

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS

Crl.O.P. No.1776 of 2016 and
Crl.M.P.No.871 of 2016

J.Swaminathan

.. Petitioner/2nd accused

Vs.

The State

Rep. by Inspector of Police,
Central Bureau of Investigation,
Economic Offences Wing,
Chennai

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records culminated in the order dated 07.01.2016 in Crl. M.P. No. 1692/2015 in C.C. No. 458/2013 pending on file of the Additional Chief Metropolitan Magistrate Egmore (now at Moore Market Complex Allikulam), Chennai.

For Petitioner : Mr.K.M.Aasim Shehzad for

M/s.BFS Legal

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor for CBI.

सत्यमेव जयते
O R D E R

A2 in C.C.No.458/2013 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore at Allikulam challenges the dismissal of his discharge petition in Crl.M.P.No.1692 of 2015.

2. Beforehand, we wish to clear a muddle. The said M.P.No.1692 of 2015 is a discharge petition, while Crl.M.P.No.86 of 2016 is a petition filed under Section 309 Cr.P.C. If one read the impugned order, it would appear to have been disposed of like a petition under Section 309 of Cr.P.C. Actually, what was passed in the mind of the trial Court is disposal of the

discharge petition, namely, M.P.No.1692/2015. Thus, we will proceed to deal with the disposal of the said M.P.No.1692 of 2015.

3. The learned counsel for the petitioner narrated a short bio-data of this case. Unravelling it is not necessary as we are going to dispose of this petition on a short point, namely, whether reasonable opportunity has been give to the petitioner in the disposal of the discharge petition.

4. The learned Special Public Prosecutor for CBI cases would submit that in spite of several opportunities, petitioner bent upon prolonging the matter. However, he will not stand in the way of giving him an opportunity, but his fear is that it should not be taken as an opportunity to protract the case further.

5. I have considered their respective submissions, perused the impugned order and the materials on record.

6. A reading of the impugned order dated 7.1.2016 shows that the Trial Court having dissatisfied with the request of the petitioner for adjournment for more than one occasion it had dismissed his discharge petition. It was dismissed not on merits. Thus an opportunity to argue the discharge petition should be given to him. But, at the same time, the fear expressed by the prosecution cannot be lost sight of. Accommodating the submissions of both side, we shall pass an appropriate order.

7. Ordered as under:

(i) Criminal Original Petition is allowed.

(ii) The order of the learned Additional Chief Metropolitan Magistrate, Egmore passed in CrI.M.P.No.1692 of 2015 on 7.1.2016 is set aside.

(iii) The learned Additional Chief Metropolitan Magistrate, Chennai shall take up CrI.M.P.No.1692 of 2015 on 17.2.2016 and after giving opportunity to both sides and shall dispose of the same expeditiously according to law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Chief Metropolitan Magistrate,
Egmore at Allikulam, Chennai.

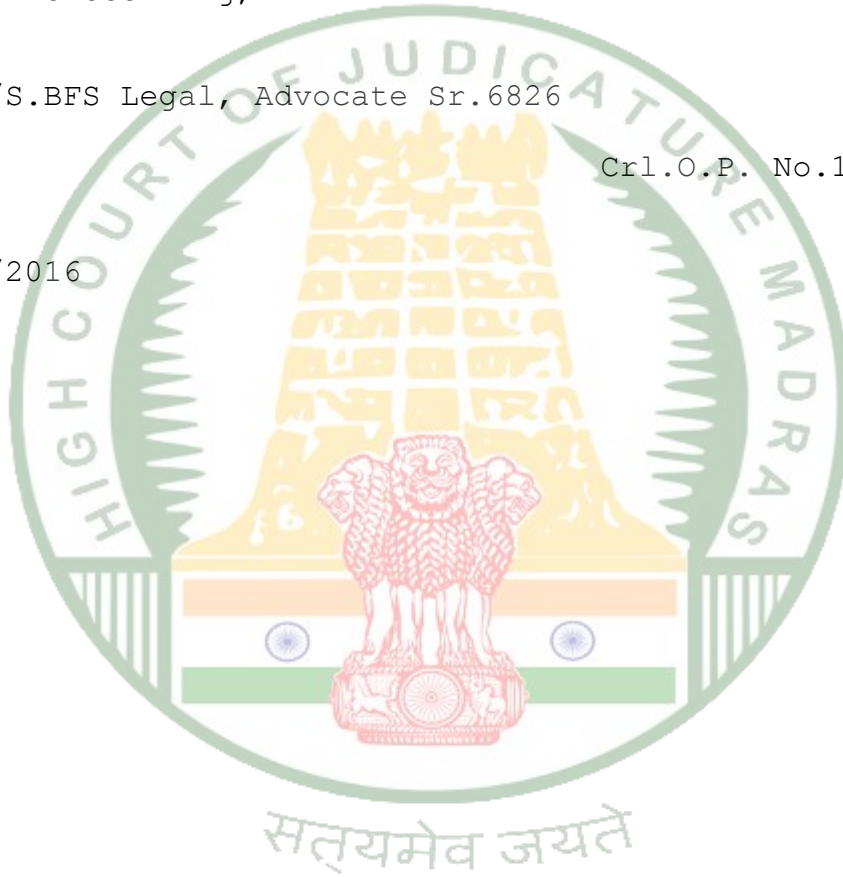
2.The Special Public Prosecutor,
CBI, Madras

3. Inspector of Police,
Central Bureau of Investigation,
Economic Offences Wing,
Chennai.

+1cc to M/S.BFS Legal, Advocate Sr.6826

Crl.O.P. No.1776 of 2016

vs[co]
srg 04/02/2016



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