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Cr.L.R.C.No.621 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Criminal Revision Case No.621 of 2018

P.Augustine

.. Petitioner/3rd Accused

v.

The Assistant Director
Directorate of Enforcement
Chennai Zonal Office
3rd Floor, C Block
Murugesu Naicker Complex
No.84, Greaves Road
Chennai 600 006

.. Respondent/Complainant

Memorandum of Grounds of Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure to set aside the order dated 25.04.2018 passed by the learned Principal Sessions Judge, Chennai in C.C.No.4 of 2018, taking cognizance of the offence by ordering that the complaint be taken on file as C.C.No.4 of 2018 and issuance of process be revised and the complaint be dismissed under Section 203 of the Code of Criminal Procedure.

For Petitioner :: No appearance

For Respondent :: Mr.N.Ramesh
Special Public Prosecutor for ED



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ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

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The case on hand was listed for final hearing on 08.11.2024. Since none appeared for the petitioner, it was directed to be listed for hearing on 12.11.2024. On 12.11.2024 also, there was no representation on behalf of the petitioner and again it was listed for hearing on 15.11.2024. The matter though listed had not reached for hearing and it was taken up for hearing on 19.11.2024. On that day also, there was no representation. In order to give further opportunity, the matter was taken up for hearing on 21.11.2024 and none appeared for the petitioner. Again it has been listed today (25.11.2024). When the matter is called, there is no representation for the petitioner.

2. The learned Special Public Prosecutor appearing on behalf of the respondent would submit that the Accused No.2 in C.C.No.4 of 2018 in ECIR No.CEZO/08/2014 filed CrI.R.C.No.630 of 2018 for a similar relief and the learned single Judge of this Court dismissed the said criminal revision case by passing an elaborate order on 10.10.2018.



3. In the present case, the relief sought for is to set aside the order dated 25.04.2018 passed by the learned Principal Sessions Judge, Chennai taking cognizance of the offence by ordering that the complaint be taken on file in C.C.No.4 of 2018.

4. With reference to the said relief, the learned Special Public Prosecutor would rely on the judgment of the High Court of Delhi dated 11th November, 2024 in Crl.M.C.No.3146 of 2022 & Crl.M.A.No.13287 of 2022 in the case of Sanjay Aggarwal v. Directorate of Enforcement, wherein it has been held, in paragraphs 55 & 56, as follows:-

“55. At this stage, this Court deems it appropriate to refer to the judgment of the Hon'ble Supreme Court in *Pradeep S.Wodeyar v. State of Karnataka, (2021) 19 SCC 62*, wherein, it was held that provisions of CrPC would apply to the procedure undertaken before a Special Court enacted under a special statute unless the said special statute explicitly prohibits the application of provisions of the CrPC. The relevant part of the said judgment reads as under:

“58....Moreover, bearing in mind the objective behind prescribing that cognizance has to be taken of the offence and not the offender, a mere change in the form of the cognizance order would not alter the effect of the order for any injustice to be meted out.



66. *Therefore, on a combined reading of Sections 4 and 5 CrPC along with Section 30-C of the MMDR Act, it is apparent that the procedure prescribed under the Code shall be applicable to proceedings before the Special Court unless the MMDR Act provides anything to the contrary. These provisions incorporate the principle of express repeal – i.e., unless any provision of the CrPC is expressly repealed by the provisions of the MMDR Act, the procedure prescribed under the CrPC would apply to the proceedings before the Special Court. Provisions of the petitioning Creditor At, the Pocso Act and the NIA Act which expressly provide that the Special Court may try offences under the statute along with other offences is only clarificatory. It is settled law that while contextually interpreting a provision, reference to other statutes which are pari materia can be made. [Harshad S. Mehta v. State of Maharashtra, (2001) 8 SCC 257 : 2001 SCC (Crl.) 1447]. However, since the provisions in the similar statute on combined trial are only clarificatory, the reference to external aids offer no support to the argument of the appellant.*

68. *Since there is no express provision that excludes the application of Section 220 CrPC, it needs to be examined if the MMDR Act has by necessary implication excluded the application of Section 220 CrPC. In this context, it needs to be determined if Section 30-B of the MMDR Act while establishing the Special Court for the offences under Section 4 of the MMDR Act, by necessary implication excludes the application of Section 220 CrPC.”*

56. Applying the aforesaid principle to the facts of the instant case, specifically the observation made in paragraph no.58 and



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66, it is pertinent to state here that it is not necessary for the Special Court under the PMLA to record its reasons for the cognizance since the said complaint is filed by an investigating agency unlike the private complaint under Section 190 of the CrPC (now Section 210 of the BNSS).”

5. The proceeding dated 25.04.2018 is nothing but a summon issued to the petitioner/3rd accused asking the party to appear in person before the Special Court on the 4th day of June, 2018 at 10.30 A.M. Such an order would not provide a cause for institution of proceedings. Since the petitioner has not made out any acceptable ground for interference, we are not inclined to entertain the present criminal revision case. Accordingly, the criminal revision case stands dismissed. Consequently, Crl.M.P.No.7323 of 2018 is also dismissed.

Index : yes

Neutral Citation : yes/no

(S.M.S.,J.) (M.J.R.,J.)

25.11.2024

ss

To

1. The Principal Sessions Judge
Chennai



CrI.R.C.No.621 of 2018

2. The Assistant Director
Directorate of Enforcement
Chennai Zonal Office
3rd Floor, C Block
Murugesu Naicker Complex
No.84, Greaves Road
Chennai 600 006

3. The Special Public Prosecutor (ED Cases)
Chennai



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S.M.SUBRAMANIAM, J.

AND

M.JOTHIRAMAN, J.

SS

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