

Supreme Court of India

Central Bureau Of Investigation vs Shri Chandraswami @ Nemi Chand ... on 26 February, 1997

Bench: J.S. Verma, B.N. Kirpal

CASE NO. :

Appeal (crl.) 213-18 of 1997

PETITIONER:

CENTRAL BUREAU OF INVESTIGATION

RESPONDENT:

SHRI CHANDRASWAMI @ NEMI CHAND JAIN ETC.

DATE OF JUDGMENT: 26/02/1997

BENCH:

J.S. VERMA & B.N. KIRPAL

JUDGMENT:

JUDGMENT 1997 (2) SCR 513 The Order of the Court is as follows

1. Special leave granted

2. These appeals by special leave are against the orders dated 20-1-1997 and 14-2-1997 passed by the Delhi High Court. These orders are a sequel to the order dated 18-12-1996 passed in Criminal Misc. (Main) No. 3039 of 1996 passed by S. K. Mahajan, J. That order was passed by the learned Judge on an application for anticipatory bail made by the respondent. The controversy which requires determination by us relates to the meaning of the final direction given in that order. The material part of the direction is as under "Taking into consideration the totality of facts and circumstances of this case and the nature of offence, I direct that in case the Central Bureau of Investigation intends to arrest the petitioner, it will give three days' notice to him. This order will be subject to the following conditions

6. The petitioner will appear before the officer concerned of the CBI or any other government agency whenever required in connection with any crime or matter under investigation."

3. For the present purpose it is sufficient to state that the Central Bureau of Investigation required production of certain documents and being dissatisfied with the response of the respondent, gave a notice on 18-1-1997 to the respondent, the material part of which reads as under "It may please be treated as three days' advance notice in compliance to the Order dated 18-12-1996 of the Hon'ble High court of Delhi in Criminal Misc. (Main) No. 3039 of 1996."

4. The respondent approached the High Court to assail this notice. The impugned orders have been made by a learned Single Judge (Mohd. Shamim, J.). The effect of these orders is that CBI has been restrained from acting in pursuance of the three days' notice given to the respondent which was required to be given to him prior to his arrest by the aforesaid order dated 18-12-1996. Hence these appeals

5. The learned Attorney General submitted that the question whether there has been breach of any of the other conditions imposed by the order dated 18-12-1996 is a different matter; and the only restriction on the arrest of the respondent imposed by that order was the requirement of three days' notice to him, the period of which has expired long back. It is submitted that it is, therefore, unnecessary to go into the question whether the failure of the respondent to comply with the requirement of producing certain documents has resulted in breach of the above-quoted condition (6) which is an additional condition. It is submitted that for this reason alone, the impugned orders should be set aside. In reply, Shri R. K. Anand, learned counsel for the respondent, submitted that the offences are, in substance, bailable and the facts of the case do not justify permitting the arrest of the respondent. He, therefore, contended that these appeals be dismissed

6. In our opinion, the only question for decision by us is purport of the direction contained in the aforesaid order dated 18-12-1996, particularly the extract quoted above

7. In our opinion the language of the direction is clear and admits of no ambiguity. The only right given to the respondent thereby is that of three days' notice if CBI intended to arrest the respondent. This right given to the respondent was hedged with the conditions which followed that direction including that in clause (6) quoted above. In other words, it is not required by the CBI to show also the breach of any of the subsequent conditions in addition to giving three days' prior notice to the respondent of its intention to arrest him. Admittedly such a notice was given on 18-1-1997 and three days' period has expired long back. The aforesaid order dated 18-12-1996 does not afford any further protection thereunder to the respondent. The period of the required notice having expired, it is for the CBI to take the decision whether to arrest the respondent or not. In case the arrest is effected, the question of grant of bail to the respondent would then be a matter for consideration on merits in accordance with law

8. We are constrained to add that there was no justification for making the impugned order because of the clear language of the direction contained in the orders dated 18-12-1996

9. Consequently, these appeals are allowed in the above manner and the impugned orders dated 20-1-1997 and 14-2-1997 are set aside