



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

CRL.OP.(MD)No.5305 of 2015

V.Ramasubbu

: Petitioner

Vs.

State Rep by,
The Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Tuticorin, Crime No.3 of 2006,
Tuticorin District.

: Respondent

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records from the Lower Court and to duly set aside the orders passed by the learned Special Judge for Prevention of Corruption - cum - Chief Judicial Magistrate, Tuticorin, Tuticorin District, in Crl.MP.No.1623 of 2014, dated 30.01.2015 in Special Case No.1 of 2009.

For Petitioner : Mr.V.Kathirvel
Senior Counsel

For Respondent : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

O R D E R

The petitioner is the accused in Special Case No.1 of 2009, on the file of the learned Special Judge for Prevention of Corruption - cum - Chief Judicial Magistrate, Tuticorin. During the pendency of the said proceedings, the petitioner filed Crl.MP.No.1623 of 2014 under Section 91 of the Code of Criminal Procedure, seeking to send for certain documents. The said petition was dismissed by the Trial Court, by order dated 30.01.2015. Challenging the same, the petitioner has come up with the present Criminal Original Petition.

2. I have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for the respondent and perused the records carefully.

3. The learned Senior Counsel for the petitioner would submit that the documents, as mentioned in Crl.MP.No.1623 of 2014, are very relevant for the petitioner to cross-examine PW-6 and to establish his defence and therefore, according to him, the Trial Court ought to have allowed the said petition.



4. But, the learned Additional Public Prosecutor would submit that earlier, the petitioner filed Crl.OP.[MD].No.9911 of 2014 before this Court seeking to quash the entire proceedings. The said Criminal Original Petition was dismissed by this Court as early as on 18.11.2014 with a direction to the Trial Court to dispose of the same within a period of three months from the date of receipt of a copy of the order. However, without extending his co-operation, the petitioner filed the said petition before the Lower Court seeking to send for the documents only with a view to drag on the proceedings.

5. I have considered the above submissions. A perusal of the order of the Lower Court would go to show that the Lower Court has not stated that these documents are not essential for the accused to cross-examine PW-6 and to establish his defence. The Lower Court has dismissed the petition mainly on the ground that this Court had, earlier, given a direction to dispose of the said case within a period of three months from the date of receipt of a copy of the order. But, without co-operating with the Lower Court, the petitioner had filed the said petition to send for documents. In my considered view, fair trial requires that every reasonable opportunity should be given to the accused. In this case, the documents, as mentioned in the petition, cannot be stated to be totally irrelevant. Therefore, by way of affording a fair trial to the accused, these documents are to be sent for. However, it is seen that the petitioner did not make any such request when Crl.OP[MD].No.9914 of 2014 was disposed of by this Court on 18.11.2014. Thus, it cannot be said that the Lower Court was not right in its finding that the said petition has been filed to drag on the proceedings. Therefore, while allowing this Criminal Original Petition, I am inclined to impose appropriate cost on the petitioner.

6. In the result, this Criminal Original Petition is allowed, the order of the Trial Court is set aside and the Trial Court is directed to send for documents mentioned in Crl.MP.No.1623 of 2014, on condition that the petitioner shall pay a sum of Rs.2,000/- [Rupees Two Thousand Only] as cost to the Government School for the Blind, K.K.Nagar, Madurai, within a period of one week from the date of receipt of a copy of this order. The time granted by this Court in Crl.OP.[MD].No.9911 of 2014 is further extended to another three months to dispose of the case. The Trial Court shall recall PW-6, after the documents sent for are received and the accused shall cross-examine PW-6 thereafter. The cost shall be paid by the petitioner to the Blind School as stated above and the school authority shall purchase blankets for the inmates and distribute the same to them. The said amount of Rs.2,000/- shall be exhausted by the blind school for the said purpose.

NB

Sd/-

Assistant Registrar[AS]

/True copy/

Sub Assistant Registrar

To

1.The Special Judge for Prevention of Corruption

<https://hcservices.ecourts.gov.in/hcservices/>

Cum - Chief Judicial Magistrate, Tuticorin, Tuticorin District.



2.The Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Tuticorin, Crime No.3 of 2006,
Tuticorin District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.K.Prabhu, Advocate SR.No. 34280.

ORDER MADE IN
CRL.OP. (MD) No.5305 of 2015

Dated:26.06.2015

3P/5C
RPB 13.07.2015