

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.12.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

Crl.O.P No.6688 of 2010

&

M.P.No.1 of 2010

Kadar Mohideen

... Petitioner

vs.

The Intelligence Officer
Narcotic Control Bureau
South Zonal Unit, Chennai

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 27.11.2009 and made in Crl.M.P.No.1126 of 2009 in C.C.No.315 of 2004 on the file of the learned Special Judge, Additional Special Court under NDPS Act, Chennai.

For Petitioner : No appearance

For Respondent : Mr.N.P.Kumar
Spl. Public Prosecutor
of NDPS cases

ORDER

After invoking the provisions of Section 482 of the Code of Criminal Procedure, this petition is filed by the petitioner herein who is the first accused in the case in C.C.No.315 of 2004 to set aside the order dated 27.11.2009 and made in the petition in Crl.M.P.No.1126 of 2009 on the file of the learned Special Judge, Additional Special Court under NDPS Act, Chennai.

2.When the matter is taken up for hearing today, there is no representation for the petitioner. On the other hand, Mr.N.P.Kumar, learned Special Public Prosecutor for NDPS Cases, has submitted that on 28.10.2011 the case in C.C.No.315 of 2004 was disposed of and the petitioner herein along with the other accused was convicted under Sections 29, 21(c) and 25 of the NDPS Act and sentenced to undergo 10 years of rigorous imprisonment for each offence.

3. It is pertinent to note here that the petition in CrI.M.P.No.1126 of 2009, seems to have been filed under Section 311 Cr.P.C to recall Pws 5 and 6. In the impugned order the learned trial Judge has observed that, "for non-payment of batta and in view of the endorsement made by the counsel for the petitioner, this petition is dismissed as not pressed". When the petition in CrI.M.P.No.1126 of 2009 was dismissed as not pressed, present petition ought not to have been taken on file. The act of the concerned officer of the Registry shows nothing but his ignorance. Mr.N.P.Kumar has also filed a memorandum to that effect.

4. The memorandum filed by the learned Special Public Prosecutor for NDPS case is recorded. Since the case in C.C.No.315 of 2014 was ended in conviction, nothing survives for further adjudication in this petition. Hence, this petition is dismissed as infructuous. Consequently, the connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

gpa

To

1.The Special Judge
Additional Special Court under NDPS Act
Chennai

2.The Intelligence Officer
Narcotic Control Bureau
South Zonal Unit, Chennai

CrI. O.PNo.6688 of 2010 &
M.P.No.1 of 2010

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ss(25/01/2017)

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