

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Cr1.R.C.No.456 of 2016

K.Selvam @ Selvaperunthugai

.. Petitioner

Vs.

State represented by
The Deputy Superintendent of Police,
Special Police Establishment,
Central Bureau of Investigation,
Anti-Corruption Branch,
Chennai.

.. Respondent

Criminal Revision Case filed under Section 397(1) read with Section 401 of the Code of Criminal Procedure (Cr.P.C) to call for the records on the file of the Additional Chief Metropolitan Magistrate, Moore Market Complex, Chennai and set aside the order, dated 15.02.2016 passed in Cr1.M.P.No.370 of 2016 in P.R.C.No.148 of 2008.

For petitioner : Mr.A.V.Somasundaram

For respondent : Mr.K.Srinivasan,
Spl.P.P. for CBI cases

ORDER

The petitioner/accused has filed this Criminal Revision Petition to set aside the order dated 15.02.2016 passed in Cr1.M.P.No.370 of 2016 in P.R.C.No.148 of 2008 on the file of the Additional Chief Metropolitan Magistrate, Chennai.

2. Brief facts of the case are as follows:

(a) On 01.05.2003, one T.Nandakumar, the complainant, was walking in front of Ramprasad Hotel on L.B. Road, Adyar, Chennai; at that time, he saw a vehicle rushing from South to East in uncontrollable speed; on noticing the rash and negligent driving, Nandakumar shouted at the Driver of the vehicle to drive properly; on hearing the voice of the said Nandakumar, the said vehicle was stopped immediately and an occupant of the

vehicle came out and stated that he is DPI Selvam; he abused Nandakumar in filthy language; when this insolent behaviour was questioned by Nandakumar, the said Selvam went back to the above said vehicle bearing Registration No.TN-07-R-4361 and he took out a round object and threw it towards the said Nandakumar; the object, on hitting the ground, blasted emitting smoke; the said Nandakumar realised the object to be a bomb and he sustained bleeding injury on his thigh and knees; the said Selvam again threatened Nandakumar and he left in the same vehicle immediately; Nandakumar was subjected to medical examination in the Government Hospital, Royapettah, Chennai, and his medical examination revealed that he sustained minor pellet injury on the right thigh, right leg and left knee.

(b) Nandakumar gave a compliant to the Police in J-6 Thiruvanniyur Police Station, which was registered in Crime No.451 of 2003 for the offences under Sections 294(b), 307 and 506 (Part-2) IPC and Section 3 of the Explosive Substances Act; based on the statement of Nandakumar, the petitioner/accused was arrested on 01.05.2003 and his statement was recorded and four country-bombs were recovered, which were later sent to Bomb Disposal Squad of Tamil Nadu Police Commando School, Chennai, which were defused on confirmation that they were real live explosive substances and the remnants of the defused bombs were sent to Tamil Nadu Forensic Sciences Laboratory, Chennai, and on their further examination, it was confirmed that the sulphur, potassium nitrate, etc., were present on those bombs.

(c) In pursuance of the direction of this Court in CrI.O.P.Nos.3443 to 3446 of 2004, dated 19.04.2004, the Crime Number was re-registered in RC.7/S/2004/CBI/SCB/Chennai by CBI/SCB/Chennai on 30.06.2004; thereupon, CBI sent a letter to the District Collector and District Magistrate, Chennai for consent to proceed against the accused for the said offence under the Explosive Substances Act.

(d) Subsequently, on 01.08.2008, charge-sheet was filed against the accused in the case before the Additional Chief Metropolitan Magistrate, Egmore, Chennai; on 14.08.2009, the case was committed by the Additional Chief Metropolitan Magistrate, Chennai to the Special Judge for Bomb Blast Cases, Poonamalle and thereafter, the case was returned to the file of the Additional Chief Metropolitan Magistrate, Chennai, for want of consent to prosecute the petitioner/accused.

(e) On 15.02.2011, by letter No.A5/18018/2007, the District Collector and District Magistrate, Chennai denied to give consent to proceed against the accused in respect of the offence under Section 3 of the Explosive Substances Act. On 12.07.2011, the CBI, SCB, Chennai against requested the District Collector

and District Magistrate, Chennai to re-consider for giving consent to proceed against the petitioner.

(f) In the meanwhile, the petitioner filed CrI.O.P.Nos.15458 to 15460 of 2010 before this Court. On 08.10.2013, the District Collector and District Magistrate, Chennai sought for the stage of the case. On 30.10.2013, the CBI, SCB, Chennai, sent a reply to the District Collector and District Magistrate, Chennai informing the stage of the case and again requested for re-considering the grant of consent to proceed against the petitioner/accused. On 12.11.2013, the above said CrI.O.P.No.15458 of 2010 was dismissed and in view of the said dismissal, CrI.O.P.Nos.15459 and 15460 of 2010 were closed by this Court as no further order was necessary to be passed in those two cases. While dismissing the said CrI.O.P.No.15458 of 2010, this Court observed that if sanction has not been accorded by the authority, the trial Court cannot include the charge in the charge sheet and it was further observed that it is for the Judicial Magistrate to consider the said aspect and when raised, the Judicial Magistrate shall consider the same in accordance with law. Thereafter, on 07.08.2015, 03.11.2015 and 05.04.2016, reminders were sent by CBI, SCB, Chennai to the District Collector and District Magistrate, Chennai requesting to re-consider the grant of consent for proceeding against the petitioner/accused.

(g) In the above backdrop, CrI.M.P.No.370 of 2016 was filed under Section 190 Cr.P.C. read with Section 7 of the Explosive Substances Act, by the petitioner before the trial Court to delete the charge framed against him under Section 3 of the Explosive Substances Act. By the impugned order, dated 15.02.2016, the trial Court dismissed the said CrI.M.P., against which, the present CrI.R.C. is filed by the petitioner/accused.

3. When this CrI.R.C. is taken up for hearing, learned Additional Public Prosecutor submitted that the request of the CBI for re-considering the grant of consent for prosecuting against the petitioner/accused under Section 3 of the Explosive Substances Act, was once again rejected by order dated 18.06.2016 in Lr.No.A5/18018/2007 by the District Collector, Chennai.

4. In view of the above submission made by the learned Additional Public Prosecutor, I am of the view that there is no need to give any specific direction in this CrI.R.C. or to set aside the impugned order, since the request of the CBI for proceeding against the petitioner/accused was denied on more than one occasion while the CBI sought for considering/re-considering their request for grant of consent to prosecute against the petitioner/accused under Section 3 of the Explosive Substances Act.

5. Accordingly, while disposing of this CrI.R.C., this Court

directs the trial Court to proceed against the petitioner/accused in respect of the offences under Sections 324 and 506 (Part-2) IPC and complete the trial as early as possible and dispose of the case, preferably within a period of six months from the date of receipt of a copy of this order along with records from this Court. It is needless to say that the petitioner/accused and the prosecution shall co-operate for early completion of the trial and disposal of the case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Additional Chief Metropolitan Magistrate,
Moore Market Complet (previously Egmore), Chennai.
2. The Deputy Superintendent of Police,
Special Police Establishment,
Central Bureau of Investigation,
Anti-Corruption Branch, Chennai.
3. The Special Public Prosecutor (CBI Cases), High Court, Madras.
4. The Record Keeper, Criminal Section (Records),
High Court, Madras.

1 cc to Mr.A.V.Somasundaram, Advocate, sr.35122

sks co
kra 24.06.2016

Cr1.R.C.No.456 of 2016

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