

08.06.2022

Sl. No. 06.

Mithun.

Ct.No.42.

IA No.CRAN/1/2018(Old No:CRAN/2687/2018)

In

CRMSPL/134/2018

(Via Video Conference)

Central Bureau of Investigation (Special Case No.04/99)

Vs.

Ms. S.R.Ramamani & Ors.

Mr. S.V.Raju, Ld. A.S.G.

Mr. Subodh Kumar Jaiswal, Director of CBI.

Mr. Dhiraj Kumar Trivedi, Ld. Asst.Solicitor General,

Mr. Billwadal Bhattacharyya, Ld. Asst.Solicitor General,

Mr. Anirban Mitra, Adv.

Mr. Kollol Mondal, Adv.

Mrs. Aparna Banerjee, Adv.

Mr. Amajit De, Adv.

...for the CBI.

Mr. Abhra Mukherjee, Adv.

Mr. Sauradeep Dutta, Adv.

...for the Opposite Party.

In view of the order dated 11th May, 2022, the learned Assistant Solicitor General and the Director General, CBI are present on virtual mode.

This Court vide order dated 6th April, 2022 observed as hereunder:-

“Careful reading of the above provisions suggests that CBI or any other agency empowered to investigate into an offence under any Central Act other than the Court, The Central Government may, subject to the provisions of sub-section (3) also direct Public Prosecutor to present an appeal. In case of the High Court, the learned Additional Solicitor General is the authorized legal representative of the Central

Government. His opinion may be obtained by the CBI to come to a decision as to whether an appeal should be preferred against a judgment and order of acquittal or for enhancement of sentence by the CBI or not. This Court fails to understand why the case record will travel to Delhi to obtain formal permission of the Director of CBI for filling an appeal before this Court when the Director of CBI is after all a senior police officer. This Court obviously trusts and hopes that the Central Government in its executive branch will also trust the expert opinion of the learned Additional Solicitor General more than the Director of CBI who may have varied experience in investigation but he does not have better legal acumen than the Additional Solicitor General.”

With the observation, this Court directed the Director, CBI and the Assistant Solicitor General, High Court, Calcutta to remain present virtually to address the issue.

It is pertinent to mention that the issue pertains to filling of appeal by the CBI against the order of acquittal in this Court after expiry of the period of limitation and after inordinate delay. In almost all such appeals, the application for special leave to appeal under Section 378(4) of the Code of Criminal Procedure are filed after about one year or more from the date of delivery of judgment by the Trial Court.

This Court wanted the CBI to file appeal against acquittal within the period of limitation.

The learned Additional Solicitor General apprises this Court on the Circular No.10/2020 dated 4th March, 2020 issued by the CBI,

Delhi Special Police Establishment Policy Division, 27, North Block, New Delhi.

Referring to the various clauses of the said circular and specially “specified timelines for submission”, the learned Assistant Solicitor General submits that after delivery of judgment by the Trial Court, the conducting prosecutor shall apply for certified copy of the judgment on the same day or next day of pronouncement of judgment. Pending receipt of the certified copy of the judgment the conducting prosecutor is under obligation to submit an uncertified copy of the judgment with his comments to the branch office. The Heads of the Branch/Deputy Inspector General of Police, thereafter, shall offer his comments within seven days to the Heads of Zones and the Head of Zone/ Joint Director shall offer comments within seven days and sent the same to the Additional Director/Director of Prosecution. The Director of Prosecution thereafter may finalize the comments within five working days. Thus, according to learned Assistant Solicitor General as per the circular it takes about 26 days to get the final opinion of the Director of CBI as to whether an appeal should be filed by the CBI against an order of acquittal or not.

However, the experience of this Court shows that the circular dated 4th March, 2020 is maintained only in papers. It is not being followed and till date the appeals are filed by the CBI against order of acquittal after expiry of the period of limitation. Thereafter, this Court further reiterates its proposal to be considered by the CBI in its administrative side to come up with a fresh circular to the fact that against an order of acquittal the zonal shall obtain a comments of the

Public Prosecutor and the learned Assistant Solicitor General send the said comments directly to the Director of Prosecution for his consideration. The Director of Prosecution shall consider the opinion of the learned Assistant Solicitor General of the respective High Courts within seven days from the date of receipt of the opinion and finally shall take decision as to whether an appeal should be file or not. The above proposal be communicated to the learned Assistant Solicitor General and the Director of CBI for consideration through the Assistant Solicitor General, High Court, Calcutta.

(Bibek Chaudhuri, J.)