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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1530/2018 & CRL.M.A. 5542-5544/2018

M S VIJAYA KUMAR Petitioner

Through: Mr. Basava Prabhu S. Patil, Sr. Adv
with Mr. Shailesh Madiyal, Mr.
Deepak Agarwal, Advocates.

versus

THE SUPERINTENDENT OF POLICE CBI & ORS Respondents

Through: Mr. Anupam S Sharma, SPP for CBI.
None for R-2 & 3.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **23.03.2018**

CRL.M.A.5543/18 (Ex.)

Exemption allowed subject to all just exceptions.

The application is disposed of.

CRL.M.C. 1530/2018

Initial submissions made on behalf of the petitioner. It is submitted on behalf of the petitioner that in relation to this very RC bearing No. 04(E)/2007/CBI/EOW-II/New Delhi dated 24/12/2007 , sanction for prosecution under Section 19(1) of the PC Act, 1988 against the applicant was declined by the competent authority and the prosecution was thus not recommended which was also accepted by the Trial Court and reliance is *inter alia* been placed on behalf of the petitioner on the verdict of the Apex Court in “**Chittaranjan Das Vs. State of Orissa**” (2011) 7 SCC 167, the observation wherein in Para 14 thereof are reiterated in “**D.L. Rangotha Vs. State of Madhya Pradesh**”(2015) 12 SCC 733 to the effect that:-

“14. We are of the opinion that in a case in which sanction sought for is refused by the competent authority, while the public servant is in service, he cannot be prosecuted later after retirement, notwithstanding the fact that no sanction for prosecution under the Prevention of Corruption Act is necessary after the retirement of the public servant. Any other view will render the protection illusory. Situation may be different when sanction is refused by the competent authority after the retirement of the public servant as in that case sanction is not at all necessary and any exercise in this regard would be action in futility.”

It is further submitted on behalf of the petitioner that the proceedings in relation to the said RC are liable to be quashed.

Notice of the petition is accepted on behalf of the CBI and thus notice of the petition be issued to the respondent nos. 2 & 3 on taking of steps by the petitioner, the process being returnable for 24.04.2018.

Presently, the presence of the petitioner is exempted before the learned Trial Court through the counsel whose vakalatnama is on the record subject to the applicant not disputing his identity and subject to his not leaving the country.

ANU MALHOTRA, J

MARCH 23, 2018
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