

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P.Nos.20107 of 2009 and 2458 of 2014

1. T.Rajasekaran
2. R.Natesh Kumar

... Petitioners in
Crl.O.P.No.20107 of 2009

vs.

The State
Rep. by Central Bureau of
Investigation,
Economic Offences Wing,
Chennai

... Respondent in
Crl.O.P.No.20107 of 2009

State, rep.by
Inspector of Police,
CBI/EOW/Chennai

... Petitioner in
Crl.O.P.No.2458 of 2014

vs.

C.Krishna Kumar @ Kumar

... Respondent in
Crl.O.P.No.2458 of 2014

Criminal Original Petition No.20107 of 2007 has been filed under section 482 of the Code of Criminal Procedure, 1973, against the the order dated 14.5.2004 made in Crl.M.P.No.96 of 2001 in C.C.No.12619 of 2003 (C.C.No.9 of 1998 on the file of the Principal CBI Court, Chennai), on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai-8.

Criminal Original Petition No.2458 of 2014 has been filed under section 482 of the Code of Criminal Procedure, 1973, to set aside the order dated 24.10.2013 passed in Crl.M.P.No.80 of 2013 in C.C.No.12619 of 2003, on the file of Additional Chief Metropolitan Magistrate, Egmore, Chennai.

Crl.O.P.No.20107 of 2009

For Petitioner : Mr.K.S.Dinakaran, Sr.counsel
for Mr.S.Karthikeyan

For Respondent : Mr.K.Srinivasan,
Spl. Public Prosecutor for CBI cases

Crl.O.P.No.2458 of 2014

For petitioner : Mr.K.Srinivasan,
Spl.Public Prosecutor for CBI cases

For Respondent : Mr.V.S.Venkatesh

COMMON ORDER

These criminal original petitions have been directed against the orders passed in Crl.M.P.Nos.80 of 2013 and 96 of 2001 in Calendar Case No.12619 of 2003, by the Chief Metropolitan Magistrate, Egmore, Chennai.

2. The petitioners in Crl.O.P.No.20107 of 2009 and the respondent in Crl.O.P.No.2458 of 2014, as petitioner, have filed the petitions in question under Section 91 of the Code of Criminal Procedure, 1973, praying to direct the persons mentioned therein to produce certain documents.

3. In both the petitions it is averred that the Assistant General Manager of Indian Overseas Bank has given a complaint on 6.1.1995 and the same has not been produced into Court and further, the correspondence made in between the Indian Overseas Bank and CBI has also not been produced. Under the said circumstances, these petitions have been filed for getting the relief sought therein.

4. The trial Court has allowed the petition filed in Crl.M.P.No.80 of 2013 and dismissed the petition filed in Crl.M.P.No.96 of 2001. Against the order passed in Crl.M.P.No.80 of 2013, Crl.O.P.No.2458 of 2014, as well as against the order passed in Crl.M.P.No.96 of 2001, Crl.O.P.No.20107 of 2009, have been filed on the file of this Court.

5. The learned Special Public Prosecutor has contended that except the complaint dated 6.1.1995, the other document is nothing but a privilege document and the same cannot be produced into Court. But the trial Court in Crl.M.P.No.80 of 2013 has erroneously directed the persons mentioned therein to produce the second document and therefore, the order passed in Crl.M.P.No.80 of 2013 is liable to be modified.

6. The learned counsel appearing for the respondent in Crl.O.P.No.2458 of 2014 has fairly conceded that the second document mentioned in the petition is nothing but a privilege document.

7. The learned counsel appearing for the petitioners in Crl.O.P.No.20107 of 2009 has contended that the complaint dated 6.1.1995 has been mentioned in the petition in question, but the trial Court, without considering the averments made in the petition, has erroneously dismissed the petition and thereby, the dismissal order passed by the Court below is liable to be set aside.

8. It is an admitted fact that in Crl.M.P.No.80 of 2013, except the complaint dated 6.1.1995, the correspondence made in between the Indian Overseas Bank and CBI has also been mentioned as second document. Considering the fact that the second document is nothing but a privilege document, the same cannot be directed to be produced into Court and therefore, the order passed in Crl.M.P.No.80 of 2013 by the trial Court is liable to be modified as stated infera.

