



CRL.O.P.No.22786 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM : MR. JUSTICE N.SESHASAYEE

CRL.O.P.No.22786 of 2024
and CrI.M.P.Nos.12943 and 12945 of 2024

1.Vijay R.Singh

2.M/s.India Household and Health Care Ltd.,
Rep. by its Managing Director
Mr.Vijay R Singh

... Petitioners

Vs.

State Rep. by the Inspector of Police
SPE/CBI/BSFC/BLR
Bangalore
R.C.No.1(E)/2007

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, 2023, to call for the records and set aside the docket order dated 10.07.2024 made in C.C.No.32 of 2008 on the file of the learned XI Additional Special Judge for CBI Cases at Chennai.

For Petitioners : Mr.S.Sivshankar

For Respondent : Mr.B.Mohan
Special Public Prosecutor (C.B.I.)

ORDER



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The present petition is filed challenging the docket order passed by the learned trial Judge, dated 10.07.2024, closing the evidence of A3 *suo motu*. This is now under challenge by A3, who is the Managing Director of A5 Company.

2.The quintessence of the charge which the petitioner herein faces may be briefly stated:

A5 is a Private Limited company, whose affairs are managed by A2, its Chairman and A3, its Managing Director. A5 had entered into certain commercial arrangement / contract with M/s.L.G.India Limited. On the strength of this contract, they have obtained certain credit facilities from Union Bank of India, and the loan was stated to have been sanctioned by A1 and A4, the bank officials. The allegation is that on the relevant date when the credit facility was sanctioned, the arrangement which A5 had with M/s.L.G.India Limited had already been terminated by M/s.L.G.India Limited.

3.C.B.I had laid its final report, charges are framed and trial too had commenced. Indeed, on 07.04.2017, P.W.21, the investigating officer had



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been examined before the trial Court. He was later recalled along with P.W.20 and his cross examination was completed on 26.03.2019. The Court questioned the accused persons U/s.313 Cr.P.C. between 15.05.2019 and 29.07.2019. The very next posting on 13.08.2019, A2, the Chairman of A5 company, had filed his schedule of witnesses. Some defence witnesses too have been examined.

4.Now in the context of the case another fact needs to be introduced. A5 had laid a criminal complaint against M/s.L.G. India Limited, based on which a case in Crime No.28 of 2014 was registered by Jayanagar Police Station, Bangalore, and the case is being investigated by CCB, Bangalore. Defence believed that the F.I.R. in Crime No.28 of 2014 in association with few other facts is necessary for it to rebut the presumption U/s.20 of the Prevention of Corruption Act, 1988. He, therefore, applied for summons to examine the Assistant Commissioner of Police, who is investigating the case in Crime No.28 of 2014. The Court allowed the same and issued summons. It is seen from the typed set of papers on more than one occasion, the police official concerned had only e-mailed the trial Court of his engagement with certain other high profile case and did not appear. In the meantime, M/s.L.G.India



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Limited is said to have challenged the F.I.R. in Crime No.28 of 2014 and the matter is now pending before the Hon'ble Supreme Court. On 13.03.2024, when the present case was taken up by the trial Court, the present petitioner is appeared to have filed a Memo before the Court to the effect that the investigating officer had appeared before the Court only after the Supreme Court has disposed of the S.L.P.

5.It is not adequately known whether the said police official had actually conveyed the said message to the petitioner. Atleast, in the e-mail he had sent to the trial Court no such statements were made.

6.This Court only reminds the police official concerned who is summoned by the trial Court to depose before it to submit to the summons. It might be that on a certain date he might be on certain official duty, but to tender evidence before the Court in respecting the summons issued by the Court is as much part of his official responsibility as his other jobs are. This Court is not able to appreciate the attitude of the police official concerned in not submitting to the summons of the Court.

7.Turning to the impugned order *per se*, when the Court had at an earlier



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point of time felt that a witness must appear before the Court, then it ought not to have closed the evidence *suo motu*. The witness to be summoned is not a private witness, but an official witness for procuring whose presence the petitioner has applied for summons and the same too has been ordered by the Court. It might be that the petitioner could have applied for witness warrant to secure the presence of the witness. It might not have been done but atleast the Court could have suggested the right course of action rather than closing an opportunity to the accused.

8.In view of the same, this Court sets aside the impugned order and requires the petitioner to apply for witness warrant to the witness he proposes to examine. Even, if the witness is intent to recall the warrant, he only needs to apply to the trial Court and not to this Court for the same.

9.This petition stands disposed of accordingly. A copy of this petition is now required to be sent to the Director General of Police, Bangalore. In the meantime, the trial Court has rejected the petitioner's request for examining two private individuals viz. A.Sarala and S.Senthilnathan. That order will stand. Inasmuch as the matter is dragging the final stages of trial almost for



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anywhere between five and seven years, the trial Court is now required to switch on the stop clock to ensure the entire case completes within a period of three (3) months. This Court further forecloses any other option which the petitioner may intend to presume by filing any other applications. In other words, he is only to examine the concerned police official and rest contented with that. After all, the reading of the case status diary does not truly encourage this Court to be of any further assistance to the accused persons. Consequently, the connected miscellaneous petitions are closed.

24.09.2024

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Index : Yes / No
Neutral Citation

To

1.The Inspector of Police
SPE/CBI/BSFC/BLR
Bangalore
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2.The Director General of Police
Bangalore



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N.SESHASAYEE, J.

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