

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.OP No.21409 of 2015

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

... Petitioner

Vs

Dinesh Dalmia

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 31.12.2014 in Crl.M.P.No.1119 of 2014 in C.C.No.19189 of 2005, on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner :Mr.K.Srinivasan,Spl.P.P.

For Respondent :Mr.C.S.S.Pillai

ORDER

This Criminal Original Petition has been directed against the order dated 31.12.2014, passed in Crl.M.P.No.1119 of 2014 in Calendar Case No.19189 of 2005 by the Additional Chief Metropolitan Magistrate, Egmore, Chennai.

2. The respondent herein, as petitioner, has filed the petition in question, under Section 457 of the Code of Criminal Procedure, 1973, in Crl.M.P.No.1119 of 2014 in Calendar Case No.19189 of 2005, wherein, the present petitioner has been shown as respondent.

3. It is averred in the petition that at the time of investigation, the respondent has seized some documents from the house of father-in-law of the petitioner and also from other places, but the same have not been filed into Court. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

4. The Court below, after considering the rival submissions made on either side, has allowed the petition. Against the order passed by the Court below, the present

criminal original petition has been preferred, at the instance of the respondent, as petitioner.

5. The learned Special Public Prosecutor has contended that in the petition, the petitioner has not given proper description so as to identify the documents alleged to have been seized from his father-in-law's house. Under the said circumstances, the respondent is not in a position to submit all those documents into Court, but the Court below, without considering the contention put forth on the side of the petitioner/respondent, has erroneously allowed the petition and therefore, the order passed by the Court below is liable to be set aside.

6. The learned counsel appearing for the respondent/petitioner has contended that at the time of investigation so many documents have been seized by the respondent, but those documents have not been submitted into Court. Under the said circumstances, the present petition has been filed for getting the relief sought therein and the Court below, after considering the nature of the relief sought in the petition, has rightly allowed the same and therefore, the order passed by the Court below does not call for any interference.

7. It is an admitted fact that the present petition has been filed under Section 457 of the Code of Criminal Procedure, 1973. It is also equally an admitted fact that the petitioner has been arrayed as first accused in Calendar Case No.19189 of 2005. During the course of investigation, the petitioner/respondent has seized certain documents and those documents are relied upon in the final report.

8. The only defence taken on the side of the petitioner/respondent is that the respondent/petitioner has not given proper description with regard to documents. In fact, this Court has perused the petition in question, wherein proper description has not been given with regard to documents. Further, on the side of the respondent/petitioner, except the petition, no other document has been filed with regard to the alleged seizer of documents. Under the said circumstances, at the most, the petitioner/respondent can be directed to submit all the documents into Court, which have been mentioned in the final report and to that extent, the present criminal original petition can be allowed.

In fine, this criminal original petition is allowed in part. The order dated 31.12.2014, passed in CrI.M.P.No.1119 of 2014 in Calendar Case No.19189 of 2005, by the Court below

is modified as follows:

The petitioner/respondent is directed to submit all the documents into Court, mentioned in the final report.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

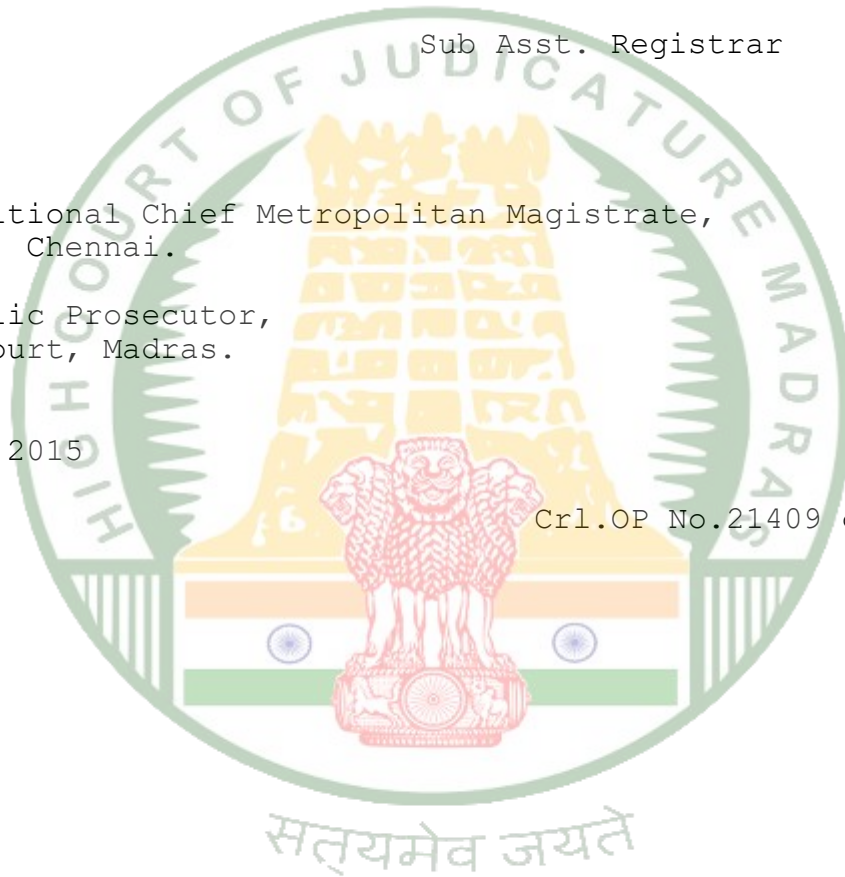
msk
To

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

2 The Public Prosecutor,
High Court, Madras.

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kra 24.11.2015

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