

(2014) 08 KAR CK 0162
In the Karnataka High Court
Case No : Crl. Petition No. 5195/2014

Selvi J. Jayalalitha

APPELLANT

Vs

State by the Superintendent of Police

RESPONDENT

Date of Decision : 26-08-2014

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(2)(i)

Citation : (2014) 08 KAR CK 0162

Hon'ble Judges : Jawad Rahim, J

Bench : Single Bench

Advocate : Amid K. Desai, Advocate for the Appellant; N. Barani Kumar, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Dr. Jawad Rahim, J.—Petitioner who is arraigned as accused facing charge for the offences punishable u/s 13(2)(i) of the Prevention of Corruption Act in Spl. C.C. 208/04, seeks a direction to the special judge presiding over the special court constituted to take on record the translation of the charge dated 10.8.2014 submitted by the petitioners through a memo dated 11.8.2014 and eschew from consideration the English translation dated 17.12.1998 vide Annexure-C.

2. Learned counsel for the petitioner would contend, at the inception of trial within the state of Tamil Nadu, the original charge was in Tamil language. The court of first instance had framed the charges in Tamil language and had read it out to the accused to record the plea. He relies on the charges framed by the court on 21.12.1997 in the case in question. He would submit, accused believed in good faith that on transfer of the case to the state of Karnataka, translation of records in the transferee court was literal and did not suffer from any improper translation. However, she recently realized that the English translation of the charge which was framed vide Annexure-C is not the literal translation of the charges framed by the court of first instance on 21.10.1997 (Check date). Thus petitioner approached the court of first instance.

3. To aid judicial process in the right direction and enable the learned special judge to know the nature of charges, accused translated the charges from Tamil into English version on her own and through a memo dated 11.8.2014, submitted to the court with a request to refer the translation furnished as also the earlier translation to an expert who would certify it to be correct. Learned counsel submits, though the request was reasonable and just in the circumstances, learned special judge passed no order on the memo but simply directed the translator furnished by the accused to be kept along with the translation already available. This, according to the learned counsel, leads to a situation where the accused is put to jeopardy. He submits, accused is not sure as to whether the special judge while considering the evidence on record in the light of the defense advanced, would read the earlier translation or the translation furnished by the accused. He submits, as there is no clear observation by the learned judge and since both the translations are not referred to the expert, great prejudice would be caused to the accused. This, in short, is the grievance of the petitioner.

4. In the normal circumstances, I would have issued notice to the respondent-State, but as I could see, the issue falls in a very narrow compass. It is not in dispute charges against the petitioner were framed on 21.10.1997 in Tamil. On transfer of the case to Karnataka, translation of the entire records from the original language (Tamil) has been made in English and the accused has been furnished with the translated charge, depositions, statement of witnesses, and I am informed, to a great extent, other documentary evidence. In this fact situation, accused having been served with translated copies, has proceeded further and participated in the trial which has now reached the stage of culmination. The stage is arguments on both sides.

5. At this belated stage, an issue is raised questioning the correctness of translation from Tamil to English. Firstly, accused has not pointed out any prejudice caused to her, nor the fact that she had not understood the charge at the time of plea. Needless to record once plea is recorded which will be either guilty or not guilty; in case she pleads not guilty, trial will begin compelling the prosecution to establish the charges beyond all reasonable doubt. In this regard prosecution has no escape except to substantiate the charges leveled with acceptable evidence and only on such material becoming a clincher, accused would suffer. At this stage, when the case is set for arguments, the plea of the accused will have to be in line with the defense taken, of course, with liberty to question even the manner of proceedings conducted by the trial court. Once this is done, he can point out to the court if there is any mistake in translation.

6. The issue brought about is with regard to improper translation of charges from Tamil to English. There is no issue raised about improper translation of any other record. In this fact situation, learned special judge has not rejected the contention of the accused that the translation from Tamil to English is not literal or not correct. What the learned judge has done is, to accept the translation

submitted by the accused said to be the true literal translation of Tamil to be kept along with the translation already furnished, and I am sure, in his wisdom, will examine both the translations and as ultimately what he has to decide is the charged provision and nature of charges leveled against the accused.

7. Phraseology or terminology of the charge is not so material as to the ingredients which constitute the offence which has to be part of the charge. In the circumstances, I do not find learned special judge has either deprived the accused of any just right to defend by rejecting his contention to say the translation is not true. In fact he has very fairly directed the translation furnished by the accused to be kept along with the other translation and I have no reason to believe learned judge will be very casual, specially in a matter like this.

8. Learned special judge is of a senior rank and I hope he will be very circumspect and discreet in his approach to the issue in understanding of the charge against the accused. As I am fully satisfied no prejudice is caused to the accused, I do not find any merit admitting the petition or issuing any other direction. In the result the petition is dismissed.