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Crl.RC.Nos.973 and 974 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.RC.Nos.973 and 974 of 2022

and

Crl.MP.No.10247 of 2022

1. Dr.R.Radhakrishnan
2. R.Praveen Kumaar
3. R.Harresh Kumar

... Petitioners
(in Crl.RC.No.973 of 2022)

M/s.Prahar Foundation Trust,
Rep by its Managing Trustee,
R.Harresh Kumar

... Petitioners
(in Crl.RC.No.974 of 2022)

Vs.

State of Tamil Nadu represented by
Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Coimbatore Detachment at Coimbatore

... Respondent
(in both Crl.RCs)

COMMON PRAYER: Criminal Revision Petitions are filed under Section 397 r/w 401 of Cr.P.C to set aside the order dated 20.04.2022 passed in Crl.MP.No.187 of 2016 in Spl.CC.No.9 of 2013 on the file of Special Judge,



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Special Court for trial of Prevention of Corruption Act, Coimbatore and
consequently dismiss the petition with costs throughout.

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For Petitioners : Mr.M.L.Ramesh

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

COMMON ORDER

These revision petitions are filed against the order passed by the trial court under Section 4 of Criminal Law Amendment Act, 1944.

2. The short facts involved in these cases is that the family members of the first petitioner Dr.R.Radhakrishnan were arrayed as accused in a case registered by the Vigilance and Anti Corruption for holding disproportionate assets under Section 13(1)(e) of Prevention of Corruption Act. Pending trial, the prosecution has filed an application under Section 3 of the Criminal Law Amendment Act for order of interim attachment of the properties mentioned in the schedule. After enquiry, the trial court vide its order dated 20.04.2022



been convinced with the prayer of the prosecution has ordered ad-interim attachment of the property set out in the annexure I to the application. Being aggrieved, the present revision petitions are filed. Preliminary objection raised by the Government Advocate (CrI.Side) that though the order passed under Section 4 is an ad-interim attachment, being a final order only appeal will lie and not revision.

3. The learned counsel appearing for the petitioners submitted that the Court has power to convert revision as an appeal and hear the case and need not stand on technicality. No doubt, an order passed under Section 4 of Criminal Law Amendment Act, 1944 is an appealable order and in this case, aggrieved petitioners have approached this Court by filing revision petition. The grievance of the petitioners is that there is procedural violation while passing the order by the trial court and therefore it is perverse. He further submitted that Section 4 of Criminal Law Amendment Act, 1944 lays down stage by stage procedure to be followed by Court, when an application filed under Section 3 of the Act. In this case, contrary to the procedure, the application under Section 3 filed in the year 2016 for a case registered in the year 2013.



4. The trial Judge has ventured to examine the petitioners also without confining himself from examining the prosecution which has filed application for attachment and even thereafter inspite of explaining the source of income and particularly pointing out that the property of the Trust been sought for attachment without putting notice.

5. This Court after going through the records finds that the objections in the grounds of revision are superfluous. For passing an order under Section 4 of Criminal Law Amendment Act, it is the subjective satisfaction of the Judge whether an ad-interim attachment is to be made or not. In this case, the learned Judge to satisfy himself has offered opportunity to the persons who have reasonable knowledge about the property and can provide explanation for the source. Therefore, this Court finds that no perversity in the order to interfere under Section 401 of Cr.P.C. Be it as it may, it is very disturbing to note that a case of this nature been pending for more than 10 years. Public Servant amassing wealth disproportionate to their known source of income has become very common nowadays and the courts delay adds yet another reason as motive for public servants to try their luck and amass wealth.



6. It is really satisfactory to hear from the learned counsel appearing for the petitioners that the Division Bench of this Court a week ago has directed the trial court to complete the trial within a period of three months.

7. The learned Government Advocate (Crl.Side) appearing for the respondent police states that so far 48 witnesses have been examined and assures this Court that the trial will be expedited, witnesses will be marshalled on the day to day basis and so that the trial will be completed as directed by the Division Bench.

8. The learned counsel for the petitioners submitted that if the prosecution in advance furnishes the list of witnesses and the proposed date of examining them they will also be ready to cross examine the witnesses on the same day. This request is fair and reasonable which will really help to expedite disposal of the trial. Therefore, while dismissing these revision petitions, the trial court is directed to get the schedule from the prosecution regarding the witnesses and the proposed date of examining them. Accordingly, the trial Court shall fix the date of hearing and complete the trial within the time framed fixed by the Division Bench of this Court.



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9. The learned counsel for the petitioners further submitted that among the properties now attached in the impugned order Property Nos. 1 and 11 belongs to A2 Amirtha Sanjiveene and after the death of the accused nothing survives since the charges against her got abated, her property cannot be attached. Therefore, the property No.1 and No.11 may be released.

10. This is a case of a disproportionate asset. The source for purchasing the property should be satisfactorily explained by the person who claims ownership over the property. As far this case is concerned, it appears that these two properties ie., Item Nos. 1 and 11 were purchased by the deceased A2 even prior to the check period. These facts are to be considered by the Court below and if any application is filed for return of the property. The trial court shall consider it in accordance with law and pass appropriate order.

11. While confirming the order passed by the trial court in Crl.MP.No.187 of 2016 dated 20.04.2022 this Court is hastened to add that



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further proceedings in the attachment, petition shall be commenced after or along with disposal of CC.No.9 of 2013.

12. With the above observations, these Criminal Revision Cases are dismissed. Consequently, the connected miscellaneous petition is closed.

14.07.2023

Index : Yes/No

Neutral Citation : Yes/No

Vv

To

1. The Special Judge,
Special Court for trial of Prevention of Corruption Act,
Coimbatore
2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Coimbatore Detachment at Coimbatore
3. The Public Prosecutor,
Madras High Court.
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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