9. With regard to the relief sought in Crl.M.P.No.96 of 2001, as pointed out earlier, the very same complaint dated 6.1.1995 has been mentioned. But the trial Court has erroneously dismissed the same. Since in Crl.O.P.No.80 of 2013, the trial Court has allowed the petition in respect of the said complaint, the same yardstick can also be applied with regard to the relief sought in Crl.M.P.No.96 of 2001 and therefore, the Criminal Original Petition No.20107 of 2009 is liable to be allowed.

In fine, Criminal Original Petition No.2458 of 2014 is allowed in part. The order passed by the trial Court in Crl.M.P.No.80 of 2013 is confirmed only with regard to the complaint dated 6.1.1995 and the order passed by the trial Court in respect of the second document is set aside and the petition filed in Crl.M.P.No.80 of 2013 is dismissed with regard to the second document.

Criminal Original Petition No.20107 of 2009 is allowed. The order passed in Crl.M.P.No.96 of 2001 by the trial Court is set aside and the petition filed in Crl.M.P.No.96 of 2001 is allowed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msk

To :

1.The Additional Chief Metropolitan Magistrate, Egmore,
Chennai-8.

2.Thro the Chief Magistrate, Egmore.

3. The Inspector of Police, CBI/EOW, Chennai.

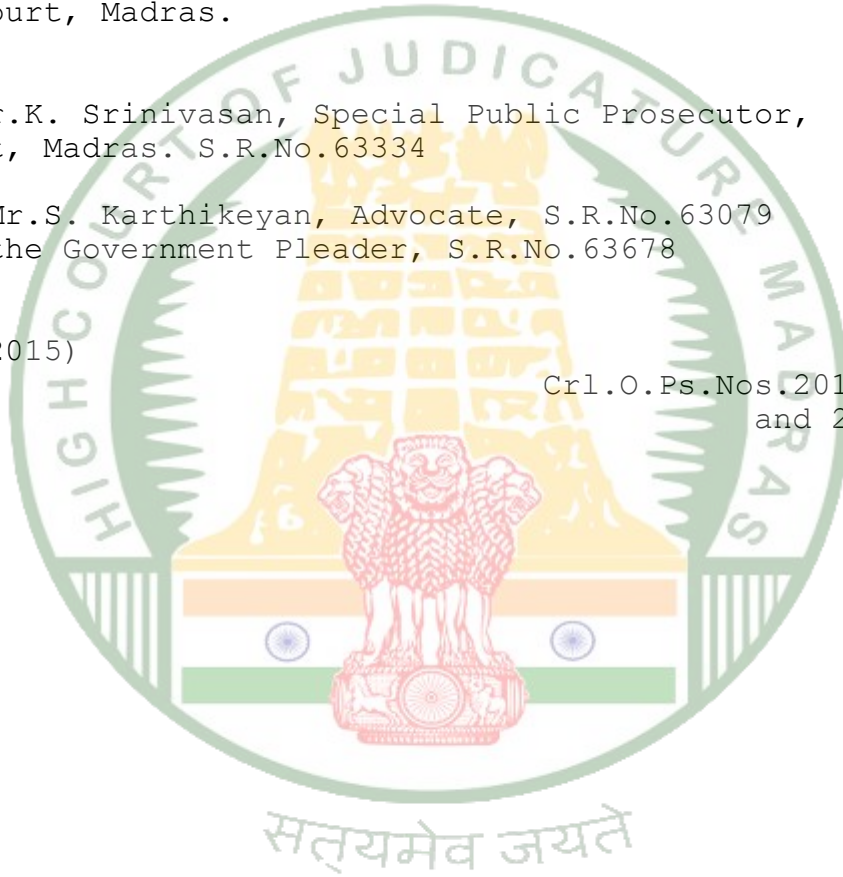
4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K. Srinivasan, Special Public Prosecutor, For CBI,
High Court, Madras. S.R.No.63334

+2ccs to Mr.S. Karthikeyan, Advocate, S.R.No.63079
+2ccs to the Government Pleader, S.R.No.63678

CA(CO)
EU(08/12/2015)

Cr1.O.Ps.Nos.20107 of 2009
and 2458 of 2014



WEB COPY