

ITEM NO.8

COURT NO.6

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 (Crl.) No(s). 2612/2024

(Arising out of impugned judgment and order dated 08-01-2024 in CRLP No.23807/2023 passed by the High Court Of Judicature At Madras At Chennai)

K. ZAKIR HUSSAIN

Petitioner(s)

VERSUS

THE STATE REP. BY THE SUPERINTENDENT OF POLICE

Respondent(s)

(IA No.45307/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 26-02-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv.
Mr. M.P. Parthiban, AOR
Ms. Priyaranjani Nagamuthu, Adv.
Ms. Shalini Mishra, Adv.
Mr. R. Sudhakaran,
Mr. T. Hari Hara Sudhan, Adv.
Mr. Bilal Mansoor, Adv.
Mr. Shreyas Kaushal, Adv.
Mr. P. K. Deivendran, Adv.

For Respondent(s)

UPON hearing the counsel, the Court made the following

O R D E R

Heard Mr. S. Nagamuthu, learned Senior Counsel, appearing for the petitioner.

2. The counsel would submit that while the bail was granted to the petitioner by the IX Additional Special Judge for CBI Cases (Annexure P-3), the stipulated condition of deposit of Rupees

Thirty Lakhs which the petitioner received as commission out of the allegedly swindled amount, is creating hurdles for the petitioner. The Senior Counsel would argue that such a pre-condition for deposit of money cannot be imposed by the Court, while granting bail. In support of such contention, the counsel relies on *Ramesh Kumar vs. State of NCT of Delhi* reported in (2023) 7 SCC 461.

3. As can be noticed, the petitioner himself obtained the order for deposit of the allegedly swindled sum of Rupees Thirty Lakhs on instalments. After paying the first instalment of Rupees Five Lakhs, he secured bail. Thereafter, he failed to remit the balance sum.

4. While we do appreciate the ratio in *Ramesh Kumar (supra)*, the exception highlighted therein cannot be overlooked. The learned Judge in the said judgment clearly observed that in case of misappropriation of public money, the consideration could be different and the Court should not be averse to putting public money back in the system, if the situation is conducive therefor. This is commended to be in larger interest of the community.

5. Considering the above, we are disinclined to entertain the Special Leave Petition pertaining to the direction for recovery of the allegedly swindled sum, as admittedly, that is public money. The Special Leave Petition is accordingly dismissed.

6. Pending application(s), if any, stand closed.

(DEEPAK JOSHI)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR