

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.03.2015

Coram

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

Crl.O.P.No.25862 of 2014

Gajendhiran

.. Petitioner/Accused

Vs.

State by Inspector of Police
Annamalai Nagar Police Station,
Chidambaram,
Cuddalore District.
(Crime No.243 of 2014)

... Respondent/Complainant

Prayer :- Criminal Original Petition is filed under Section 482 Cr.P.C. against the order dated 6.9.2014 made in CA.No.175 of 2014 passed by the Judicial Magistrate No.I, Chidambaram.

For Petitioner : M/s.R.Thamarai Selvan & M.K.Raja
For Respondent : Mr.C.Emalias APP

O R D E R

The accused is the petitioner herein. The order impugned herein is one, in and under which, the learned Judicial Magistrate No.I, Chidambaram denied the copy of the confession statement of the accused at the stage of preliminary investigation.

2.The petitioner/accused sought for the copy of the following documents in Annamalai Nagar Police Station Cr.No.243/2014 (i)FIR (ii)complaint and (iii)confession statement. While the Judicial Magistrate No.I, Chidambaram granted the relief in respect of the documents 1 and 2, denied the same in respect of the last document i.e. Confession statement of the accused. Hence, this criminal original petition before this court.

3.The petitioner has in this Crl.O.P, seriously questioned the denial of the document by resorting to Section 339 of the Criminal Rules of Practice, according to which, the petitioner is entitled to copies of any portion of the record of a criminal case on payment of the proper stamp and the authorized fee for copying.

4. In my considered view, the issue involved herein i.e., as to whether the accused is entitled to copy of the confession statement recorded under section 164 Cr.P.C, is well laid down by the full bench of our High court in the judgment reported in AIR 1961 Madras 92 (State of Madras v. G.Krishnan), wherein, the Full Bench has, after elaborately going into the provisions of Criminal Procedure Code and constitution position, answered the question referred to the same that (i) the statements recorded under section 164 Cr.P.C would be public documents falling under section 74(1)(iii) of the Indian Evidence Act; (ii) the accused will be entitled to copies of the same as a person interested; (iii) but his right to obtain such copies before the filing of the charge sheet has been taken away by implication by the provisions of Section 173(4) of the Cr.P.C and that he will be entitled to the copies of the documents only in accordance therewith. The full bench, before concluding so, in para 35 dealt with the right of the parties to the grant of copies of records under 339 of the Criminal Rules of Practice and observed that the rule merely states that copies of records in criminal cases must be furnished to the parties concerned on payment of proper stamp charges and that would not entitle the parties to copies of those documents, which under the law could not be granted till after a particular stage is reached. Such particular stage, according to the opinion rendered by the full bench, will arise only after filing of the charge sheet and not before the same.

5. The same view of the Full bench was followed by the learned brother judge S.Nagamuthu, J. in the recent decision reported in 2012 (3) MWN (Cr.) 351 (Natarajan v. State of Tamil Nadu), wherein similar issue was raised on the side of the accused i.e., certified copies of the statements of witnesses recorded under Section 164 and the Judicial Magistrate declined to furnish the copy of the statement to the accused by stating that as per the circular and the order of the High court reported in 1988 LW (Cr1) 503 (Selvanathan @ Raghavan and 9 others v. State), the petitioner was not entitled to the copy of statements recorded under section 164 Cr.P.C, when the investigation is pending. The same was challenged before this court by way of OP. The learned brother judge has, after elaborately considering the principles laid down by the full bench in the decisions reported in AIR 1961 Mad 92 and 1988 LW (Cr1) 503 (cited supra) and after distinguishing the same and by referring to the judgments of the learned single judge reported in 2009 (1) MWN (Cr.) 298 (Rev.Samuel D.Stephens & others v. Pastor A.Samuel Ramasamy) and CDJ 2010 MHC 5980 (Arjunan v. State of Tamil Nadu), ultimately upheld the order of the trial court. While doing so, the learned brother judge held that the law laid down by the full bench of our High Court in AIR 1961 Mad 92 is applicable to the documents in question and by applying the same, the learned Judicial Magistrate was right in declining to furnish the copy of the statement recorded under Section 164 Cr.P.C

to the petitioner on the ground that the investigation was pending and the final report has not been filed.

6.In my considered opinion, same view is applicable to the facts of the present case and the impugned order of the learned Judicial Magistrate hence warrants no interference by this court.

7.In the result, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I, Chidambaram.

2.The Inspector of Police
Annamalai Nagar Police Station,
Chidambaram, Cuddalore District.

3.The Public Prosecutor, High Court, Madras-104.

1 cc to Mr.M.K.Raja ,Advocate, SR.No.16098

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