



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.1651 OF 2024

BETWEEN:

NAGESH H R
S/O LATE H B RANGANATHA
AGED 59 YEARS
NO.34/7, GROUND FLOOR,
38 'A' CROSS, 8TH BLOCK
JAYANAGAR
BANGALORE - 560041

...PETITIONER

(BY SRI VIDYASAGAR R, ADVOCATE FOR
SMT. UMADEVI H R, ADVOCATE)

AND:

STATE BY CBI ACB BANGALORE
REPRESENTED BY SPP
HIGH COURT OF KARNATAKA
BANGALORE - 560 001

...RESPONDENT

(BY SRI PRASANNA KUMAR P, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 R/W 401 OF CR.P.C
PRAYING TO ALLOW THE CRIMINAL REVISION PETITION
BY SETTING ASIDE THE ORDER DATED 29.11.2024
PASSED BY THE LEARNED XLVI ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE AND SPECIAL JUDGE FOR THE CBI
CASES AT BENGALURU CITY CCH-47(VIDE ANNEXURE-F)





THEREBY DISMISSING THE APPLICATION FILED U/S.227 CRPC BY THE PETITIONER BEING TRIED FOR THE OFFENCE P/US/ 13(1)(b) R/W SEC.13(2) OF PC ACT AS AGAINST THE PETITIONER AND CONSEQUENTLY ALLOW THE DISCHARGE THE APPLICATION FILED BY THE PETITIONER AND ETC.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE H.P.SANDESH

ORAL ORDER

This revision petition is filed against the order dated 29.11.2024 passed in Special Criminal Case No.10/2022 by the XLVI Additional City Civil and Sessions Judge and Special Judge for CBI Cases at Bengaluru City.

2. Heard the learned counsel appearing for the petitioner.

3. The factual matrix of the case of the CBI that on credible source of information, registered the FIR in R.C.No.9(A)/2019 for the offences punishable under Sections 13(1)(e) read with 13(2) of Prevention of Corruption Act, 1988 and after registration of the case,



search was conducted on the residence of the accused and panchanama was drawn, inventories also made and collected the documents and recorded statements of several witnesses and accused was also asked to submit schedule in statement No.1 to 6 and having analysed the same, Investigating Officer (IO) has filed the final report and calculated disproportionate assets to the tune of Rs.1,80,42,416/-.

4. It is the contention of the petitioner that none of the submissions of the petitioner/accused were considered and biased investigation was conducted inspite of prosecution has not made out any prima facie case or created any suspicion of commission of offence, the charge sheet was filed. The documents submitted by the accused clearly shows that he is having enough source of income to explain procurement of assets and expenditure but IO intentionally reduced income, omitted to take correct income, inflated values of assets and expenditures,



incorporated assets and expenditure which belong to some one else to file the charge sheet.

5. It is also contended that the wife of accused sold the property for total consideration of Rs.66,67,000/- but on perusal of statement of income, IO has taken only Rs.33,67,000/- out of sale consideration. IO has taken cash amounting to Rs.1,36,01,650/- and Rs.29,80,000/- as assets of accused and accused had given proper explanation for this cash amount stating that it is not belonging to accused but the father of accused who was an ex-serviceman, after his retirement joined Karnataka State Government and was allotted with land measuring 5 acres 28 guntas at Gowripura Somanahalli Dudda Hobli, Hassan taluk in 1962 and he was engaged in agricultural activities and as his age was advanced, developed health issues and accused being only son asked him to come and stay with him at Bengaluru and accordingly, his father and mother started staying with him. His father due to his frequent health issues was not able to go to Hassan every



time to carry out agricultural activities hence, he decided to sell the land and entered into agreement for developing and formation of layout for total consideration of Rs.7,45,00,000/-. His father received Rs.1,55,00,000/- in cash as advance and at the time of agreement and his father completed all procedures with the help of agent at Sub-Registrar office. The cash was available at home of accused as his father and mother were staying with him and CBI found this cash at the time of search and included in the assets.

6. It is contended that the accused in good faith submitted documents available at house including the sale agreement but IO claimed they are not genuine and accused has no knowledge of the same and his father got all these documents prepared through agent and documents which have been placed before the IO also not considered and explanation given by the accused was not considered and committed an error in filing the charge sheet against him. Hence, he is entitled for discharge.



