

IN HIGH COURT OF JUDICATURE FOR RAJASTHAN

JAIPUR BENCH, JAIPUR

ORDER

SB Cr Misc Petition No.80/2015

Ashok Pathak versus State of Rajasthan & anr

2.9.2015

HON'BLE MR. JUSTICE MN BHANDARI

Mr Ajay Kumar Jain – for petitioner

Mr Anurag Sharma, Addl Adv General – for the State

Mr SC Gupta – for applicant – Sushil Sethi, MD, SPML India Ltd

BY THE COURT:

Heard on the application for impleadment. Learned counsel for applicant – Sushil Sethi submits that after a complaint before the Special Court, Anti Corruption Bureau, investigation by the Anti Corruption Bureau was made. A detailed adverse final report was given finding no case against any of the accused. At that stage, petitioner withdrew his complaint from the court. The application for it was disposed of vide order dated 26.3.2014. A detailed order for it was passed by the court after considering various aspects of the matter.

The complainant-petitioner, thereupon, filed a

complaint to the ACB and, now, a direction is sought on the ACB to proceed in the matter. In the complaint, allegations have been made against a company namely SPML India Limited also and the applicant is the Managing Director of the company. In view of above, he may be impleaded as party respondent as the jurisdiction of this court is misused by the petitioner against whom 16 cases are pending.

Learned counsel for complainant – petitioner submits that the applicant is a stranger to the complaint. The complaint has not been filed against him. It is against Mr PC Sethi, who has died after the complaint to the ACB. In view of above, the applicant has no locus to pursue the application for impleadment. It is further submitted that earlier the complaint was withdrawn in the light of the judgment of the Hon'ble Apex Court in the case of “Anil Kumar & ors versus MK Aiyappa & anr”, (2013) 10 SCC 705. The petitioner has rightly maintained the complaint to the ACB and when the matter was not proceeded by the ACB, present petition has been filed. In view of above, applicant may not be impleaded as party respondent.

I have considered rival submissions of the parties.

The perusal of the complaint at annexure-1 reveals allegations against many accused persons apart from accused No.6 and 7. Specific allegations exist against the company i.e. SPML India Limited, however, if the names of the accused mentioned in the complaint are seen, it is one Mr PC Sethi, who was Chairman of the company at the relevant time. It is, however, a fact that Mr PC Sethi died during the intervening period and now the applicant, who is son of Mr PC Sethi, is holding the post of Managing Director of the company.

In my opinion, the present applicant, being the Managing Director of the company and as allegations exist against the company, may be permitted to intervene in the case. Accordingly, instead of impleading the applicant as party respondent, he is allowed to intervene in the case. With the aforesaid, application stands disposed of.

(MN BHANDARI), J.

bnsharma

All corrections made in judgment/ order been incorporated in judgment/ order being emailed.

(BN Sharma)
PS-cum-JW