

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13215 of 2016

and

CRL.MP.No.6799 of 2016

S.Budhan ... Petitioner/Accused 6.

Vs

1.State by Inspector of Police,
Prohibition Enforcement Wing
Ambattur, Chennai 600 053.
(Crime No.612 of 2004) ... Respondent/Complainant.

2.R.Susil Kumar
Inspector of Police
CBCID, Kamarajar Salai,
Chennai 800 005. ... Respondents/Defacto Complainant.

Prayer:- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the entire records in Charge Sheet No.9 of 2007 on the file of the Inspector of Police, Prohibition Enforcement Wing, Ambattur, Chennai 600 053 before the Hon'ble Judicial Magistrate, Poonamallee and quash the C.C.No.239 of 2007 in so far as it relates to the petitioner herein.

For Petitioner :Mr.R.Jayaraman

For Respondents :Mr.C.Emalias
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed to call for the entire records in Charge Sheet No.9 of 2007 on the file of the Inspector of Police, Prohibition Enforcement Wing, Ambattur, Chennai 600 053 before the Hon'ble Judicial Magistrate, Poonamallee and quash the C.C.No.239 of 2007 in so far as it relates to the petitioner.

2. Heard Mr.R.Jayaraman, learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. It is seen that the respondent police intercepted a vehicle in Aminjikarai on 19.09.2004 and seized huge haul of illicit Arrack and arrested five persons, pursuant to which, a case in crime No.612 of 2004 was registered and after completing the investigation, the respondent police filed a final report against six persons including the petitioner herein for various offences under Sections 4 (1) (aa) and Transporting and 4(1) (aaa) r/w Section 4(1A) of the Tamil Nadu Prohibition Act including the offences under Section 420, 467, 468 & 471 IPC. The seized contraband was found to be atropine, which is a dangerous substance capable of causing death.

4. Mr. R.Jayaraman, learned counsel for the petitioner would submit that the petitioner's name does not figure in the FIR and that, he has been included only in the final report. That apart, he stated that the final report itself has been filed only in the year 2007 and the same was barred by limitation. He further contended that the FIR does not disclose the source of information for the police and therefore, the entire proceedings stand vitiated.

5. Under Section 125 of the Indian Evidence Act, the police are not required to disclose the source of intelligence as that would lead to the accused liquidating the informant. This protection is given to the police statutorily and hence, the non-mentioning of the same, in the FIR is not fatal. That apart, even according to the police only 5 people were arrested and the name of the petitioner figured during interrogation and later, he was arrested and remanded to custody. FIR is not an encyclopedia of criminal prosecution and a person can be included as accused, even if, his name does not figure therein. As regards the period of limitation for an offence under Section 420 IPC, there is no period of limitation as punishment is more than three years.

5. Under such circumstances, this Court does not find any merit in the quash petition and the petition stands dismissed. However, the trial Court is directed to expeditiously conduct the trial in C.C.No.239 of 2007 and complete the same within a period of six months from the date of receipt of a copy of this order. The trial Court shall ensure that the accused cross examines the witnesses on the same day they are examined-in-chief as directed by the Supreme Court in Vinoth Kumar vs. State of Punjab [2015(1) MLJ (crl) 288]. If the petitioner adopts any dilatory tactics, it is open to the trial Court to remand him to

custody in terms of the law laid down by the Supreme Court in State of Uttar Pradesh v. Shambjunath Singh [JT 2001 (4) SC 319]. Consequently, connected miscellaneous petition is closed.
sms

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.II,
Poonamallee.
2. The Inspector of Police,
Prohibition Enforcement Wing
Ambattur, Chennai 600 053.
(Crime No.612 of 2004)
3. R. Susil Kumar,
The Inspector of Police
CBCID, Kamarajar Salai,
Chennai 800 005.
4. The Public Prosecutor,
High Court, Madras.

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