

P K Thirwani vs Central Bureau Of Investigation on 4 November, 2020

Author: Vipin Sanghi

Bench: Vipin Sanghi, Rajnish Bhatnagar

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 614/2020

P K THIRWANI

Through: Mr. Ananya De &
Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION

Through: Mr. Anupam S. S

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% 04.11.2020 Exemption allowed, subject to all just exceptions.

The application stands disposed of.

By this application the petitioner seeks early hearing of applications being CRL.M.A. 14777/2020 & CRL.M.A. 14776/2020. For the reasons stated in the application, the same is allowed. The applications are taken up for hearing today itself.

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

1. The petitioner has filed this application to seek stay of the trial which is proceeding before the Special Judge, CBI.

2. Issue notice. Mr. Sharma accepts notice on behalf of the CBI.

3. Mr. Sharma has brought to our notice the judgment passed by the Supreme Court in The State of Telangana Vs. Managipet @ Mangipet Sarveshwar Reddy, Crl. Appeal No.1662/2019 decided on 06.12.2010. In paragraph 37 of the said decision, the Supreme Court has observed as follows:

"37. Mr. Guru Krishna Kumar further refers to a Single Bench judgment of the Madras High Court in M. Soundararajan v. State through the Deputy Superintendant of Police, Vigilance and Anti Corruption, Ramanathapuram, Crl. A. (MD) No. 488 of 2018 and Crl. M.P. (MD) No. 8712 of 2018 decided on 30th October, 2018, to contend that amended provisions of the Act as amended by Act XVI of 2018 would be applicable as the Amending Act came into force before filing of the charge sheet. We do not find any merit in the said argument. In the aforesaid case, the learned trial court applied amended provisions in the Act which came into force on 26th July, 2018 and acquitted both the accused from charge under Section 13(1)(d) read with 13(2) of the Act. The High Court found that the order of the trial court to apply the amended provisions of the Act was not justified and remanded the matter back observing that the offences were committed prior to the amendments being carried out. In the present case, the FIR was registered on 9th November, 2011 much before the Act was amended in the year 2018. Whether any offence has been committed or not has to be examined in the light of the provisions of the statute as it existed prior to the amendment carried out on 26th July, 2018."

4. Mr. Sharma has, therefore, submitted that no stay should be granted of the proceedings before the Trial Court during pendency of the writ petition.

5. Learned counsel for the petitioner has submitted that the batch of writ petitions, including the present one, is coming up for final disposal before this Court on 11.12.2020. He submits that in all other cases, the stay is operating and the petitioner should be treated in the same way.

6. Having heard learned counsels, we are not inclined to grant any stay for the reason that the decision of the Supreme Court in Managipet @ Mangipet Sarveshwar Reddy (supra) was not brought to our notice when we granted stay in the other matters. In the light of the said decision, it cannot be said that the petitioner has a prima-facie case in his favour. We are, therefore, not inclined to grant interim stay, as prayed for in this application.

7. The application is, accordingly, dismissed.

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8. The petition need not be listed on 09.11.2020. The same be listed along of the batch of writ petitions on 11.12.2020.

VIPIN SANGHI, J RAJNISH BHATNAGAR, J NOVEMBER 4, 2020 B.S. Rohella