



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2015

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

CrI.O.P. (MD) .No.18293 of 2015

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State through the
Deputy Superintendent of Police,
Q Branch CID,
Madurai Range.
Petitioner/Investigation
Officer in Crime No.47/2014

...

-Vs-

1.Thiruselvam @ Kumar @
Shankar @ Murali @
Murasu @ Kannan

2.Thangaraj @ Tamilarasan
3.Kaviyarasan @ Raja
4.Kalailingam @ Kalai
5.John Martin @ John @ Ilanthanal
6.Karthick

... Respondents/Accused 1 to 6

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 31.10.2014 made in Cr.M.P.No.5562 of 2014 on the file of Judicial Magistrate, Melur in Crime No.47 of 2014 on the file of Othakadai Police Station and direct the Court of Sessions of the Division, Madurai to take cognizance of the above said case as per Section 16(1) of National Investigation Agency Act 2008 without the accused being committed by the Judicial Magistrate Court, Melur and the trial proceedings shall be held expeditiously.

For Petitioner

:Mr.S.Shanmugavelayutham, State P.P
assisted by Mr.C.Ramesh, A.P.P.

O R D E R

This criminal original petition has been filed to to set aside the order dated 31.10.2014 made in Cr.M.P.No.5562 of 2014 on the file of Judicial Magistrate, Melur in Crime No.47 of 2014 on the file of Othakadai Police Station and direct the Court of Sessions of the Division, Madurai to take cognizance of the above said case as per Section 16(1) of National Investigation Agency Act 2008 without the accused being committed by the Judicial Magistrate Court, Melur and the trial proceedings shall be held expeditiously.



2.I have heard the submission made by the learned State Public Prosecutor on behalf of the respondent at the admission stage itself.

3.The trial Court after hearing both sides has dismissed the application filed by the petitioner stating that the case was not conducted by the National Investigation Agency and that case was taken on file in P.R.C.No.16 of 2014 and only the committal will be made. Against the said order, the present application has been filed by the petitioner.

4.The learned State Public Prosecutor would fairly concede that the investigation has been done only by the Q Branch and not by National Investigation Agency. However, as per Sl.No. 2 of schedule of the National Investigation Agency, Act 2008, the offence under the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the National Investigation Agency has right to investigate the matter. Since the offence involved in this case is under Sections 4 and 5 of Explosive Substances Act, 1908 @ 120 (B) of I.P.C. read with Section 121, 121-A, 124-A of I.P.C. and Section 4 and 5 of Explosives Substances Act, 1908 and Section 15 read with 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967, without committing by the Magistrate, the Sessions Court have the original jurisdiction to take the cognizable of offence and hence, he prayed for setting aside the order passed by the learned Judicial Magistrate.

5.In the schedule of the National Investigation Agency Act, 2008, it has been stated under which matter, the National Investigation Agency has power to investigate the matter and in that Sl.No.2 of Schedule, the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) is also included. Here, in this case, in the affidavit also, it is stated that as per the order of the Director General of Police, Tamil Nadu in R.C.No.035291/Crime.3 (1)/2014-1 dated 14.03.2014, the case has been transferred to Q Branch CID and as per the proceedings of the Superintendent of Police, Q Branch CID, Chennai dated 15.03.2014, in C3 No.3446/X/2014/C, the investigation has been done and charge sheet has been filed before the learned Judicial Magistrate. Since the investigation has not been done by the National Investigation Agency, I am of the view that the trial Court has correctly held and passed an order stating that this case was not conducted by the NIA and hence this case was taken on file in PRC 16/14; hence only committed will be made. Therefore, the order passed by the learned Judicial Magistrate, Melur does not suffer any illegality and irregularity. Hence, I do not find any reason to interfere with the same and the petitioner is liable to be dismissed as



6. Accordingly, this criminal original petition is dismissed as devoid of merits.

sd/-

Assistant Registrar(AE)

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Sub Assistant Registrar

Arul

To

1. The Judicial Magistrate, Melur.
2. Do Through The chief Judicial Magistrate, Madurai District.
3. The Deputy Superintendent of Police,
Q Branch CID,
Madurai Range.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD) .No.18293 of 2015

CSL/KBM/09.10.2015
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