

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.718 of 2016

and Crl.MP.No.5252 of 2016

Suresh

.. Petitioner/Accused 4

Vs.

State by Intelligence Officer,
Narcotic Control Bureau
South Zone Unit,
Chennai-90.

.. Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 13.04.2016 made in Crl.MP.No.738 of 2016 in CC.No.36 of 1995 passed by the learned I Additional Special Judge under NDPS Act cases, Chennai.

For Petitioner : Mr.R.Rajan

For Respondent : Mrs.N.P.Kumar, Spl.PP for NCB cases.

ORDER

The criminal revision is directed against the order passed by the learned I Additional Special Judge under NDPS Act cases, Chennai made in Crl.MP.No.738 of 2016 in CC.No.36 of 1995, dated 13.04.2016.

2.The learned counsel for the petitioner mainly contended that the trial Court without considering the lapse of 21years and having examined 82 witnesses in the present case. The trial Court failed to note that more than 60 witnesses to be examined. The prosecution filed this petition to include new witness in the list, is only to drag on the proceedings. The trial Court without considering the above facts erroneously allowed the petition filed by the prosecution and the learned counsel prays to set aside the order of the trial Court and to allow the criminal revision.

3.The learned Special Public Prosecutor for NCB cases vehemently contended that the prosecution after analysing the entire facts and circumstances of the case passed the order and there is no illegality or infirmity in the order passed by the trial Court and the learned counsel prays for dismissal of the writ petition.

4.Heard the rival submissions made on both sides and perused the records.

5.Admittedly, in CC.No.36 of 1995 is filed against the revision petitioner and others, which is pending for more than 21years. The prosecution admitted that nearly 82 witnesses have been examined and 61 witnesses has to be examined. The investigation was done by one Mohan, Intelligence Officer, NCB, South Zone, Madras who retired from service long back and he is not available in India to give evidence, but settled in foreign country. It is also admitted that the above said Mohan was worked under the proposed witness/S.S.Krishnamoorthy, who was the then Assistant Director of NCB. The said Mohan worked under Krishnamoorthy who was the then Assistant Director of NCB and he knows the signature of Mohan, the said Krishnamoorthy should have been very much familiar with the signature of the Mohan. Hence, in order to avoid further delay on the part of the prosecution, the respondent/NCB filed petition to include the name of Krishnamoorthy in the list of witness before the trial Court.

6.Considering the pendency of the case for more than 21years and also the Intelligence Officer/Mohan who is not available in India to give witness and the only person available is Krishnamoorthy who was the then Assistant Director of NCB and he knows the signature of Mohan. The trial Court after considering the above said aspects, rightly allowed the case of prosecution permitting the respondent/NCB to add Kirshnamoorthy as one of the witnesses in the list. This Court finds there is no illegality or infirmity in the order passed by the trial Court and the same does not warrant any interference by this Court.

7.In the result, the criminal revision petition stands dismissed. consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

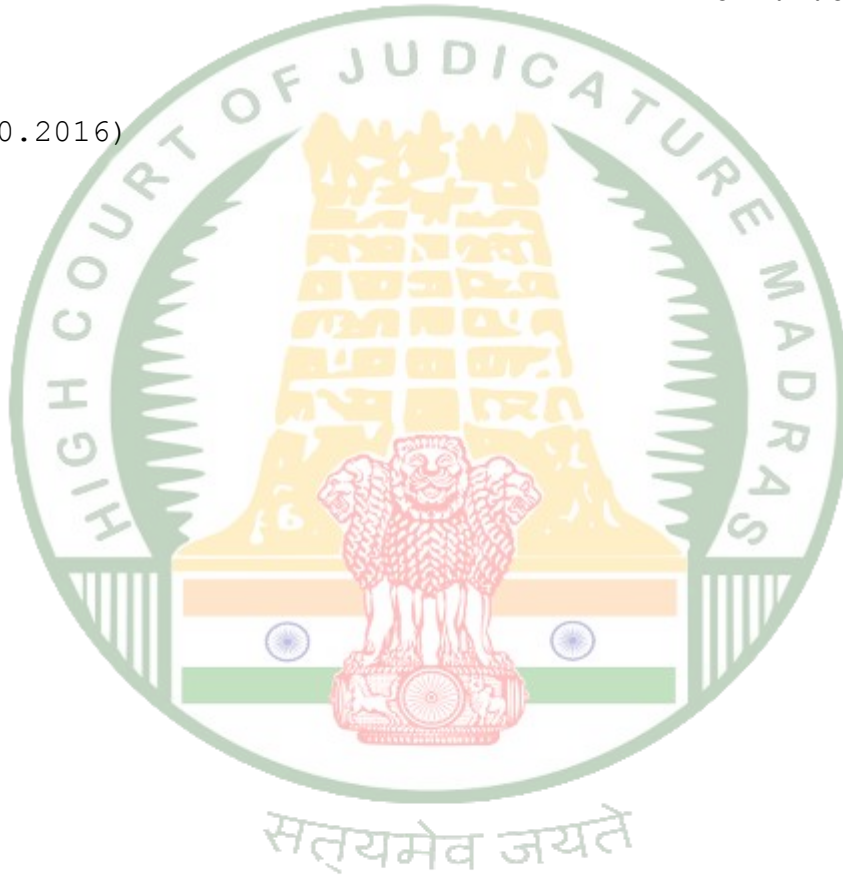
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To

1. The Special Judge, I Additional Special Court under NDPS Act, Chennai.
2. The Special Public Prosecutor (NCB cases), High Court, Madras.

CrI.R.C.No.718 of 2016

MG (CO)
KP (22.10.2016)



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