

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

CrI.O.P.No.1729 of 2016 &
M.P.No.829 of 2016

Mahendran

... Petitioner

Vs

State of Tamilnadu
by the Inspector of Police,
Mettur Police Station,
Salem District.
Cr.No.250 of 2008 ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records in C.M.P.No.216 of 2015 in S.C.No.4 of 2010 on the file of the learned I Additional Sessions Judge, Salem dated 16.10.2015 and set aside the same.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

O R D E R

This petition has been filed to call for records in C.M.P.No.216 of 2015 in S.C.No.4 of 2010 on the file of the learned I Additional Sessions Judge, Salem dated 16.10.2015 and set aside the same.

2. The petitioner, is arrayed as A2 for the offences punishable under sections 147, 148, 341, 307, 302 r/w.34 of IPC. In this case, already prosecution evidence is over and questioning under section 313 Cr.P.C. is also over. When the matter is posted for defence evidence, he has filed this application under section 91 Cr.P.C. to send for documents from the respondent police and to produce the same. The learned I Additional Sessions Judge, Salem after hearing the same, dismissed the application. Challenging the same, the

petitioner would submit that he was wrongly roped in the case and the documents mentioned in the petition is necessary to prove his defence and that factum has not been considered by the trial Court. Hence, he prayed to send for the document for establishing his case and prayed for an order.

3. Resisting the same, the learned Additional Public Prosecutor would submit that these documents are not necessary for the case and that factum has been rightly considered by the trial Court and there is no reason for reviewing the same and prayed for dismissal of this petition.

4. Considering the rival submissions made on both sides and on perusal of typed set of papers, the petitioner is arrayed as A2 in S.C.No.4 of 2010 and is facing charges under sections 147, 148, 341, 307 and 302 IPC. After framing of charges, prosecution evidence is over and after questioning under section 313 Cr.P.C., now this case is posted for defence evidence. At that time, he has come forward with this application to send for documents under section 91 of Cr.P.C. The counter foil of the copy of Accident Register has already been marked as Ex.A.7. Furthermore, the Mortuary Register is not relevant to decide the case. In such circumstances, the trial Court has rightly held that those documents from the Government Hospital, Mettur is not relevant to decide the matter, since already the Accident Register Copy has been marked. In respect of the other documents, the case diary, the accused is not entitled peruse and only the prosecution and the Court are empowered to peruse the case diary. The trial Court relying upon the judgment reported in 2008 Criminal Law Journal Vol.3 P.3300 rightly rejected the claim. So, that finding is hereby confirmed. In respect of the other documents is concerned, it was held that the documents 2 to 5, as per the Official Manual of Madras Police the documents will be preserved only for one year. The occurrence took place on 19.6.2008. But this application has been filed on 25.08.2015, nearly after seven years. Furthermore, the learned counsel for the petitioner has not submitted how those documents are relevant to their defence before this Court. In such circumstances, I am of the view that the trial Court had considered all the aspects and has come to correct conclusion and I do not find any reason to interfere with the order passed by the trial Court and this petition is liable to be dismissed.

5. Hence, this Criminal Original Petition is dismissed. Since the case in S.C.No.4 of 2010 is pending for defence evidence, the trial Court, the I Additional Sessions Judge, Salem is directed to dispose this case within a month from the

date of receipt of a copy of this Order. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The I Additional Sessions Judge,
Salem.
 2. -do- Through Principal Sessions Judge, Salem.
 3. The Inspector of Police,
Mettur Police Station,
Salem District.
 4. The Public Prosecutor, High Court, Madras.
- + 1 cc to MR.M. Devaraj, Advocate Sr.9275

Cr1.O.P.No.1729 of 2016

RSY(CO)
EU 25.02.16

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