

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.10.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.Nos.1019 and 1020 of 2015
& M.P.Nos.1 of 2015

Kantha Praveen Mehta
Kumar Mehta

.. Petitioner in Crl.R.C.1019/2015
.. Petitioner in Crl.R.C.1020/2015

Vs.

State rep.by
Inspector of Police
SPE:CBI:EOW
Chennai

.. Respondent in both Crl.R.Cs.

Prayer in Crl.R.C.No.1019/2015: Revision under Sections 397 r/w sec 401 of Criminal Procedure Code to call for records connected with Crl.A.No.274 of 2014 on the file of XVIII Additional Judge, City Civil Court, Madras challenging the orders in M.P.No.1019 of 2014 in C.C.No.3888 of 1998 on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai 8 and set aside the order dated 15.10.2014.

Prayer in Crl.R.C.No.1020/2015: Revision under Sections 397 r/w sec 401 of Criminal Procedure Code to call for records connected with Crl.A.No.276 of 2014 on the file of XVIII Additional Judge, City Civil Court, Madras challenging the orders in M.P.No.1018 of 2014 in C.C.No.3888 of 1998 on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai 8 and set aside the order dated 15.10.2014.

For petitioner in

both Crl.R.Cs

: Mr.R.Loganathan

For respondent in

both Crl.R.Cs

: Mr.K.Srinivasan,

Spl.Public Prosecutor

COMMON ORDER

These Criminal Revision Cases have been filed against the concurrent orders passed in Crl.M.P.Nos.1018 of 2014 and 1019 of 2014 in C.C.No.3888 of 1998 and in Criminal Appeal Nos.274 and 276 of 2014 by the Additional Chief Metropolitan Magistrate,

Egmore, Chennai as well as 18th Additional Judge, City Civil Court, Chennai.

2. In both petitions, it is stated that the petitioners have been arrayed as accused Nos.1 and 3 in Calendar Case No.3888 of 1998 and as per the order passed by the Court, the petitioner found in M.P.No.1018 of 2014 has deposited Rs.1 Lakh into Court and likewise the petitioner found in M.P.No.1019 of 2014 has deposited Rs.10,000/- into Court. Further it is averred in both petitions that in C.C.No.3888 of 1998, judgment has been passed by the trial court and under such circumstances, these petitions have been filed for getting the amounts mentioned therein.

3. The trial court has dismissed both petitions. Against the dismissal order passed by the trial court, Criminal Appeal Nos.274 and 276 of 2014 have been preferred on the file of the first appellate court.

4. The first appellate court, after hearing arguments of both sides, has dismissed both Criminal Appeals. Against the concurrent orders passed by the courts below, present Criminal Revision Cases have been preferred at the instance of the petitioners as revision petitioners.

5. The learned counsel appearing for the revision petitioners has contended that as per the directions of the court, both the petitioners have deposited the amounts mentioned in the petitions and the same have not been confiscated to the Government at the time of disposal of Calendar Case No.3888 of 1998. Under the said circumstances, these petitions have been filed for getting the amounts mentioned therein, but the courts below without considering the ownership of the amounts mentioned in the petition, have erroneously rejected claim of the petitioners and therefore, the concurrent orders passed by the courts below are liable to be interfered with.

6. The learned Special Public Prosecutor has fairly conceded the factual aspects put forth on the side of the petitioners.

7. On the basis of the contentions put forth on either side, it is easily discernible to the effect that the petitioner found in CrI.M.P.No.1018 of 2014 has deposited Rs.1,00,000/- as per the direction of the court. Likewise, the petitioner found in CrI.M.P.No.1019 of 2014 has deposited Rs.10,000/- into court as per the direction of the court.

8. As rightly pointed out on the side of the petitioners, the amounts deposited by them have not been confiscated to the Government and the said amounts have been deposited only to secure appearance of the petitioners in Calendar Case No.3888 of 1998.

9. Considering the fact that the amounts mentioned in both the petitions belong to the petitioners respectively and also considering that no specific order has been passed so far with regard to the said amounts by a competent court, the petitioners are entitled to receive the same. The courts below, without considering that no confiscation order has been passed in respect of the said amounts, have erroneously rejected the claim of the petitioners. In view of the discussions made earlier, it is clear that the concurrent orders passed by the courts below are liable to be set aside.

In fine, these Criminal Revision Cases are allowed. The concurrent orders passed by the courts below in M.P.No.1018 of 2014 and 1019 of 2014 in C.C.No.3888 of 1998 and also in Criminal Appeal Nos.274 and 276 of 2014 are set aside and the petitions filed in M.P.No.1018 of 2014 and 1019 of 2014 in C.C.No.3888 of 1998 are allowed. Consequently, the connected Miscellaneous Petitions are closed.

sd/
ASSISTANT REGISTRAR(CS-III)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

ajr

To

1. The XVIII Additional Judge, City Civil Court, Chennai
2. Additional Chief Metropolitan Magistrate, Egmore, Chennai 8
3. Inspector of Police, SPE:CBI:EOW, Chennai
4. The Public Prosecutor, High Court, Madras.

+2 CC to MR. R.Loganathan Advocate. SR.NOs. 56367 & 56368

Cr1.R.C.Nos.1019 and 1020 of 2015

CO-CA

JD 30/10/2015