7. The said application was resisted by filing objection contending that accused has pointed out that IO has not considered total amount of Rs.66,67,000/- the sale proceeds received by the wife of accused and only Rs.33,67,000/- was taken into account. The total amount of Rs.66,67,000/- is accounted in two parts Rs.33,02,739/- in the statement-B and Rs.33,67,000/- as profit from sale of property in statement-C. Hence, contention that same was not taken cannot be accepted. It is also contend that he huge amount of Rs.1,36,01,650/- and Rs.29,80,000/- has been seized during search from the house of accused and lockers, but the sale proceeds received by the father of accused No.5 for the property situated at Gowripura Somanahalli, Hassan taluk. The accused has not produced any sale agreement nor disclosed the name of the buyer who paid the amount as advance for purchase of land and not intimated his department of keeping such huge amount in cash at his residence and in bank locker. The last date on



which the accused operated the locker was on 07.06.2017 and CBI conducted search on 04.04.2019. The accused has made averments that he has agricultural income of Rs.17,88,000/- but it is not considered and accused has not declared any source of income other than income received from interest on saving bank deposit, interest on fixed deposits in the income tax returns. Hence, sought for rejection of the application.

8. The Trial Court after considering the application and objection, formulated the point and considered the material available on record and charge sheet materials and observed that the seized amount is more than Rs.1,65,00,000/- and also considered the contention raised by the petitioner including the provision of Section 227 of Cr.P.C and taken note of the material available on record including the principles relied upon by the counsel for the petitioner and also considered Section 5(3) of Prevention of Corruption Act and comes to the conclusion that there is no source of income and the prosecution



collected the huge materials and burden is on the accused to prove his case and also seizure of the total amount is more than Rs.1,65,00,000/- and hence, the matter requires full fledged trial.

9. The counsel for the petitioner would vehemently contend that the Trial Court committed an error in dismissing the application and failed to consider the documents which have been placed before the IO and erroneously accepted the case of the prosecution and also contend that sanction which is placed before the Court is not a valid sanction and with the deliberate intention he was fixed invoking the offences of Prevention of Corruption Act and the charge sheet ought to have been filed only by an officer under Section 17 of the PC Act and hence, FIR deserved to be quashed on that ground alone and hence, it requires interference of this Court.

10. Having heard the learned counsel appearing for the petitioner and also on perusal of the material available on record and particularly taking note of the contention of



the petitioner as well as the objections filed by the State, the fact that it is not in dispute that Rs.1,36,01,615/- was seized at the house of the petitioner and also an amount of Rs.29,80,000/- was seized from the locker and the same is taken note of by the Trial Court. Apart from that other materials were also taken note of by the Trial Court and comes to the conclusion that the accused ought to have given proper explanation while considering the material available on record and held that the Court has to take note of the prima facie material collected by IO and at the time of discharge, the Court cannot look into the defence of the accused and admittedly charge sheet is filed for the disproportionate of assets of the petitioner.

11. The counsel for the respondent would vehemently contend that detail objection is filed before the Court regarding seizure of amount at the residence as well as locker of the accused and hence, it is not a case for discharge. It has to be noted that admittedly, the amount of Rs.1,36,01,615/- was seized and the counsel for the



petitioner would vehemently contend that the said amount was kept by the father entering into a sale agreement but no such material is placed before the Court. The Trial Court also taken note of the fact that amount was seized from the locker and last time locker was opened in the year 2017 and raid was conducted in the year 2019 and there is no proper explanation by the petitioner for keeping that much of amount in the locker. The very contention of the petitioner is that the material placed by him before the IO has not been considered and the said contention cannot be accepted. The contention of the petitioner that amount was kept in the house as against the sale of the property but, no such sale was also taken place and same is a matter of trial and grounds which have been urged before the Court also would be considered during the course of trial while considering the matter on merits and not at this stage. I have already pointed out that the Court has to look into the material collected by the IO during the course of investigation and document which was seized at the time of raid and cash



which was seized at the time of raid and hence, I do not find any ground to interfere with the order of the Trial Court. Hence, no grounds are made out to allow the revision petition setting aside the order of the Trial Court.

12. In view of the discussions made above, I pass the following:

ORDER

The revision petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

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