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Crl.RC.No.583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM:

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

Crl.R.C.No.583 of 2023
and
Crl.MP.Nos.4359 and 4360 of 2023

S.Rajendran

.... Petitioner

Vs

State By:

Deputy Superintendent of Police,

CBI/ACB, Chennai

(Crime No.RC MA1 2014 A 0037)

.... Respondent

Prayer: Criminal Revision Case filed under Sections 397 r/w 401 of Cr.P.C., to call for records and set aside the order passed by the XII Additional Special Judge for CBI Cases, Chennai in Crl.MP.No.7881 of 2018 dated 15.02.2023 in CC.No.1 of 2016.

For Petitioner : Mr.A.Nagarajan

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor (CBI)



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ORDER

This Criminal Revision Petition is filed (directed) against the Order of the trial Court passed in Crl.MP.No.7881 of 2018 dated 15.02.2023 dismissing the petition filed under Section 239 of Cr.P.C.

2. The sum and substance of the revision petition is that the respondent police on 26.08.2014 registered a case under Sections 7, 12, 13(2) r/w 13(1) d of Prevention of Corruption Act against Dr.M.Manuneethi Cholan, Registrar of Companies to Dr.M.A.M.Ramaswamy, Chairman of Chettinadu Group of Companies and unknown others. After investigation, the prosecution has filed a final report on 21.11.2015 showing Manuneethi Cholan/first accused, a Public Servant and petitioner is the second accused, a private person. The Court has taken final report on file on 18.01.2015. As per the final report, Manuneethi Cholan, a Public Servant is shown as first accused. The petitioner Rajendiran is shown as second accused and Dr.M.A.M.Ramaswamy whose name found in the FIR shown in the second column of final report, since died.

3. The contention of the petitioner herein is that the public servant/the



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first accused/Manuneethi Cholan also passed away and so far, the trial Court has not framed any charge. Since the public servant already passed away, the statements recorded and the averments made in the final report does not make out any offence as against this petitioner who is private individual worked as an Assistant to the deceased M.A.M.Ramaswamy. While so, the discharge petition filed before the trial Court and the same has been dismissed without considering the legal impediment in prosecuting the sole surviving accused who is the petitioner herein.

4. The learned counsel appearing for the petitioner submitted that the only incriminating material relied by the prosecution in the final report is the so called telephonic conversation between this petitioner and few others. Though in the course of investigation, the sample voice of this petitioner was collected for comparison, the sample voice of Manuneethi Cholan was not collected and therefore whatever material which the prosecution wishes to rely upon are not admissible in evidence without proof of voice, the person who responded to the conversation of the petitioner.



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5. The learned Special Public Prosecutor for CBI filed a detailed counter stating that there is element of material evidence available to frame charge against this petitioner, even though the other two accused died.

6. Heard both sides and perused the materials available on record including the FIR, final report and the statement of the witnesses recorded under Section 161 of Cr.P.C.

7. Though several grounds raised in the revision petition, this Court after going through the Statements of the witnesses recorded under Section 161 of Cr.P.C and the gist of the investigation report indicates that this petitioner cannot be charged for any offence in isolation after on the demise of the other two accused. With the available material and even if any charges are framed and subjected to trial, conviction is near to impossible. In the said circumstances, this is fit case to be quashed to avoid the ordeal of trial.

8. Accordingly, this Criminal Revision Case is allowed the order of the



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trial court is set aside and impugned final report is quashed. Consequently, connected Miscellaneous Petitions are also closed.

18.07.2023

Index: Yes/No
Speaking / Non Speaking Order
Vv

To

1. The XII Additional Special Judge for CBI Cases, Chennai
2. The Deputy Superintendent of Police,
CBI/ACB, Chennai



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Dr.G.JAYACHANDRAN, J

Vv

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