

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

Cr. Rev. No. 39/2016

MP No. 01/2016

Date of order: 28.03.2018

Manish Suri

vs.

State of J&K and others

Coram:

Hon'ble Mr. Justice Janak Raj Kotwal, Judge

Appearance:

For the appellant/petitioner(s) : None.

For the respondent(s): Mr. Amit Chopra, GA

Petitioner, Manish Suri, who is accused No. 2 in the charge-sheet arising in FIR No. 36/2013 of Police Station, Crime Branch, Jammu under sections 120-B, 420, 451, 468 and 471 RPC read with 5(2) PC Act pending in the court of learned Special Judge, Anti Corruption, Jammu, moved an application under section 344(1-a) read with section 205 Cr.P.C. seeking adjournment of the proceedings in the case *sine die* and his exemption from personal appearance in the court on the ground that the investigating agency has been permitted to file supplementary charge-sheet and pursuant thereto multiple charge-sheets have been filed and many more are expected to be filed in terms of section 173 (8) Cr.P.C so trial should be deferred till all the charge-sheets are filed. Learned trial court rejected the prayer and dismissed the application vide order dated 07.06.2016 (supra). This order is impugned in this revision petition.

There is no representation on behalf of the petitioner and there was no representation on his behalf on the previous date too.

Heard learned Government Advocate appearing on behalf of the State.

Learned trial court has rejected petitioner's prayer with detailed reasons. Paragraphs 4 and 5 of the impugned order are reproduced:

"4. The adjournment of proceedings in a criminal case Sine Die is unknown to law. It can be done under the orders of a superior court and in extreme exigencies. Accused No. 2 is one of the six accused, who are sought to be prosecuted through this charge sheet. Till now all the legal/factual issues have been raised by him only and rest of the accused have not been a party to what accused no. 2 has been contending from time to time. So far as Section 344 (1-a) of Cr.P.C. is concerned, it operates in certain situations and my considered view is that it cannot operate in the instant case. The sub section (1-a) of section 344 contemplates limited situations in which a case can be adjourned. Firstly if the witness is not in attendance or when there is any other reasonable cause to adjourn the proceedings but it never provides for nor does any other provision in criminal procedural code provide for adjournment of the proceedings indefinitely.

5. We are dealing with a case which as per crime branch is complete and compact in so far as the accused are concerned. There may be further investigation going on in respect of other occurrences/issues but how does that effect the instant case. The trial in a warrants case before a Magistrate has to be carried on in accordance with Chapter-XXI of Cr.P.C. and the court has after providing the documents of the charge sheet to the accused to consider the issue of charge/discharge. But so far we have not been able to consider whether case qualifies for trial or not because accused No., 2 has been successively moving miscellaneous applications on one or the other issues. One does not understand as to why accused No., 2 is singularly interested in adjournment of the case indefinitely when the law does not support his contention. It is simply an attempt on his part to apply breaks to the proceedings with no reason. Police has a power to conduct further investigation in terms of section 173 (8) Cr.P.C. and this right cannot be interfered with by the court nor by accused No. 2, more particularly in this case because of peculiarity of its facts. The crime branch is carrying on the further investigation in accordance with the requirement of Chapter XIX of Cr.P.C. Learned CPO appears to be right in his submission that the plea of accused No. 2 is not entertainable as the law does not permit so."

Legal position has been correctly stated by the learned trial court and I find no reason for differing with the same. Nonetheless, I may add precisely that, whereas section 173 (1) Cr. P.C. preserves the power of the investigating agency to undertake further investigation and to file supplementary charge-sheet or charge-sheets even after charge-sheet in terms of section 173(2)

