

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.08.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. O.P.Nos.1851 to 1853 of 2012

K.T.Venkateswaran	.. Petitioner in Crl.O.P.1851/2012
T.S.Venkateswaran	.. Petitioner in Crl.O.P.1852/2012
K.S.Elango	.. Petitioner in Crl.O.P.1853/2012

vs.

1. The State
rep.by the Inspector of Police
CBI/BS & FC/Bangalore
2. The Chairman and Managing Director
Indian Bank
Head Office
NO.240-245, Avvai Shanmugam Salai
Royapettah, Chennai 600 014

.. Respondents in all Crl.O.Ps.

Prayer in Crl.O.P.No.1851/2012: Petition under Section 482 of Criminal Procedure Code to set aside the order dated 3.12.2011 made in Crl.M.P.No.6810 of 2011 in C.C.No.71 of 2001 on the file of VIII Additional, Principal Special Judge for CBI cases, dismissing the petition filed by the petitioner under section 91 of Cr.P.C.

Prayer in Crl.O.P.No.1852/2012: Petition under Section 482 of Criminal Procedure Code to set aside the order dated 3.12.2011 made in Crl.M.P.No.6809 of 2011 in C.C.No.71 of 2001 on the file of VIII Additional, Principal Special Judge for CBI cases, dismissing the petition filed by the petitioner under section 91 of Cr.P.C.

Prayer in Crl.O.P.No.1853/2012: Petition under Section 482 of Criminal Procedure Code to set aside the order dated 3.12.2011 made in Crl.M.P.No.6934 of 2011 in C.C.No.71 of 2001 on the file of VIII Additional, Principal Special Judge for CBI cases, dismissing the petition filed by the petitioner under section 91 of Cr.P.C.

For petitioner in
all Crl.O.Ps. : Mr.Ramakrishnan for
M/s.Waraon and Sai Rams

For respondents in
all Crl.O.Ps. : Mr.K.Srinivasan
Special Public Prosecutor for
CBI Cases for R1
Mrs.Lita Srinivasan for
M/s.Aiyar & Dolia for R2

COMMON ORDER

These Criminal Original Petitions are directed against the common order dated 3.12.2011 passed in Crl.M.P.Nos.6809, 6810 and 6934 of 2011 in C.C.No.71 of 2001 by the Principal Special Judge for CBI cases, Chennai.

2. The petitioners, as petitioners, have filed Crl.M.P.Nos.6809, 6810 and 6934 of 2011 under section 91 of the Code of Criminal Procedure, 1973 praying to call for certain records. The Court below after considering the rival contentions put forth on either side has dismissed all the petitions by way of passing the impugned common order. Against the common order, these Criminal Original Petitions have been filed.

3. The learned counsel appearing for the petitioners have uniformly contended that the petitioners have been arrayed as accused Nos.6, 8 and 29 and the documents mentioned in the petition are now under the custody of the 2nd respondent and those documents are very much essential to prove their innocence and therefore these petitions have been filed, but the Court below, without considering the purpose for which the documents mentioned in the petition are to be sent for, has erroneously dismissed all the petitions and therefore the common order passed by the Court below is liable to be set aside.

4. The learned Special Public Prosecutor appearing for the first respondent has contended that already a specific direction has been given so as to dispose of C.C.No.71 of 2001 by the Hon'ble Supreme Court and in C.C.No.71 of 2001 several witnesses have been examined and only for the purpose of protracting the proceedings, these petitions have been filed and the Court below, after considering the evil design of the petitioners, has rightly dismissed all the petitions and therefore the common order passed by the Court below need not be set aside.

5. The learned counsel appearing for the 2nd respondent has also reiterated the contentions put forth on the side of the first respondent.

6. The only point that has to be decided in the present Criminal Original Petitions is as to whether the petitions filed by the revision petitioners/petitioners can be allowed for the reasons mentioned therein?

7. It is an admitted fact that the petitioners have been arrayed as accused Nos.6, 8 and 29. It is also equally an admitted fact that in C.C.No.71 of 2001, some witnesses have been examined and further the Hon'ble Supreme Court has given a specific direction to dispose of C.C.No.71 of 2001 as early as possible.

