

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2015

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.1829 of 2015

Alexander Vyukhin @ Alex

... Petitioner/Accused

vs.

State by,
The Intelligence Officer,
Narcotics Control Bureau,
South Zonal Unit,
Chennai - 90.

... Respondents/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 10.11.2014 of the learned Special Judge, I Additional Special Court under NDPS Act, Chennai, dated 10.11.2014 in Crl.M.P.No.1887 of 2014 and direct the trial court to receive the documents through the Court Officer i.e., Grade I Bench Clerk Hema Sumathi and the documents may be produced and marked through her and thereby render Justice to the petitioner, who is in jail since 27.09.2011.

For Petitioner : Mr.S.Veeraraghavan
Senior Counsel for Ms.Mamta Pandey

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor
for NDPS Act Cases

सत्यमेव जयते
O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor for NDPS Act cases appearing for the respondent.

2. This petition seeks to challenge the order dated 10.11.2014 in Crl.MP.No.1887 of 2014 in Crl.MP.No.233 of 2013 in C.C.No.15 of 2012 passed by the learned Special Judge, I Additional Special Court under NDPS Act, Chennai. Shorn of all unnecessary details, the prayer in

this petition is to set aside the abovesaid order and for a further direction to the Trial Court to permit the petitioner to mark some of the documents received by the Court from the Prison Authorities through the Staff of the Court.

3.It is seen that the petitioner has set up a defence of insanity and therefore, he has filed a petition before the Trial Court to call for the medical records of the petitioner/accused from the Jail Authorities. This matter appears to have had chequered history. Earlier, the prayer of the petitioner was rejected by the Trial Court and aggrieved by which, the petitioner has approached this Court in CrI.RC.No.760 of 2013 and this Court has passed a detailed order on 29.08.2013, partly allowing the revision case and giving further directions thereon.

4.Mr.S.Veeraraghavan, learned Senior Counsel appearing for the petitioner was insistent that the petitioner should be permitted to mark the documents, which have been left out in the case through the staff of the Court. This Court explained to him that the act of marking of the documents will not automatically lead to the proof of documents. Only if the document is proved in the manner known to law, any Court can rely upon it as proof of the fact. This Court also explained to the learned counsel that only where the expert is exempted from appearance before the Court under Section 293 of Cr.P.C., his reports can be marked without examining the said expert. The learned Senior Counsel appearing for the petitioner further contended that the trial in this case has been prolonging and he would be rest content if permission is granted to merely mark the documents.

5. In the opinion of this Court, mere marking of the documents will not be proof of it and the act of marking the documents through the concerned Tapal Officer is only proof of the receipt of the documents from the concerned Authorities and nothing beyond that.

6. In view of the request made by Mr.S.Veeraraghavan, the learned Senior Counsel appearing for the petitioner, this Court, without setting aside the order passed by the Trial Court, directs the Trial Court to permit the petitioner to examine the concerned Court Staff and through him, mark the documents as Exhibits and this Court clearly records that the marking of those documents will not amount to proof of the same and that the marking will only prove the fact that such a document has been received by the Court from the Jail Authorities and nothing more. A further direction is given to the trial Court to complete trial expeditiously.

With the above observations, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

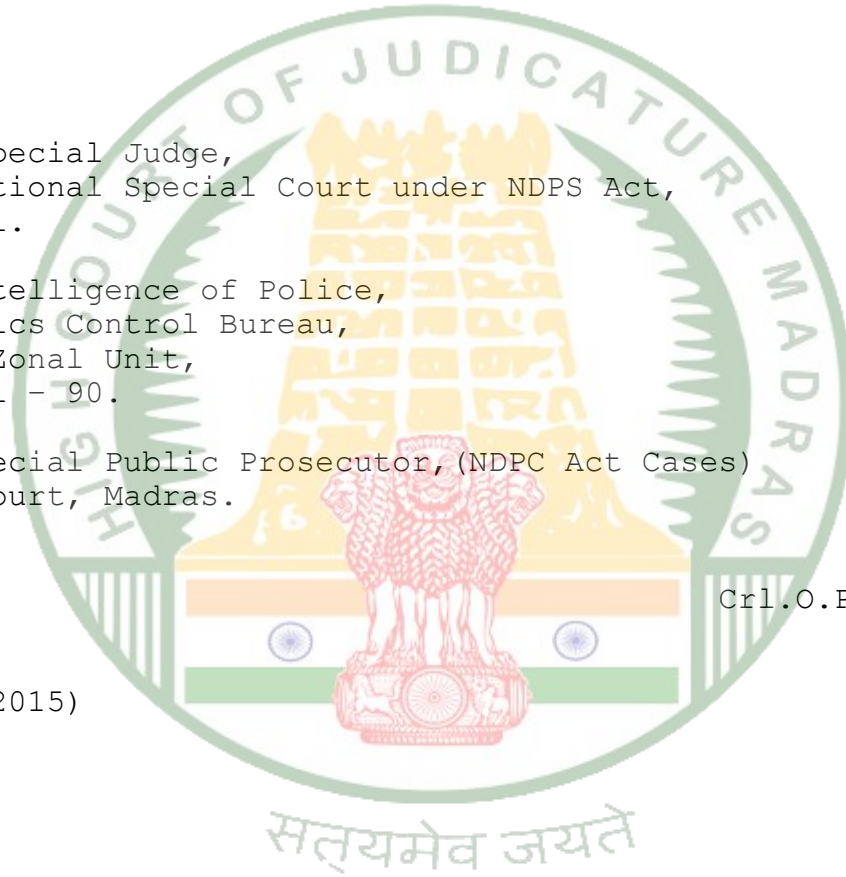
mps/ds

To

1. The Special Judge,
I Additional Special Court under NDPS Act,
Chennai.
2. The Intelligence of Police,
Narcotics Control Bureau,
South Zonal Unit,
Chennai - 90.
3. The Special Public Prosecutor, (NDPC Act Cases)
High Court, Madras.

Crl.O.P.No.1829 of 2015

EV(CO)
CA(09/04/2015)



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