



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF MAY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL REVISION PETITION NO. 301 OF 2022

BETWEEN:

V.R.S. NATARAJAN
S/O. V.S. RANGASWAMY THEVAR,
AGED ABOUT 69 YEARS,
R/O FLAT NO.1
MEENAKSHI APARTMENTS,
NO.35, CENOTAPH ROAD
1ST STREET, TEYNAMPET,
CHENNAI – 600 018.

ALSO RESIDING AT NO. 1A
VINAYGAR KOIL STREET
KRISHNASAMY NAGAR
COIMBATORE SOUTH
RAMANATHAPURAM
COMIBATORE
TAMIL NADU – 641 045.



...PETITIONER

(BY SRI. B V ACHARYA AND
SRI. SANDESH J CHOUTA, SR. ADVOCATES FOR
SRI. V.G. BHANU PRAKASH, ADVOCATE)

AND:

STATE OF CBI
REP. BY THE
CENTRAL BUREAU OF INVESTIGATION



NO. 36, BELLARY ROAD
GANGANAGAR,
BENGALURU – 560 032.
REPRESENTED BY
ANTI CORRUPTION BUREAU

...RESPONDENT

(BY SRI P. PRASANNA KUMAR, SPL. PP FOR
SRI K N NITHIN GOWDA AND
SMT. RAMULA, ADVOCATES)

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C
PRAYING SET ASIDE THE ORDER DATED 07/01/2022 PASSED
IN SPL.C.C.NO.332/2020, PASSED BY THE XXI ADDITIONAL
CITY CIVIL AND SESSIONS JUDGE AND PRINCIPAL SPECIAL
JUDGE FOR CBI CASES AT BENGALURU (CCH-4) AND ETC.,

THIS CRIMINAL REVISION PETITION HAVING BEEN
HEARD AND RESERVED ON 01.02.2025, COMING ON FOR
PRONOUNCEMENT OF ORDER, THIS DAY, THE COURT MADE
THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH

CAV ORDER

1. This Criminal Revision Petition is filed by the
petitioner/accused seeking to set aside the order dated



07.01.2022 in Spl.C.C.No.332/2020 on the file of the learned XXI Additional City Civil and Sessions Judge and Principal Special Judge for CBI cases at Bengaluru (CCH-4).

2. For the purpose of convenience, the ranks of the parties will be considered henceforth as per their rankings before the Trial Court.

Brief facts of the case are as under:

3. It is the case of the prosecution that the accused was working as the Chairman and Managing Director at M/s. Bharat Earth Movers Ltd., (for short "M/s. BEML). The complainant based on reliable source of information opined that the accused had amassed wealth disproportionate to his known sources of income in a sum of Rs.1,52,63,155/- during the check period from 01.12.2002 to 19.04.2012 as against an income of Rs.2,57,56,227/-. Based on the said information, they conducted a search and seizure and thereafter registered FIR. After conducting investigation, charge sheet has been submitted. Being aggrieved by filing of the charge



sheet, the accused had preferred an application for discharge and the same came to be rejected by the Trial Court.

4. Heard Sri B.V.Acharya and Sri Sandesh J. Chouta, learned Senior Advocates for Sri V.G. Bhanuprakash, learned counsel for the petitioner and Sri P. Prasanna Kumar, learned Spl.P.P. for Sri K.N. Nithin Gowda and Smt. Ramula, learned counsel for the respondent.
5. It is the submission of the learned Senior Counsel that the order of the Trial Court in rejecting the application is contrary to the established principles of law and also the material available on record. Therefore, the order is erroneous and improper.
6. It is further submitted that Section 13(1)(e) of the Prevention of Corruption Act, 1988 is omitted by the Legislature, by substituting Section 13 by Amendment Act of 2018, which came into effect on 26.07.2018. The said omission has resulted in abrogation or obliteration of omitted rule in the same way as would have been in the case of repeal of the Statute, as if such a Statute had never been enacted, consequently, the cases or



proceedings, the prosecution cannot commence, continue or punish after the omission.

