

ITEM NO.34

COURT NO.7

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 (CrI.) No(s). 3690/2024

(Arising out of impugned final judgment and order dated 26-02-2024 in SMCRLRC No. 1559/2023 passed by the High Court Of Judicature At Madras)

I. PERIYASAMY

Petitioner(s)

VERSUS

THE STATE DIRECTORATE OF VIGILANCE
AND ANTI CORRUPTION

Respondent(s)

(FOR ADMISSION and IA No.64904/2024-EXEMPTION FROM FILING O.T. and IA No.64903/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 18-03-2024 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. Kapil Sibal, Sr. Adv.
Mr. A Mariarputham, Sr. Adv.
M/S. Ram Sankar & Co, AOR
Dr. Ram Sankar, Adv.
Mrs. Harini Ramsankar, Adv.
Ms. Anuradha Arputham, Adv.
Ms. Anushka Nagarajan, Adv.
Ms. Rupali Samuel, Adv.
Mr. Aaditi Pujari, Adv.
Mr. Rishi Mishra, Adv.
Mr. G Jai Singh, Adv.
Mr. Muthu Ganesa Pandian, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. Kapil Sibal, learned senior counsel appearing for the petitioner.

2. The impugned order of the High Court, which set aside the discharge order dated 17.03.2023, is challenged on the ground that the allegation against the petitioner is the misuse of his office as a Cabinet Minister in the Government of Tamil Nadu. It is accordingly argued that the previous sanction for prosecution under Section 197 of the Indian Penal Code, 1860 and Section 19(1) of the Prevention of Corruption Act, 1988, is required to be obtained from the Governor, who under law is the competent authority to remove a Minister from office.

3. But in this case, the sanction against the petitioner was issued by the Speaker. Moreover, the Speaker's sanction was limited to the allegation under the Prevention of Corruption Act, 1988. But, such previous sanction from the Speaker would be of no use for valid prosecution as sanction for the Acts done in the capacity of Cabinet Minister can be given only by the Governor. In support of such contention, the learned senior counsel relies on the ratio in *R.S. Nayak Vs A.R. Antulay reported in 1984 2 SCC 183*.

4. Issue notice, returnable in four weeks.

5. As the trial is ordered to re-commence against the petitioner on 28.03.2024, the petitioner is at liberty to make application before the Trial Court for deferment of the trial since this Court is *seisin* of the matter.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(KAMLESH RAWAT)
ASSISTANT REGISTRAR