M/S Alliance Comnet Limited & Ors vs Registrar Of Companies on 22 July, 2022

Author: Sudhir Kumar Jain

Bench: Sudhir Kumar Jain

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*       IN THE HIGH COURT OF DELHI AT NEW DELHI
+       CRL.M.C. 969/2019 & CRL.M.A. 3856/2019 & 4572/2021
        M/S ALLIANCE COMNET LIMITED & ORS. ..... Petitioners
                        Through: Mr. Kriti Uppal, Sr. Advocate w
                                 Mr. Alok Tripathi, Advocate.
                        versus
        REGISTRAR OF COMPANIES                        ..... Resp
                        Through: Ms. Nidhi Raman, CGSC with
                                 Mr. Zubin Singh, Advocate for
                                 R/ROC
        CORAM:
        HON'BLE MR. JUSTICE SUDHIR KUMAR JAIN
                        ORDER
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% 22.07.2022

1. The present petition is filed under Article 227 of the Constitution of India read with section 482 Cr.P.C. 1973 for setting aside/quash the impugned judgment 04.01.2018 passed by Sh. Pawan Kumar Rajawat, ACMM and thereafter order dated 14.08.2018 passed by the Court of Ms. Anju Bajaj Chandna, Special Judge, CBI (PC, ACT)-06. Central District Tis hazari Courts Delhi in Criminal Revision no.126/2018 titled as M/s Alliance Comnet Limited v/s Registrar Of Companies".

2. The respondent filed a complaint bearing no. 514202/2016 titled as Registrar of Companies V. M/s Alliance Comnet Limited & Ors. under sections 220(3)/162 and under section 162 for Contravention of Section 220 (1) and section 159 of the Companies Act, 1956 against the petitioners/accused wherein the petitioners filed an application under section 258 Cr.P.C. 1973 for discharge as the complaint alleged to have been barred by limitation under section 258 Cr.P.C, 1973.

3. The Trial Court of Shri Pawan Singh Rajawat, ACMM Special Act, Tis Hazari Court vide order dated dismissed the application preferred by the petitioners as detailed hereinabove by observing that the complaint was filed within a period of limitations as offence under section 220(3)/162 and section 162 for Contravention of section 220 and section 159 of the Companies Act, 1956 are continuing offences. The trial court also observed that there was sufficient material to frame notice under section 251 Cr. P.C.

4. The petitioners being aggrieved, filed a revision petition bearing no. 126/2018 Alliance Commet Limited V Registrar of Companies which was ordered to be dismissed vide order dated 14.08.2018

passed by the Court of Ms. Anju Bajaj Chandna, Special Judge, CBI (PC Act)-6, Central District, Tis Hazari Court.

5. The perusal of order dated 14.08.2018 reflects that on that day none was present on behalf of the petitioner to advance arguments and arguments were heard on behalf of the respondent and thereafter the impugned order dated 14.08.2018 was passed. The senior counsel appearing for petitioners stated that the impugned order dated 14.08.2018 was passed without giving any opportunity of being heard to the petitioners and as such the impugned order dated 14.08.2018 is bad in law besides on other grounds as stated in the present petition.

6. The counsel for the respondent argued that the impugned order dated 14.08.2018 was passed by the Special Judge, CBI (PC, Act)-06 Central District Tis Hazari, Delhi after considering relevant facts and case laws and issues involved in Criminal Revision Bearing No.126/2018.

7. The Special Judge, CBI (PC, Act)-06 Central District, Tis Hazari, Delhi passed impugned order dated 14.08.2018 without giving appropriate opportunity of being heard to the petitioners. The petitioners ought to have been given an opportunity of being heard before passing an impugned order dated 14.08.2018.

8. Accordingly, the impugned order dated 14.08.2018 is set aside and the case is remanded back to the concerned Court of Special Judge, CBI (PC, Act)-06 Central District, Tis Hazari, Delhi/ Successor Court to decide afresh the Criminal Revision bearing no.126/2018 after giving of an opportunity of being heard to the petitioners preferably within one month after the receipt of this order.

9. The petitioners and the respondent are directed to appear before the concerned court on 05.08.2022 at 02:00 P.M. It is made clear that all the contentions of the parties are left open and to be considered and decided by the concerned Special Judge, CBI (PC, Act)-06 Central District Tis Hazari, Delhi.

10. The petition alongwith pending applications, if any, stands disposed of.

11. Interim order shall continue till the disposal of Criminal Revision bearing no. 126/2018 by the concerned Special Judge, CBI (PC, Act)-06 Central District Tis Hazari, Delhi.

SUDHIR KUMAR JAIN, J JULY 22, 2022/j