

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1256 OF 2022
(Arising out of SLP(Crl.)No.9548 of 2018)

EDAPADDI PALANISWAMI

... APPELLANT

Versus

R.S. BHARATHI & ANR.

... RESPONDENTS

CRIMINAL APPEAL No.1257 OF 2022
(Arising out of SLP (Crl.) No. 9005 of 2018)

O R D E R

1. Leave granted.
2. The instant appeals, by way of special leave, are directed against order dated 12.10.2018 passed by the Madras High Court whereby the High Court allowed the petition under Section 482 Cr.P.C. filed by respondent No.1 and directed respondent No. 2 to hand over all the case files and material to the Joint Director, Central Bureau of Investigation to conduct a preliminary enquiry against the appellant and co-accused.
3. Heard Mr. C. A. Sundaram, learned Senior counsel appearing on

behalf of the appellant as also Mr. Kapil Sibal, learned Senior counsel appearing on behalf of respondent No. 1.

4. At the outset, both senior counsel appearing for the parties agree that it was no one's case before the High Court that the investigation should be transferred to the CBI. In fact, it is clear from the record that the original writ petition filed by respondent no. 1 was to register a case and investigate the complaint dated 13.06.2018 against the appellant. Subsequently, respondent no. 1 sought a new relief by way of a rejoinder filed before the High Court. The relief sought by respondent no. 1 in rejoinder was to direct an impartial investigation by any other Competent Police officer or team of Police Officers and also for the High Court to monitor the investigation.

5. Learned counsel for the appellant pointed to the fact that the preliminary enquiry report, which had been submitted in a sealed cover before the High Court, was not even considered by the High Court. In fact, the High Court specifically noted as follows:

“17....The Learned Advocate General having stated so, that the respondent had submitted a Negative Report/Closure Report not taking cognizance, there is no necessity for this Court to open the sealed cover filed before this court.”

(emphasis supplied)

However, despite not even looking into the enquiry report or the case investigation record, the High Court went on to make certain

observations relating to the fairness of the investigation.

6. Apart from the above, it appears that the High Court did not even seek the impleadment of the appellant, who is the main accused in the matter, before transferring the investigation to the CBI.

7. This Court has consistently held that while the power to transfer the investigation of cases to the CBI or other such specialized bodies exists, it must be used sparingly, only in rare and exceptional cases.

[See *K.V. Rajendran v. Superintendent of Police*, (2013) 12 SCC 480]

8. Having heard learned senior counsel for the parties and perusing the material placed on record, without expressing any opinion on the merits of these matters, we set aside the impugned order passed by the High Court so far as it directs the respondent No. 2 to hand over all the case files and material to the Joint Director, C.B.I. to conduct a preliminary enquiry against the appellant and the co-accused. We remit the matter back to the High Court to consider the matter afresh, including the Preliminary Report filed by respondent no. 2 against the appellant, and pass appropriate orders in accordance with law.

9. We make it clear that the observations made by the High Court shall not come in its way while deciding the matter afresh.

10. At the request of Mr. C.A. Sundaram, learned Senior counsel

appearing on behalf of the appellant, we implead his client as a party before the High Court.

11. The appeals stand disposed of on the above terms.

.....CJI.
(N.V. RAMANA)

.....J.
(KRISHNA MURARI)

.....J.
(HIMA KOHLI)

**NEW DELHI;
AUGUST 3, 2022.**

ITEM NO.11

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 9548/2018

(Arising out of impugned final judgment and order dated 12-10-2018 in CRLOP No. 20711/2018 passed by the High Court Of Judicature At Madras)

EDAPADDI PALANISWAMI

Petitioner(s)

VERSUS

R.S. BHARATHI & ANR.

Respondent(s)

WITH

SLP(Cr1) No. 9005/2018 (II-C)

Date : 03-08-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. C.Aryama Sundaram, Sr.Adv.
Mr. Maninder Singh, Sr.Adv.
Mr. S.R. Rajagopal, Adv.
Mr. Praveen Nath Selvam, Adv.
Mr. Balaji Srinivasan, AOR
Mr. Shiva Krishnamurti, Adv.
Ms. A.Priya, Adv.
Mr. Prateek Yadav, Adv.
Ms. Loushmi Rao, Adv.
Mr. Prabhas Bajaj, Adv.
Mr. Pranav Saigal, Adv.
Ms. Rohini, Adv.
Mr. Zafar, Adv.
Mr. V.Prabhu, Adv.
Mr. Anand Kannan, Adv.

Mr. Hasan Mohamed Jinnah, Adv.
Dr. Joseph Aristotle S., AOR

For Respondent(s) Mr. Kapil Sibal, Sr.Adv.
For R.No.1 Mr. N.R. Elango, Sr.Adv.
Mr. Vivek Singh, AOR
Mr. Agilesh Kumar, Adv.
Mr. Eish Sharan, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals stand disposed of in terms of the signed order.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(R.S. NARAYANAN)
COURT MASTER (NSH)

(Signed order is placed on the file)