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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2022

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

CRL. RC. NO.40 OF 2022

V. Balasubramanian

..Petitioner

Vs.

State rep. by:
Assistant Commissioner of Police,
Central Crime Branch EDF-I,
Vepery,
Chennai - 600 007.
(Crime No.115/2018)

..Respondent

Prayer: This Criminal Revision Case is filed under section 397 Read with 401 of Cr.P.C., to set aside the order passed by the Special Court for the cases under Prevention of Corruption Act, Chennai in Crl.M.P.No.692 of 2020 in C.C.No.2 of 2020 order dated 07.12.2021.

For Petitioner: Mr. K.G. Senthil Kumar
for Mr. M. Kamalahasan

For Respondent : Mr. E. Raj Thilak,
Additional Public Prosecutor

O R D E R

This petition is filed challenging the order passed in Crl.M.P.No.692/2020 in C.C.No.2/2020 pending on the file of the Special Court for the cases under Prevention of Corruption Act.

2.Petitioner filed Crl.M.P.No.692/2020 under Section 239 of Cr.P.C., to discharge him in C.C.No.2/2020. The respondent filed final report against the petitioner on the basis of the complaint dated 26.03.2018 in Crime No.115/2018, registered by CCB, Chennai. The complaint was given by the Registrar General, High Court of Madras.

3.The case against the petitioner is that he addressed a letter dated 16.03.2018 to the Hon'ble Chief Justice of Madras



High Court alleging that he was working in Technical Section of Gingee branch of Villupuram, State Transport Corporation. One person had bitten him and therefore, he was not able to go to work. He filed writ petition before this Court to reinstate him and that was dismissed on the failure of his advocate to appear before this Court. This matter was not informed to him and it resulted in delay in filing the appeal. He handed over the case to another advocate and it was again dismissed for the second time. Therefore, he prayed to take action on his petition. Along with this petition, he enclosed Rs.10,000/- (500X20). His action amounted to offering bribe to the Hon'ble Chief Justice. On the basis of a complaint of Registrar General, the case in Crime No.115/2018 under Section 189 of IPC and 12 of Prevention of Corruption Act, 1988 was registered.

4.The respondent police after investigation, filed a final report. Challenging the final report, the petitioner filed the aforesaid Crl.M.P., for discharge and that petition was dismissed by the learned Special Judge on 07.12.2021. Against that order, this Crl.R.C., petition is filed.

5.Learned counsel for the petitioner submitted that the petitioner is suffering from recurrent depressive disorder with current episode severe depression with psychiatric features. He is suffering from mental illness from the year 2012-2014 and the illness continued even today and he is under psychiatric treatment. Therefore, petitioner has not done any illegal act with the knowledge that he is doing an illegal act. Learned counsel for the petitioner has also drawn the attention of this Court to the report submitted by the Doctor.

5(i).He further submitted that it is evident from the report of Doctor that the petitioner is still taking treatment for his psychiatric problem at Thiruvannamalai Medical College at Psychiatry Department. Without considering that the petitioner is unsound mind person and nothing is an offence which is done by an unsound mind person by reason of his unsoundness of mind, his incapacity to know the nature of the act or that he is doing an act which is wrong or contrary to law, the Special Court had dismissed the discharge petition. Therefore, he prayed for setting aside the order of the learned Special Judge and for discharging the petitioner from prosecuting in C.C.No.2/2020.

6.Per contra, the learned Special Public Prosecutor (CBI Cases), appearing for the respondent submitted that the Doctor's report shows that petitioner is capable of understanding what he is doing and its consequences. He cannot be considered as a person of unsound mind. Learned Special Judge rightly considered this aspect and dismissed the petition. Thus, he prayed for confirming the order of the learned Special Judge and dismissal



of this petition.

7. Considered the rival submission and perused the records.

8. It is seen from the order of the learned Special Judge that petitioner raised several grounds and one such ground is that he was suffering from mental illness from the year 2012-2014. The incident concerned in this case happened on 16.03.2018. It is seen from the report of Director of Institute of Mental Health, Chennai, after subjecting the petitioner to clinical examination and psychology assessment that the following report is given, which reads as follows:-

"It is concluded that Mr. Balasubramanian exhibits the following features:

1) He is able to understand the details of the charges against him.

2) He is able to give details of the court proceedings such as dates of hearing and proper conduct in court.

3) He is able to provide the details of his advocate.

4) He has adequate cognitive functions (thinking, memory and problem solving abilities).

5) He is taking regular treatment from Thiruvannamalai Medical College, Psychiatry department."

9. This report shows that the petitioner is able to understand the details of charges against him. The details about Court proceedings, his advocate, most importantly, he has adequate cognitive function (thinking, memory and problem solving abilities). This assessment was done only in later part of 2020.

10. It is not known what is the mental condition of the petitioner at the time of commission of the offence on 16.03.2018. It is a matter of evidence and required to be enquired during the course of trial. Chapter XXV of Cr.P.C., deals with Provisions to deal with the case concerning the accused person of unsound mind. As of now, there are enough materials to frame charges against the accused under Section 189 of IPC r/w 12 of Prevention of Corruption Act, 1988.

11. The learned Special Judge is directed to follow the procedures contemplated under Chapter XXV of Cr.P.C., and proceed with the case against the petitioner. This petition has no merits. The learned Special Judge has rightly dismissed the petition. Accordingly, the order dated 07.12.2021 passed by the learned Special Court for the cases under Prevention of



Corruption Act, Chennai in CrI.M.P.No.692 of 2020 in C.C.No.2 of 2020 is confirmed and this criminal revision case stands dismissed.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Special Judge,
The Special Court for the cases
under Prevention of Corruption Act,
Chennai.
2. The Assistant Commissioner of Police,
Central Crime Branch EDF-I,
Vepery,
Chennai - 600 007.
3. The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.M.Kamalahasan, Advocate, S.R.No.9625

CRL. RC. No.40 of 2022

GMR(CO)
RGA(02/03/2022)