

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2015

CORAM:

THE HONOURABLE MR. JUSTICE P.DEVADASS

CRIMINAL ORIGINAL PETITION NO.14826 of 2015

AND

M.P.NO.1 OF 2015

K.Venugopal

.. Petitioner/A-1

vs.

The State represented by
Inspector of Police,
(in R.C.No.23(A)/2009,
CBI/ACB/Chennai.

.. Respondent/Complainant

This Criminal Original Petition is filed under Section 482 Cr.P.C., to set aside the order dated 20.4.2015 passed in CrI.M.P.No.1550 of 2015 in C.C.No.13 of 2010 on the file of the learned IX Additional Special Judge for CBI Cases, Chennai and consequently expunge the evidence recorded pursuant to the said order.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor for CBI
Cases

O R D E R

A-1/petitioner in C.C.No.13 of 2010 pending on the file of the learned IX Additional Special Judge for CBI Cases, Chennai, aggrieved by the common order passed on 20.4.2015 in so far as CrI.M.P.No.1550 of 2015 has directed this CrI. OP.

2. In the said calendar case, prosecution alleged commission of certain offences under Prevention of Corruption Act and certain offences under Indian Penal Code. In this case, A-1 is the petitioner.

3. In the Final Report, the Prosecuting Agency cited several witnesses and also mentioned several documents. After complying with the formalities, charges were framed by the Court, trial commenced, witnesses are being produced and documents are being exhibited.

4. At this juncture, prosecution filed CrI.M.P.No.1550 of 2015 to citing certain additional witnesses and certain additional documents which were failed to be mentioned earlier.

5. The defence objected to it as an attempt to fill up the lacunae, materials which ought to have been produced after further investigation, without doing further investigation, were sought to be produced and rights of the accused has been affected and the accused has been disabled to put up an effective defence.

6. Considering the rival submissions, the Trial Court allowed the petition on the premises that these witnesses and documents are necessary and essential for the just decision of the case.

7. The learned counsel for the petitioner reiterated the very same contentions which he had already placed before the Trial Court in CrI.M.P.No.1550 of 2015 and the very same reply was given by CBI as it was given before the Trial Court.

8. The learned counsel for the petitioner would also submit that the defence is entitled not mere opportunity but a reasonable opportunity. It is not an empty formality. It is not a matter of conducting trial, but it is a matter of conducting a fair trial.

9. I have considered the rival submissions and perused the impugned order.

10. In Human Rights Jurisprudence, the concept of fair trial is very important. The crux of the matter is that the accused should not be taken by surprise. The accused should be supplied with copies of all incriminating materials proposed to be let in against him as the defence is expected to put up not a mere defence, but an effective defence which is a constitutional duty of a defence counsel under Article 22 (1), Constitution of India.

11. Now after anxiously considering the rival submissions, perusing the materials on record and the impugned order, we do not find any infirmity in the impugned order to interfere, however, the submission of the learned counsel for the petitioner that he is entitled to be given copies of the documents and a reasonable time to prepare for the defence with respect to those witnesses and documents are understandable and acceptable.

12. The additional documents are as under:-

(i) Ex.P-95 : Search Proceeding dated 23.6.2009 at the residence of Lal Singh marked through PW-25 (D.Sugumaran);

(ii) Ex.P-96 : Search Proceeding dated 24.6.2009 at the residence of Lal Singh marked through PW-26 (P.Mohan); and

(iii) Ex.P-97 : Search List dated 24.6.2009 at the residence of Lal Singh marked through PW-26 (P.Mohan).

13. In the circumstances, the impugned order of the Trial Court passed in Crl.M.P.No.1550 of 2015 dated 20.4.2015 is upheld. The Trial Court will furnish copies of the documents mentioned in paragraph No.12 of this order to the petitioner. After furnishing the said documents, the Trial Court will give reasonable opportunity to the petitioner to prepare his defence with reference to the additional witnesses and the additional documents.

14. Accordingly, this Crl. OP is disposed of. Consequently, connected miscellaneous petition is closed.

Svn

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

Copy to:

1. IX Additional Special Judge for CBI Cases, Chennai.
2. The Special Public Prosecutor for CBI Cases, Chennai.
3. The Inspector of Police, CBI/ACB/Chennai.

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Crl.O.P.No.14826 of 2015

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