

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.948 OF 2019

(Arising out of S.L.P.(Crl.) No.5112 of 2018)

Srilekha Sentilkumar

....Appellant(s)

VERSUS

Deputy Superintendent of Police, CBI,
ACB, Chennai

....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.
2. This appeal is directed against the final judgment and order dated 04.05.2018 passed by the High Court of Judicature at Madras in Criminal Revision Petition No.445 of 2018 whereby the Single

Judge of the High Court dismissed the criminal revision petition filed by the appellant herein and affirmed the order dated 05.02.2018 of the XII Additional Special Judge for CBI cases at Chennai in Crl.M.P. No.5662 of 2014 in C.C. No.15 of 2014.

3. A few facts need mention hereinbelow for the disposal of this appeal which involves a short point.

4. The appellant herein is arrayed as accused No.3 in C.C. No.15 of 2014 pending in the Court of XII Additional Special Judge for CBI cases, Chennai. The appellant is facing trial for commission of the offences punishable under Section 120B of the Indian Penal Code, 1860 read with Sections 7, 12 and 13 of the Prevention of Corruption Act, 1988 (hereinafter referred to as “the PC Act”) along with 6 other accused persons.

5. The appellant (A-3) filed an application (Crl. M.P. No. 5662/2014) before the Additional Special Judge for CBI cases at Chennai under Section 239 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”) in the aforementioned pending trial for her discharge from the case on the grounds stated in the application. The Additional Special Judge for CBI cases, by order dated 05.02.2018, dismissed the appellant's application. The appellant felt aggrieved and filed criminal revision petition in the High Court at Madras. By impugned order, the Single Judge of the High Court dismissed the appellant's criminal revision petition and affirmed the order dated 05.02.2018 of the Additional Special Judge for CBI cases giving rise to filing of this appeal by way of special leave in this Court by the appellant (A-3).

6. So, the short question, which arises for consideration in this appeal, is whether the Courts below were justified in dismissing the appellant's application filed by her under Section 239 of the Cr.P.C. praying for her discharge from the case.

7. Heard Mr. Kapil Sibal, learned senior counsel for the appellant and Mr. Vikramjit Banerjee, learned ASG for the respondent.

8. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to dismiss this appeal with observations made *infra*.

9. Though Mr. Kabil Sibal, learned senior counsel, argued the issues arising in the case in support of his submissions with subtlety and vehemence but having heard him at length, we are of the view that all the issues urged by him need to

be tried on merits in the trial after evidence is adduced by the parties.

10. In other words, we are of the view that the issues urged by the appellant and the same having been refuted by the respondent are such that they can be decided more appropriately and properly during trial after evidence is adduced by the parties rather than at the time of deciding the application made under Section 239 of the Cr.P.C.

11. It is for this reason, we have refrained ourselves from mentioning the facts of this case in detail nor we wish to discuss much less to record any finding on the issues urged else any observation or/and finding made by this Court while deciding this matter at this stage would cause prejudice to the parties concerned while facing the trial on

merits. Needless to say, parties will be at liberty to raise all such pleas on facts and law in the trial.

12. Before parting, we consider it proper to make clear that the Additional Special Judge for CBI cases will decide the matter strictly on the basis of evidence adduced by the parties without being influenced by any of the observations made by the Additional Special Judge in his order dated 05.02.2018 and the High Court in the impugned order.

13. With these observations, this appeal fails and is accordingly dismissed.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
July 01, 2019.