



Crl.O.P.No.13358 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

**Crl.O.P.No.13358 of 2025**

R.Ashwin

... Petitioner

Vs.

1. State Rep. by Inspector of Police,  
SPE/CBI/ACB,  
Sasthri Bhavan,  
Nungambakkam, Chennai-600 006.  
(R.C.No.45(A)/2015)

2. D.R.Naik

3. Samraj

4. Devarajan

5. Sarathy

... Respondents

**Prayer:** Criminal Original Petition filed under Section 528 of B.N.S.S., to set aside the Impugned order dated 05.07.2024 made in Crl.MP.No.4338/2023 in C.C.No.17 of 2014 pending on the file of the Learned XI Additional Special Judge for CBI cases (CBI cases relating to Banks and Financial Institutions) Chennai.

For Petitioner

: Mr.B.Kumar, Senior Counsel  
assisted by Mr.S.Anbalagan



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CrI.O.P.No.13358 of 2025

For R1

: Mr.K.Srinivasan  
Special Public Prosecutor

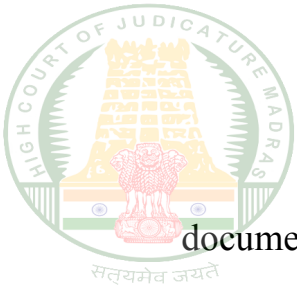
**ORDER**

The Criminal Original Petition is directed against the order passed by the XI Additional Special Court for CBI Cases (CBI Cases relating to Banks and Financial Institutions), Chennai, dated 05.07.2024 in CrI.M.P.No.4338 of 2023 in C.C. No.17 of 2024.

2. By the said order, the trial Court has rejected the application filed by the petitioner seeking permission to become an approver and to tender pardon to him.

3. Heard *Mr.B.Kumar*, the learned Senior Counsel appearing on behalf of the petitioner.

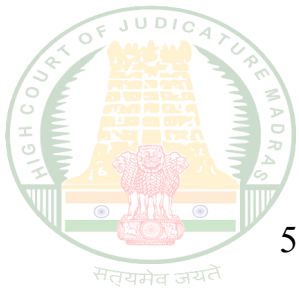
4. The learned Senior Counsel appearing for the petitioner drew the attention of the Court to the relevant allegations that are brought home by the prosecution, especially in paragraphs No. 23 and 24 of the final report filed. It can be seen that the allegations against A-3 and others can primarily be proved only by establishing facts related to the preparation of bogus expert



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documents, etc., which were all completely within the domain of the present petitioner and his mother. When a similar application was made by his mother, the prosecution readily agreed and she, who was originally arrayed as Accused No. 6, was permitted to become an approver and was tendered a pardon. However, before her evidence could be recorded, she died of cancer. Therefore, there is no justification for the prosecution to now suddenly oppose the application that is filed by the petitioner herein.

5. Therefore, the trial Court ought to have seen that, though primacy have to be given to the opinion of the prosecution as to whether the evidence already available on record is sufficient to sustain the charges against all the accused, in this case, the Court ought to have seen the prevaricating stand taken by the prosecution itself when it comes to A-6 and now the petitioner who is arrayed as A-4. Therefore, if permitting the petitioner would help the prosecution's case, the trial Court ought to have allowed the petition filed under Section 5(2) of the Prevention of Corruption Act, 1988. Therefore, this Court should interfere and set aside the order passed by the trial Court.



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5. Per contra, the learned Special Public Prosecutor appearing for the first respondent/prosecution would submit that the prosecution has already duly collected the evidence and placed it before the trial Court. The trial Court has also found the materials as sufficient and framed charges against the accused. As many as 14 witnesses have already been examined. When the application was filed at that stage, the prosecution applied its mind and come to the conclusion that the evidence already on record is sufficient to substantiate the charges against all the accused. The evidence of this accused, by turning into an approver only on condition of grant of pardon, may not be necessary to prove the charges. Accordingly, the stand taken by the prosecution cannot be said to be contradictory.

6. I have considered the rival submissions made on either side and perused the material records of the case.

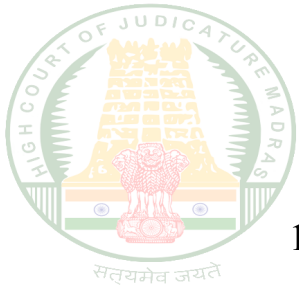
7. A perusal of the affidavit filed in support of the application, particularly paragraph No. 6, states as follows:

*“6. I further submit that I am willing to make full and the true disclosure of the whole circumstance within my knowlege related to those documents touching my mother's (A-6) Statement.”*



WEB COPY 8. Thus, as rightly contended by the learned Senior Counsel on behalf of the prosecution, it can be seen that since the investigation is already completed, the final report has been filed, charges have been framed by the trial Court and the trial is in progress with as many as 14 witnesses examined, the statement that the accused is now going to make a full and true disclosure of the whole circumstances cannot be said to be in the best interests of the prosecution. When the prosecution is of the view that the charges against the accused are sustainable even otherwise and it is not demonstrated that the case is bereft of evidence, I am of the view that it would take a mini trial to be conducted for the exercise and to render a finding at this stage.

9. When the trial is at an advance stage, to find as if there is no material at all against Accused No. 3 or for that matter against the other accused, would only run counter to the case of the prosecution. At this stage, the finding of the trial Court, that the evidence or the statement of the present accused is not necessary to bring home the charges, cannot be termed as perverse. Therefore, I am unable to interfere with the finding of the trial Court that the trial can proceed as such without the petitioner, Accused No. 4, being granted a pardon.



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10. Finding no merits, the Criminal Original Petition stands dismissed.

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Neutral Citation: Yes/No  
nsl

To

1. The Inspector of Police,  
SPE/CBI/ACB,  
Sasthri Bhavan, Nungambakkam,  
Chennai-600 006.
2. The XI Additional Special Judge for CBI cases,  
(CBI cases relating to Banks and Financial Institutions)  
Chennai.



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**D.BHARATHA CHAKRAVARTHY, J.**

nsI

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