

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Original Petition No.7660 of 2015

V.Kannathasan

.. Petitioner

Vs

State rep. by
The Inspector of Police,
SPE/CBI/ACB,
Chennai.

Crime No.RC.59(A)/2009

.. Respondent

Prayer :- This Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the entire records from the learned XII Additional Special Judge for CBI Cases, Chennai pertaining to C.C.No.4 of 2013 and quash the Final Report (charge sheet) filed by the respondent/complainant in C.C.No.4 of 2013.

For Petitioner : Mr. A.L.Somasundaram
for M/s.Lakshmipriya Associates

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor for
CBI Cases

ORDER

This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure 1973, praying to call for records pertaining to Calendar Case No.4 of 2013, pending on the file of the XII Additional Special Judge for CBI Cases, Chennai and quash the same.

2. It is averred in the petition that the present petitioner has been arrayed as first accused and during relevant period, he served as Assistant Commissioner, Central Excise Customs Department. The respondent has conducted an investigation and also conducted raid and nothing has been found out against the present petitioner. Further, the respondent has shown mother, brother, sister and wife of the present petitioner as accused. Since the petitioner had no connection whatsoever in the alleged offences, the present petition has been filed for getting the relief sought therein.

3. On the side of the respondent, a detailed counter has been filed, wherein it has been contended inter alia to the effect that sufficient materials are available, so as to proceed against the petitioner. Under the said circumstances, the relief sought in the present petition cannot be granted and altogether, the same is liable to be dismissed.

4. The learned counsel appearing for the petitioner has contended that during relevant period, the petitioner has served as Assistant Commissioner, Central Excise Customs Department and he has not done anything. Even at the time of conducting raid, no incriminating materials are found out against the petitioner and therefore, the petitioner has been unnecessarily dragged on in the present proceedings. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

5. Per contra, the learned Special Public Prosecutor has contended that eventhough the disputed properties are not standing in the name of the present petitioner, all the properties are standing in the names of the remaining accused and the remaining accused have filed a petition under Section 239 of the Code of Criminal Procedure 1973 for getting discharge on the file of the trial court and the same has also been dismissed and further in Calendar Case No.4 of 2013, on the side of the prosecution, 24 witnesses have been examined. Under the said circumstances, the relief sought in the petition cannot be granted.

6. On the basis of the nature of the relief sought in the petition, a report has been called for from the concerned court and accordingly, the same has been submitted, wherein it has been clearly stated that on the side of the prosecution P.Ws.1 to 24 have been examined. Therefore, it shows that most of the prosecution witnesses have been examined in Calendar Case No.4 of 2013.

7. Considering the fact that most of the prosecution witnesses have been examined in Calendar Case No.4 of 2013, it is not feasible to grant the relief sought in the petition, however, the petitioner is entitled to take such kind of defence in Calendar Case No.4 of 2013 and therefore, the present petition deserves to be dismissed.

In fine, this Criminal Original Petition is dismissed. However, the petitioner is entitled to take defence in Calendar Case No.4 of 2013.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

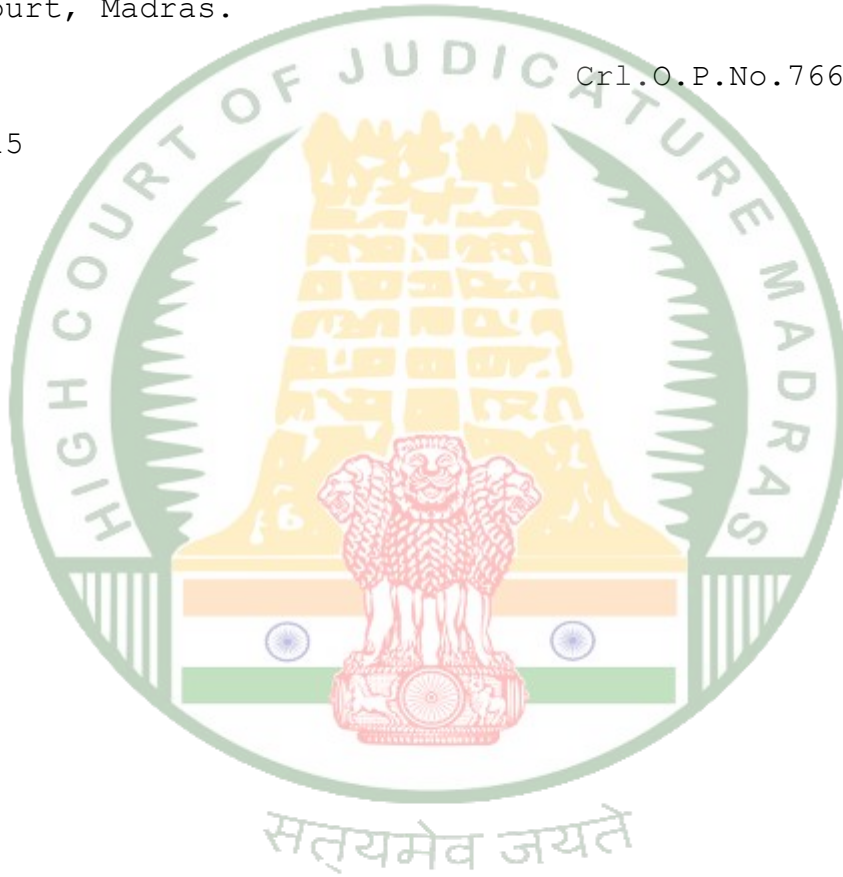
1.The Inspector of Police,
SPE/CBI/ACB,
Chennai.
Crime No.RC.59(A)/2009

2. The XII Additional Special Judge,
XII Additional Special Court for CBI Cases,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

PA(CO)
Eu 24.11.15

CrI.O.P.No.7660 of 2015



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