

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO.7733 OF 2014

ABDUL AZEEZ P V. AND OTHERS

Petitioners

.....

Versus

NATIONAL INVESTIGATION AGENCY

.... Respondent

ORDER

1. The petitioners herein are accused Nos.1 to 21 in Crime No.276 of 2013 of Mayyil Police Station, registered under Sections 143, 147, 153(B) r/w Section 149 of the Indian Penal Code, u/s 5(1) r/w Section 25(1)(a) of the Arms Act, u/s 4 and 5 of the Explosive Substances Act and under Section 18 of the Unlawful Activities Prevention Act (“UAPA” for short). Subsequently Section 153(A) of IPC and Section 13(1)(a)(b) and Section 18 of the UAPA were also invoked and the case was transferred to National Investigating Agency (for short ‘NIA’) for further investigation.

2. The petitioners were arrested on 24.04.2013 and since then are in custody. After completion of investigation charge-sheet was filed by the NIA on 19.10.2013 against the petitioners. The charge-sheet, *inter alia*, stated the allegations against each of the petitioners and the materials on the basis of which such allegations were leveled. It also stated in paragraphs 18.2 and 18.3 that requisite sanction under Sections 18 and 18A of the UAPA was accorded by the Ministry of Home Affairs, Government of India, vide order dated 17.10.2013 and also that sanction under Section 7 of the Explosive Substances Act was accorded by the District Magistrate, Kannur vide his order dated 15.10.2013. In paragraph 18.6 of the charge-sheet it was stated to the following effect:

“Foreign bank transaction details are to be collected and the call Data Records have to be further analysed. Records pertaining to Thanal Foundation Trust need to be collected and verified. Hence, further investigation is inevitable and is in progress. Additional list of witnesses, additional statements of witnesses and additional list of documents will be filed in due course. Hence it is also prayed that further investigation u/s 173(8) Cr.P.C. may kindly be permitted.”

3. The petitioners filed Criminal M.C. No.100 of 2013 on 22.10.2013 before the learned Special Court, NIA Cases submitting

that they were entitled to get statutory bail under Section 167(2) of the Code of Criminal Procedure (for short “ Cr.P.C.”) inasmuch as the investigating agency had failed to file the final report within 180 days. It was further submitted that the bank account details and mobile phone call details of the petitioners, as stated in the charge-sheet itself, were yet to be verified and that the charge-sheet filed on 19.10.2013 was not a final report as contemplated under Section 173(2) Cr.P.C. The submissions were negated by the learned Special Court by its order dated 04.11.2013 holding that the petitioners were not entitled to statutory bail under Section 167(2) Cr.P.C., which view was challenged by filing Criminal Appeal No.1711 of 2013 in the High Court of Kerala at Ernakulam. The High Court went through paragraph Nos.17.1., 17.2, 17.3 and 17.8 of the charge-sheet and found that the materials so disclosed and adverted to in the charge-sheet did show that it was a final report. The High Court, thus, dismissed the appeal. The present special leave petition has been filed to challenge the view taken by the High Court.

4. Having gone through the charge-sheet, we are not persuaded to take a different view. The materials adverted to show that it was a final report on the facets investigated into by the investigating agency.

Furthermore, the requisite sanctions as required under Sections 18 and 18A of the UAPA and so also under Section 7 of the Explosive Substances Act were also accorded by the concerned authorities. The charge-sheet so filed before the learned Special Court was complete in all respects so as to enable the learned Special Court to take cognizance in the matter. Merely because certain facets of the matter called for further investigation it does not deem such report anything other than a final report. In our opinion Section 167(2) of Cr.P.C. stood fully complied with and as such the petitioners are not entitled to statutory bail under Section 167(2) of Cr.P.C.

5. The special leave petition is, therefore, dismissed.

JUDGMENT

.....J.
(Dipak Misra)

.....J.
(Uday Umesh Lalit)

New Delhi,
November 14, 2014