7. Learned Senior Counsel, in this context, relied on the judgment of the Hon'ble Supreme Court in the case of ***Shree Bhagwati Steel Rolling Mills v. Commissioner of Central Excise and another*¹**.
8. It is further submitted that the launching of the prosecution is barred by time / limitation. Though the alleged offence of possession of property disproportionate to the known sources of income is alleged to have been taken place only between 1.12.2002 to 31.10.2007, to determine the period of limitation, three years period is prescribed under Section 468(2)(c) of the Code of Criminal Procedure at the relevant time has to be considered.
9. It is further submitted that the prosecution has suppressed the two earlier preliminary inquiries on the same subject and also suppressed its results. The prosecution has indeed earlier registered three FIRs and also filed three preliminary inquiries on non-DA

¹ (2016) 3 SCC 643



complaints against the accused and all six were closed as no verification / preliminary enquiry was done to make out a *prima facie* case.

10. It is further submitted that even though the accused had intimated the authority regarding the purchase of property and construction of the house, the income of the family has not been considered. In other words, the properties possessed by the other family members having independent sources of income have been clubbed in violation of the judgment of the Hon'ble Supreme Court.
11. It is further submitted that filing of the charge sheet on DA without any investigation including collection of documents and recording oral evidence of witnesses is not proper.
12. It is further submitted that the Trial Court ought to have considered the material available on record along with the submissions of the learned counsel for the petitioner properly while considering the application for discharge. In fact, the Trial Court has failed to take note of the settled principles of law. Making such submissions,



learned Senior Counsel prays to set aside the impugned order and allow this revision petition.

13. *Per contra*, learned Spl.PP for CBI has vehemently submitted that the charge sheet has been filed on the basis of information and on the result of the preliminary enquiry. The source of information and enquiry would reveal that the accused, during the check period from 01.12.2002 to 19.04.2012, had disproportionate assets to the tune of Rs.1,52,63,155/- which is 59.26% of his known source of income. Thus, the accused had committed an offence.
14. It is further submitted that there are materials to establish that the accused had committed an offence. At the time of considering the discharge application, the Court has to consider whether the materials brought on record would constitute a *prima facie* case against the accused or not. At that stage, the roving enquiry on materials available on record may not be necessary and not required.
15. It is further submitted that the respondent collected a huge number of records and also documents relating to



the disproportionate assets of the accused. Those documents have to be tested through a proper trial. At this stage, this Court cannot come to the conclusion that the documents are sufficient to hold that he had not committed any offence. Therefore, the order of the Trial Court in rejecting the discharge application is proper and appropriate and interference with the said order may not be necessary. Making such submissions, learned Spl. PP prays to reject the revision petition.

16. Having heard learned counsel for the respective parties and also perused the findings of the Trial Court in rejecting the discharge application, it appears from the record that the Trial Court opined that the check period even though reduced from 10 years to 5 years, the fact would remain that the assets which the accused possessed would be disproportionate to his known source of income. Therefore, mere changing the check period would not be sufficient to hold that there is injustice caused to the accused as the respondent changed the check period.



17. The Trial Court further opined that there are materials to show that the accused had possessed disproportionate assets to his known sources of income. The statements of CWs.9 to 12 and CWs.15 to 18 reflect the investments made by the accused in mutual funds and shares. The accused had also made expenditure of Rs.63,07,240/- during the check period. The accused even though had filed his income tax returns, which according to him, have not been considered by the Investigating Officer, the Income Tax Returns are filed for a different purpose, that is for paying the tax liability. Mere payment of Income Tax neither absolves the criminal liability under the Prevention of Corruption Act, 1988 nor does it legitimize the acquisition of illicit wealth.
18. Further, it is held that, at the time of framing the charge, the Court has to consider the prosecution material available on record and the documents of defence cannot be considered at this stage. To summarize all the above observations, the Trial Court rejected the application.
19. Having considered the said observations, it is appropriate to have a look upon the findings of the Trial Court for the



purpose of arriving at a conclusion as to whether any illegality or error was committed by the Trial Court.