8. The Court below has dismissed all the petitions mainly on the basis of directions given by the Hon'ble Supreme Court and also on the basis of stage of C.C.No.71 of 2001.

9. As stated earlier, the petitions in question have been filed under section 91 of the Code of Criminal Procedure, 1973 so as to send for the documents mentioned therein. Since the documents in question are under the custody of the 2nd respondent and since those documents are very much essential for the purpose of proving the innocence of the petitioners, this Court is of the view to allow all the petitions.

In fine, these Criminal Original Petitions are allowed and the common order passed in Crl.M.P.Nos.6809, 6810 and 6934 of 2011 in C.C.No.71 of 2001 by the Court below is set aside and Crl.M.P.Nos.6809, 6810 and 6934 of 2011 are allowed. The second respondent is directed to submit the documents available in his custody, especially the specific documents mentioned in the petitions. The Court below is directed to dispose of C.C.No.71 of 2001 as per the direction given by the Hon'ble Supreme Court.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

ajr
To

1. The Inspector of Police
CBI/BS & FC/Bangalore.
2. The Chairman and Managing Director
Indian Bank
Head Office
NO.240-245, Avvai Shanmugam Salai
Royapettah, Chennai 600 014.

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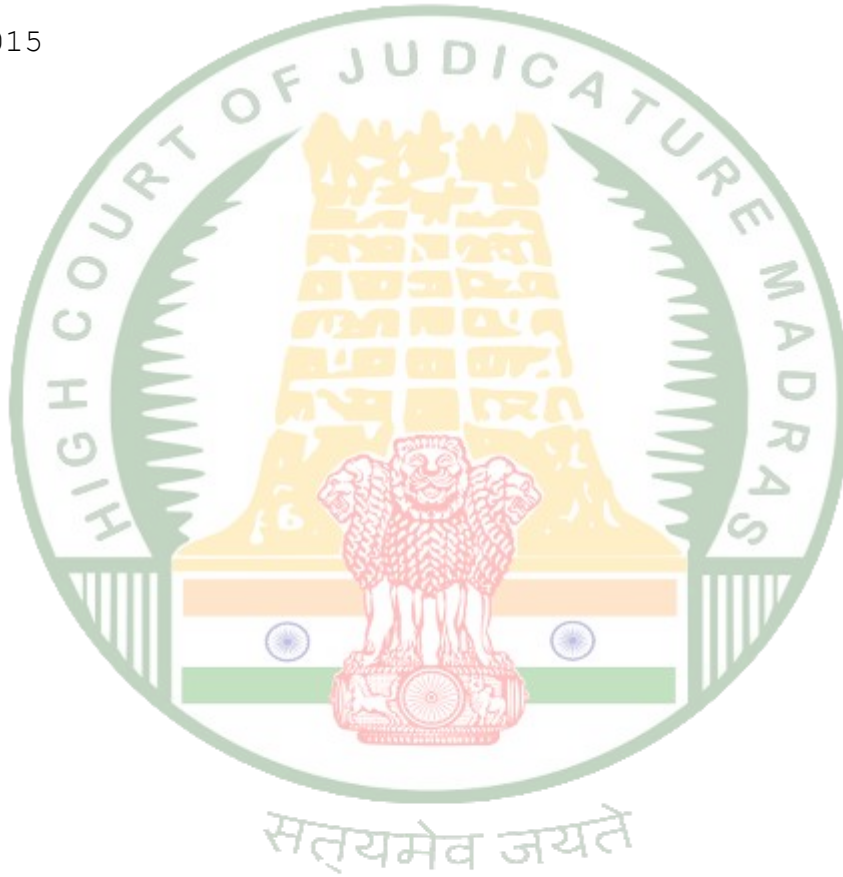
3.The Principal Special Judge for CBI Cases, Chennai.

4.The Public Prosecutor, High Court, Madras.

+3 cc to M/s.Waraon & Sairams, Advocates, sr.42497, sr.42496,
sr.42495 (25/09/2015)

Cr1.O.P.Nos.1851 to 1853 of 2012

skv (co)
pmk.7.9.2015



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