main case and ultimately, made his submissions in the main case on 23.10.2021. He has also given his written submissions on 26.10.2021, after which, he has argued on 27.10.2021 and 28.10.2021. Thereafter, when the main case has been posted for judgment on 02.11.2021, the petitioner has changed his counsel, engaged the present counsel and filed the instant petition on 27.10.2021, challenging the order dated 21.10.2021.

4 The trial Court has given cogent reasons for rendering a finding that the petitioner's request for recall of witnesses is not a bona fide one. The petitioner has given certain reasons for recalling P.W.1, P.W.2 and P.W.9, whereas, the points on which the petitioner wants to recall these witnesses have already been put to those witnesses and their answers recorded.

5 It is also seen that the petitioner had filed an application in the trial Court questioning the competence of the Investigating Officer to file the complaint and request the trial Court to make a reference under Section 395 Cr.P.C. to the High Court. This request has been turned down by the trial Court via a detailed order dated 30.09.2021.

6 From the above discussion, it is obvious that only with an intention to stall the pronouncement of the judgment by the trial Court on 02.11.2021, the instant quash petition has been preferred. Superadded, the grounds raised by the petitioner for recalling P.W.1, P.W.2 and P.W.9 do not pass muster the law laid down by the Supreme Court in State (NCT of Delhi) vs. Shiv Kumar Yadav<sup>1</sup>.

For all the foregoing reasons, this criminal original

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1 (2016) 2 SCC 402 : 2015 (9) Scale 649



petition is liable to be dismissed as being devoid of merits and it is accordingly dismissed. Connected Crl.M.P. is closed.

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Sd/-  
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Deputy Director  
Directorate of Enforcement  
Chennai Zonal Office  
Chennai
- 2 The XII Additional Special Judge  
(CBI Cases)  
Chennai
- 3 The Public Prosecutor  
High Court, Madras  
Chennai 600 104

Crl.O.P. No.20519 of 2021

RLD(CO)  
SU(17/11/2021)