



Crl.O.P.No.21001 of 2022
& Crl.M.P.No.13703 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 18.07.2023

Pronounced on: 08.08.2023

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.21001 of 2022
& Crl.M.P.No.13703 of 2022

Uttamchand Bohra,
S/o.B.C.Bohra,
No.37/47, General Muthiah Street,
Sowcarpet,
Chennai – 600 001.

... Petitioner/Accused No.3

/versus/

The Inspector of Police,
Anti Corruption Bureau,
Central Bureau of Investigation,
Chennai.

... Respondent

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
pleaded to quash the charge sheet in C.C.No.3 of 2013 in RC.No.33(A)/2011,
on the file of IX Additional Special Judge for CBI Cases at Chennai, in so far as
the petitioner/accused No.3 is concerned.

For Petitioner : Mr.N.Murali Kumaran, Senior Counsel
Assisted by Mr.R.Gopinath, for
M/s.McGan Law Firm

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor, (C.B.I)



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ORDER

This is a classic case to understand how Section 482 of Cr.P.C can be abused, if an accused have men and material at his disposal.

2. The minimum facts required to decide this Criminal Original Petition by the accused to quash the criminal prosecution pending against him in C.C.No.3 of 2013 are as under.

3. On 04/08/2011, the Income Tax Department during the survey at the premises of M/s.Everonn Education Limited, Perungudi, by a team of Officers stumbled upon tax evasion of around Rs.100 crores. Mr.Andasu Ravindar (A-1), the Assistant Commissioner of Income Tax, who headed the team, alleged to have demanded bribe of Rs.50 lakhs from Mr.Padmanaban Kishore (A-2), the Managing Director of M/s.Everonn Education Limited and negotiated through two Chartered Accountants by name Shri.Ramakrishnan and Shri.Banu Sekar. The negotiation resulted in initial payment of Rs.50 lakhs on 29/08/2011 to Mr.Andasu Ravindar by Mr.Padmanaban Kishore.

4. Central Bureau of Investigation, which gathered intelligence



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about this transaction, had mounted surveillance near the house of Andasu Ravindar. At about 9.00 pm, Mr.Uttamchand Bohra (A-3) a financier by Profession and friend of Mr.Andasu Ravindar came in his car to the house of Mr.Andasu Ravindar. After parking his car in front of Andasu Ravindar house, he proceeded into the house to meet Mr.Andasu Ravindar, who was at the first floor of the building. By the time, Mr.Andasu Ravindar himself got down from his residence carrying a carton box in a polythene bag. When Mr.Andasu Ravindar and Mr.Uttamchand Bohra tried to move out by car to an unknown destination, presumably to screen the money kept in the box, the C.B.I team which was keeping surveillance, intercepted them and seized Rs.50 lakhs which is kept in the carton box.

5. On 29/08/2011, the prosecution has registered case in Crime Number RC No.MA1 2011 A 0033. Mr.L.S.Premkumar, the Investigating Officer of CBI, on completion of investigation presented the final report and same has been taken on file by the Special Court for CBI cases at Chennai and assigned C.C.No.3 of 2013. In the final report, 5 persons are shown as accused. 1).Andasu Ravindar, 2).Padmanabhan Kishore, 3). Uttamchand Bohra, 4).Ramakrishnan and 5).Banusekar, disclosing material evidence to frame



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charges under Sections 120-B of I.P.C and Section 7, 12, 13(2) r/w 13(1)(d) of P.C Act. Though the final report filed long back and assigned calendar case number for further proceedings, till date, the Trial Court is unable to frame charges since the accused one after another filing petition after petition and had successfully delayed the process.

6. In the interregnum, a sum of Rs.50 lakhs seized being a proceeds of crime and case investigated by CBI also disclosed Commission of scheduled offences, case under PMLA Act has been registered by the Enforcement Directorate and same is taken on file by the then Principal District Court in C.C.No:60 of 2018 in that case, this petitioner is one of the accused.

7. Mr.Andasu Ravindar, being a public servant and the search of his house and investigation revealed, he had in his possession assets disproportionate to his known source of income and he had not satisfactorily explained the source of the assets held by him. Case for disproportionate assets against Mr.Andasu Ravindar, his wife Kavitha Andasu, Uthamchand Bohra, Uday K.Agarwal and Pothapragda Srinivas been investigated and final report in C.C.No.5 of 2018 filed for offences under Sections 120-B, 109 of I.P.C and



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Section 13(1)(e) of P.C Act.

