

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

CrI.O.P No.3111 of 2011
& M.P.Nos.1 and 2 of 2011

1. S.Annamalai
2. Vijayasingh Chelladuhurai
3. G.Adipathy
4. S.Senthil Kumar
5. T.Willington
6. S.Rajarathinam .. Petitioners(Accused 3 to 8)

Vs.

The Inspector of Police
CBI: EOW: Chennai ... Respondent(Complainant)
FIR No.RC.15/E/2009/CBI/EOW/Chennai)

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings pending against the petitioners in C.C.No.333 of 2010 on the file of the learned Judicial Magistrate No.2, Karaikal.

For Petitioners : Mr.B.Kumar, Senior Counsel for
Mr.H.Rajasekar
For Respondent : Mr.K.Srinivasan,
Spl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed under section 482 of Code of Criminal Procedure, 1973 praying to call for the records relating to Calendar Case No.333 of 2010 pending on the file of Judicial Magistrate No.2, Kariakal.

2. The material averments made in the petition are that the first accused is Public Limited Sector Company under the name and style of M/s.Karaikal Chlorates (unit of MEPCO Industries Limited) and it manufactures Potassium Chlorate and the same has to be used in match industries. The second accused has been acting its Managing Director and ninth accused is the Manager in-charge of production. The present petitioners are nothing but Directors of the first accused and they have been erroneously arrayed as accused Nos.3 to 8. Further it is averred in the petition that the petitioners are having no connection in day to day affairs of the first accused, but the respondent has erroneously implicated them

as accused Nos.3 to 8. Under the said circumstances, present petition has been filed for getting the relief sought for therein.

3. The learned senior counsel appearing for the petitioners has contended to the effect that the second accused is the Managing Director of the first accused and ninth accused is the Manager in-charge of production and the present petitioners are nothing but the Directors of the first accused and they have no connection whatsoever with the offences alleged to have been committed by the accused punishable under sections 120-B and 420 of Indian Penal Code and also under sections 7(1)(a)(ii) and 10 r/w 3 of Essential Commodities Act read with Clause 25(1) and (2) of Fertilizer Control Order, 1985. Under the said circumstances, present petition has been filed for quashing the criminal proceedings pending against them.

4. The learned Special Public Prosecutor appearing for the respondent has contended that in the final report, in some places, the petitioners have been mentioned as Directors of the first accused and since the petitioners are the Directors of the first accused, they are also liable for the offences mentioned in the final report and therefore, present petition deserves to be dismissed.

5. As pointed out earlier, the first accused is a Public Limited Company, wherein the second accused has been acting as Managing Director and ninth accused has been acting as Manager in-charge of production.

6. The main allegation made on the side of the prosecution is that even though the concerned fertilizers are meant for farmers at subsidy rates, the same have been sold to match industries and the same is prohibited under the Fertilizer Control Order, 1985.

7. In fact, this Court has perused the entire allegations made in the final report, wherein in some places, it has been simply mentioned that the petitioners are the Directors of the first accused. Except by way of mentioning the status of the petitioners, no other allegations are found that the petitioners are also involved in the commission of offences. It is an admitted fact that the petitioners are the Directors of the first accused. The entire administration or day to day affairs, are being managed by the second accused as Managing Director along with the ninth accused.

8. Considering the fact that no specific allegations have been made against the petitioners in the final report, simply because the petitioners are the Directors of the first accused, the Court cannot come to a conclusion that the petitioners are also having connection with the alleged offences mentioned in the final report. Therefore, viewing from any angle, the petitioners cannot be prosecuted. Under the said circumstances, the relief sought for in the present petition can be granted.

In fine, this Criminal Original Petition is allowed and the proceeding in C.C.No.333 of 2010 pending on the file of Judicial Magistrate No.2, Karaikal, insofar as the petitioners are concerned (A.3 to A.8) is quashed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS II)

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Sub Asst. Registrar

ajr
To

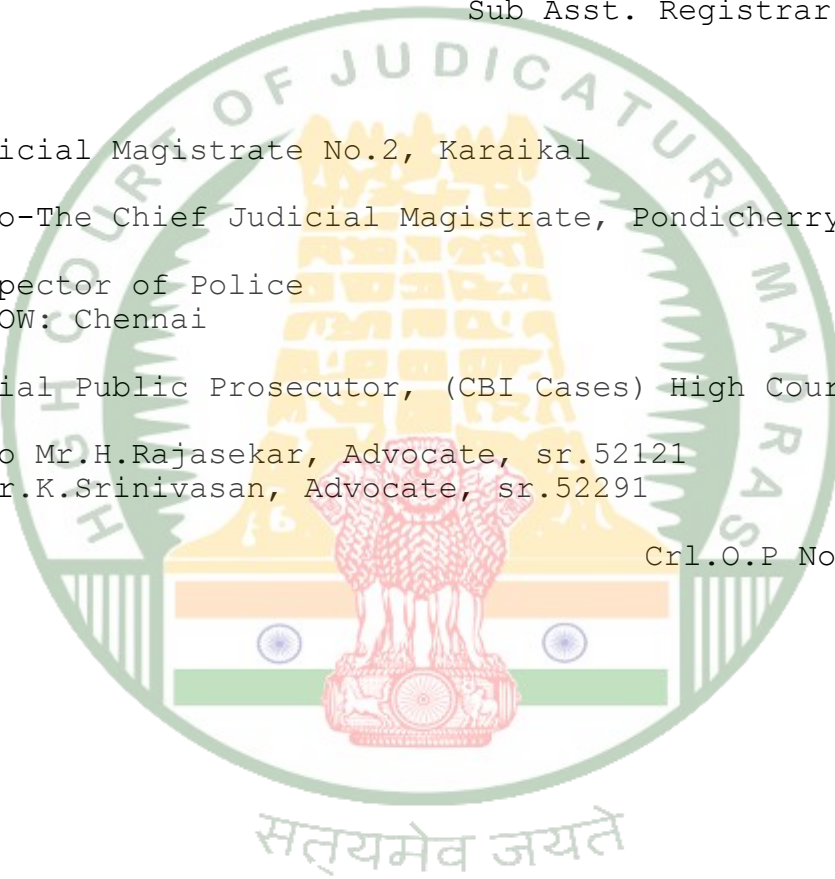
1. The Judicial Magistrate No.2, Karaikal
2. -do-Thro-The Chief Judicial Magistrate, Pondicherry.
3. The Inspector of Police
CBI: EOW: Chennai
- 4.The Special Public Prosecutor, (CBI Cases) High Court, Madras.

+1 cc to to Mr.H.Rajasekar, Advocate, sr.52121

+1 cc to Mr.K.Srinivasan, Advocate, sr.52291

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