20. It appears from the record that the accused was working as a Chairman and Managing Director of BEML. The check period which has been considered to arrive at a conclusion regarding disproportionate assets is 01.12.2002 to 30.09.2012 when he attained the age of superannuation. As per the submission of the learned Senior Counsel, the accused had rendered his service satisfactorily with devotion and dedication. In fact, between October 2010 to 18.04.2012, the respondent - CBI had instituted three criminal cases against the petitioner namely, in RC.10(A)2010, the first FIR culminated in a closure report dated 30.09.2013. Secondly, RC/AC 1/2012 resulted in a closure report dated 25.08.2014. Thirdly, RC.07(A)/2012 resulted in a closure report dated 28.08.2013. Though the respondent had filed these three FIRs and conducted three preliminary enquiries, nothing has been elicited to proceed with the case. The respondent itself dropped the



investigation as there were no materials to proceed against the accused.

21. Learned Senior Counsel further stated that, during the investigation, the petitioner had produced relevant materials to show that he did not possess any disproportionate assets and that he had surplus income. The Investigating Officer totally ignoring the same, filed the charge sheet. This filing of the charge sheet is after five years from the registration of the FIR and thirteen years after the commission of the alleged offence and also eight years after the superannuation of the petitioner. These are the lacunae which the Trial Court ought to have been considered.
22. The said submission of the learned Senior Counsel appears to be appropriate for the reason that the respondent - CBI had conducted three preliminary enquiries by filing three FIRs. The period of filing the three FIRs would be between 2013 and 2014. However, the check period commences from 01.12.2002 to 30.09.2012. When the respondent - police itself dropped the proceedings filed against the petitioner, considering



the convenient check period to suit the case on hand and also reducing the check period for the purpose of filing the criminal case without assigning any reasons would amounts to arbitrary and illegal.

23. It is needless to say that the authority while proceeding with the case has to assign proper reasons not only in respect of sanction to proceed with the case but also to reduce the check period. Without assigning proper reasons on either points causes injustice to the parties. Therefore, the Courts are required to interfere in such matters in order to secure the ends of justice.
24. Even though the Trial Court opined that there are materials to proceed against the accused to frame the charge, the said view has to be negatived for the reason that the CBI had conducted three preliminary enquiries by filing three FIRs and nothing has been found out to proceed with the case.
25. In fact, the respondent - CBI has not considered the independent income of the family members, which was required to be considered as per the settled principles of law. The check period, of which the respondent had



taken into consideration to arrive at a conclusion even though it appears to be five years, during filing of FIR, it was ten years. When the Investigating Officer arrived at a conclusion that the petitioner had possessed disproportionate assets during ten years, reducing the same for five years and arrived at a conclusion that the petitioner had disproportionate assets for the last five years certainly creates doubt regarding genuineness of the source report.

26. Conducting preliminary enquiry even though is not mandatory to arrive at a conclusion about the disproportionate assets, the fact remains that, the Investigating Officer has to depend on the source report. If such source report is not proper, registration of FIR based on the defect source report is not sufficient to proceed with the case. In fact, the Investigating Officer has not conducted a prompt investigation in this matter. Therefore, the entire investigation has to be vitiated. However, the Trial Court failed to consider the said aspect and proceeded to frame the charge would amount to an



abuse of process of law. Therefore, the same is liable to be set aside.

27. Accordingly, I proceed to pass the following:-

ORDER

- (i) The Criminal Revision Petition is *allowed*.
- (ii) The order dated 07.01.2022 in Spl.C.C.No.332/2020 on the file of the learned XXI Additional City Civil and Sessions Judge and Principal Special Judge for CBI cases at Bengaluru (CCH-4) is hereby set aside.
- (iii) The petitioner/accused is discharged for the offences under Sections 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988.
- (iv) Bail bonds executed, if any, stand cancelled.

**Sd/-
(S RACHAIAH)
JUDGE**

Bss