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8. Uttamchand Bohra, the petitioner herein was arrayed as accused in all the three cases. Earlier, he filed discharge petition before the trial Court in Crl.M.P.No.183 of 2014 in C.C.No.3/2013 before the trial Court. This petition was dismissed by the trial Court on 08/11/2018. Against the dismissal of this discharge petition, he filed revision before High Court under Section 397 r/w 401 of Cr.P.C in Crl.R.C No.1314 of 2018. This Court, by its order dated 20/11/2018 dismissed the revision petition confirming the order of the trial Court. The accused Uttamchand Bohra preferred SLP (Crl).No.2557/2019 before the Hon'ble Supreme Court and same was dismissed on 05/04/2019.

9. From the record this Court finds that, the petitioner, who is also an accused in C.C.No.5 of 2018, since suspicious sale deed incriminating him was found during the investigation of the case for disproportionate assets, he was suspected for conspiracy and abetting the public servant. To discharge him from the case, Uttamchand Bohra filed discharge petition before the trial Court and it was dismissed. On revision, this Court, allowed the revision petition and discharged him in C.C.No.5/2015. The State (CBI) went on appeal before the



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Hon'ble Supreme Court with delay of 447 days, but could not succeed.

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Therefore, Uttamchand Bohra, is no more an accused in C.C.No.5/2015.

10. In respect of the third case under PMLA, he filed Writ petition in W.P.No.25670/2019 before the Division Bench of this Court for quash of the PMLA case in C.C.No.60/2018 pending on the file of Principal Sessions Judge, Chennai. This Writ Petition came to be dismissed on 01/03/2021.

11. In the above said background facts, the present petition under Section 482 of CrP C is filed to quash the complaint on the ground that, the Investigating Officer by name L.S.Padmakumar had fallen under the scanner of Central Vigilance Commissioner for abuse of his power while investigating the case in hand. Against him, Departmental proceedings as well as criminal proceedings been initiated for faulty investigation in RC 33(A) /2011, which is the subject matter of C.C.No.3 of 2011 and C.C.No.5 of 2011.

12. The Learned Senior Counsel for the petitioner submitted that, due to the action taken against the Investigating Officer for faulty investigation in this case, a fresh cause of action had arose to file this petition seeking quash



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of the case.
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13. The Learned Public Prosecutor for the respondent has filed a detailed counter narrating the case against this petitioner as well as the conduct of this petitioner. In spite of filing the final report about 10 years ago, the petitioner and his co-accused are not allowing the Court to frame charges. He submitted that, the present ground taken by the petitioner to quash the complaint is not legally sustainable. Even if the Investigation Officer in this case been now subjected to departmental proceedings, the material collected by him and placed before the Court has to be examined and tested independently during the course of trial. Just because, some misconduct of the Officer for illegally collecting evidence during investigation the case investigated by him will not get vitiated. The investigation had culminated in filing final report and the content of the final report already tested *prima facie* by the trial Court, Hon'ble High Court and the Hon'ble Supreme Court and found the case fit to be tried. Because, the Investigation Officer is suspected to be a tainted person, his investigation cannot be summarily presumed to be illegal warrant to quash.

14. On perusing the records, we find that the plea of the petitioner



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to quash the case pending against him is nothing but a design to defeat the ends of justice and to abuse the process of law. The case against him has to be tried and decided from the material evidence collected and relied by the prosecution. It cannot be decided on the basis of the credential of the Officer who investigated and filed the final report. For collecting evidence illegally, Investigating Officer, may be held responsible for misconduct, yet the evidence collected will be admissible and its worthiness to be tested independently *dehors* of the source and manner in which it was collected.

15. This Court takes judicial notice of the fact that the persons accused in this case, one after another taking turns and filing petition after petition, unduly exploiting the process to the core, though many times their plea found not worth considering and dismissed. The Court cannot be a mute spectator and continuously allow the persons accused of a grave offence to abuse the process of law and procedure. The inherent power under Section 482 of Cr.P.C., is not a provision for the accused persons to delay the trial, as it is wrongly understood. It is a power conferred on the High Court to prevent abuse of process or otherwise to secure the ends of justice. In this case, this Court finds the petition to quash is abuse of process. Unless the petitioner and others



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are tried as per the procedure the ends of justice will not be secured.

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16. In the result, the ***Criminal Original Petition*** is ***dismissed***. Consequently, connected Miscellaneous Petition is closed.

08.08.2023

Index :Yes/No.
Internet :Yes/No.
Speaking order/non speaking order
bsm

To:-

1. The IX Additional Special Judge (CBI Cases), Chennai
2. The Inspector of Police, Anti Corruption Bureau,
Central Bureau of Investigation, Chennai.
3. The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

bsm

Delivery order made in
Criminal Original Petition No.21001 of 2022
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