



Crl.R.C.Nos.397 of 2023 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.R.C.Nos.397, 346, 351, 348 & 344 of 2023

and

Crl.M.P.Nos.2746,2748,2754 to 2757, 2762, 2763, 3071 & 3072/2023

Crl.R.C.No.397/2023

T.M.Jayachandran

.. Petitioner/A6

Crl.R.C.No.346/2023

Dr.V.V.Sairam Babu

.. Petitioner/A1

Crl.R.C.No.351/2023

N.Venkataragavan

.. Petitioner/A4

Crl.R.C.No.348/2023

Indira

.. Petitioner/A5

Crl.R.C.No.344/2023

V.V.Ramani

.. Petitioner/A2

Vs.

State Rep.by
The Inspector of Police,
Central Bureau of Investigation,
ACB, Chennai.

..Respondent in all cases



Crl.R.C.Nos.397 of 2023 etc batch

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PRAYER in Crl.R.C.No.397/2023 : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order passed by the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai in Crl.M.P.No.13813 of 2021 in C.C.No.1225 of 2011 dated 08.02.2023 and discharge the accused in R.C.No.03/A/2009/CBI/ACB/Chennai pending on the file of the Additional Chief Metropolitan Magistrate Court, Egmore, Chennai.

PRAYER in Crl.R.C.No.346, 351, 348 & 344 /2023 : Criminal Revision Cases have been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records and set aside the order dated 08.02.2023 passed in Crl.M.P.Nos.29868, 17078, 17080, 29869 of 2021 by the learned Additional Chief Metropolitan Magistrate Court, Egmore, Chennai in C.C.No.1225 of 2011 pending trial before the file of the Additional Chief Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner in Crl.R.C.397/2023: Mr.T.T.Ravichandar
For M/s.N.K.Sekar

For Petitioner in Crl.R.C.Nos.
346, 351348 & 344/2023 : M/s.R. Vivekananthan

For Respondent in all the cases : Mr.K.Srinivasan, Sr.Counsel
Spl.Public Prosecutor (CBI)



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COMMON ORDER

These Criminal Revision Cases are directed against the dismissal of discharge petition passed by the trial Court.

2. The petitioner in Crl.R.C.No.397 of 2023 is a Chartered Accountant by profession. The case of the prosecution is that he has facilitated the prime accused who was a public servant to create false documents to show his source of income, in order to get an acquittal in the case registered against the public servant for the alleged possession of asset disproportionate to his known source of income.

3. The learned counsel appearing for the petitioner submitted that the statement of account prepared by the Chartered Accountant in the course of his profession, even if it contain false information knowingly or unknowingly that will not attract the ingredients required for an offence under Section 464 of IPC. Further, it is also contended that when the main case is against the public servant and his spouse and the others tried by the Special Court constituted under Prevention of Corruption Act



in Spl.C.C.No.1 of 2011 by virtue of memo filed by CBI, a separate final report was filed before the Additional Chief Metropolitan Magistrate, Egmore, Chennai and same is taken on file by assigning C.C.No.1225 of 2011. When the Special Court under Section 4 of P.C.Act alone is competent to try any case other than the offences specified in Section 3 namely the offences punishable under the P.C.Act and conspiracy to commit any offence prescribed under the P.C.Act, provided if the accused face trial for P.C.Act offence also.

4. This Court finds force in the submission made by the learned counsel for the petitioner insofar as the jurisdiction of the Additional Chief Metropolitan Magistrate before whom C.C.No.1225 of 2011 is pending. Section 3 of P.C.Act gives the power to the Central Government or the State Government to appoint Special Judges for the cases under P.C.Act. While so, Section 4 extends the power to the Special Judge to try the offences other than the offences under the P.C.Act. If the other offences are incidental and form part and parcel of offences under P.C.Act. It is a case where the public servant and his spouse were found



in possession of disproportionate asset and been prosecuted along with other co-conspirators in the crime. While so, if any additional material available for the prosecution or there is an off shoot of main case, which has to be tried separately, but along with the public servant, it is not only convenient, but law provides for conducting the trial both the cases before the Special Judge appointed exclusively to try offences under the P.C.Act.

5. In this case, though in the second charge sheet, where the petitioners are arrayed as accused, no offence under the P.C.Act is made out. It is not an independent offence alleged against them, but it is a off shoot of offence which is the subject matter of Spl.C.C.No.1 of 2011. Therefore, to avoid multiplicity of proceedings and conflicting judgments by two different Courts, it is fair and justifiable to transfer the case in C.C.No.1225 of 2011 on the file of the Additional Chief Metropolitan Magistrate, Egmore, chennai to IX Additional Sessions Court (Special Court for CBI Cases), Chennai.



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6. From the records, this Court finds that the matter is pending since 2011 and it is also stated that as far as C.C.No.1225 of 2011 already 100 witnesses had examined. The learned IX Additional Sessions Judge(Special Court for CBI Cases) is instructed to take up the trial expeditiously and complete it as early as possible. As far as the ground raised for discharge, this Court finds no merit. However, it is open to the petitioner to canvas the same before the trial Court after completion of examination of witnesses.

7. Accordingly, these Criminal Revision Cases are disposed of. Consequently, the connected Criminal Miscellaneous Petitions are closed.

17.07.2023

Internet : Yes/No

Index: Yes/No

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To

1.The Additional Chief Metropolitan Magistrate Court,
Egmore, Chennai.



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2.The IX Additional Sessions Court (Special Court for CBI Cases),
Chennai.

3.The Inspector of Police,
CBI, ACB, Chennai.

4.The Public Prosecutor (CBI)
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN, J.

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