

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.18167 of 2009 & M.P. No.1 of 2009

A.R. Senthilkumar

... Petitioner

vs.

State by
the Inspector of Police
Civil Supplies CID
Vellore
Vellore District
Cr. No.256/2009

... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the entire records concerned in Cr. No.256 of 2009 on the file of the Inspector of Police, Civil Supplies CID, Vellore, Vellore District and quash the same insofar as it relates to the petitioner.

For petitioner Mr. C. Prakasam

For respondent Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the entire records concerned in Cr. No.256 of 2009 on the file of the Inspector of Police, Civil Supplies CID, Vellore, Vellore District and quash the same insofar as it relates to the petitioner.

2 Heard both sides.

3 On 09.06.2009, a team of officers headed by the Special Tahsildar, Flying Squad, Vellore, on prior intelligence that public distribution rice is being transported in a lorry bearing Registration No.TN 21 L 8768, was laying in wait, in the route of the lorry and they signalled asking the lorry driver to stop the lorry, despite which, the lorry driver abandoned the lorry at a deserted place and fled away. The police seized the lorry and during enquiry, they learnt that rice is being transported

by one Venkatesan of Pernampet to one Senthil Kumar in Andhra Pradesh. Hence, an FIR was registered in Cr. No.256 of 2009 on 09.06.2009 under Clause 6(4) of TNSC (RDCS) Order, 1982 read with Section 7(1)(a)(ii) of the Essential Commodities Act and Section 403 IPC against 4 accused, viz., lorry driver (A1), Venkatesan (A2), Senthil Kumar (A3) and the owner of the lorry (A4). Challenging the FIR, Venkatesan filed CrI.O.P. No.13523 of 2009, which was allowed by this Court on 22.02.2011 and the FIR was quashed as against Venkatesan (A2).

4 This Court perused the order dated 22.02.2011 passed by this Court in CrI.O.P. No.13523 of 2009, wherein, this Court has given a finding in favour of Venkatesan that the entire prosecution has been engineered by the police.

5 The learned Additional Public Prosecutor submitted that the petitioner is a notorious rice smuggler and there are cases registered against him and that he is an absconding accused.

6 In the considered opinion of this Court, that cannot be a good reason for not extending the benefit of the order dated 22.02.2011 passed by this Court in CrI.O.P. No.13523 of 2009, to the petitioner, especially when the State had not taken the matter on appeal to the Supreme Court.

7 Thus, in the teeth of the order passed by this Court holding that the entire prosecution is a mala fide one, the FIR in Crime No.256 of 2009 is quashed in respect of all the accused, other than in respect of Venkatesan, inasmuch as, the FIR as against him has already been quashed by this Court vide order dated 22.02.2011.

8 It is made clear that this Court, by order dated 22.02.2011, has quashed the FIR as against the principal accused Venkatesan, who is stated to have transported rice, which was found abandoned by the police after the driver had fled away. Hence, the quashment of this FIR against the petitioner herein is not a bar for the police to prosecute the petitioner, if he is found involved in similar offences in other cases.

In the result, this Criminal Original Petition stands allowed with the above observations. Connected M.P. is closed.

Sd/-
Assistant Registrar(J)

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Sub Assistant Registrar

cad
To

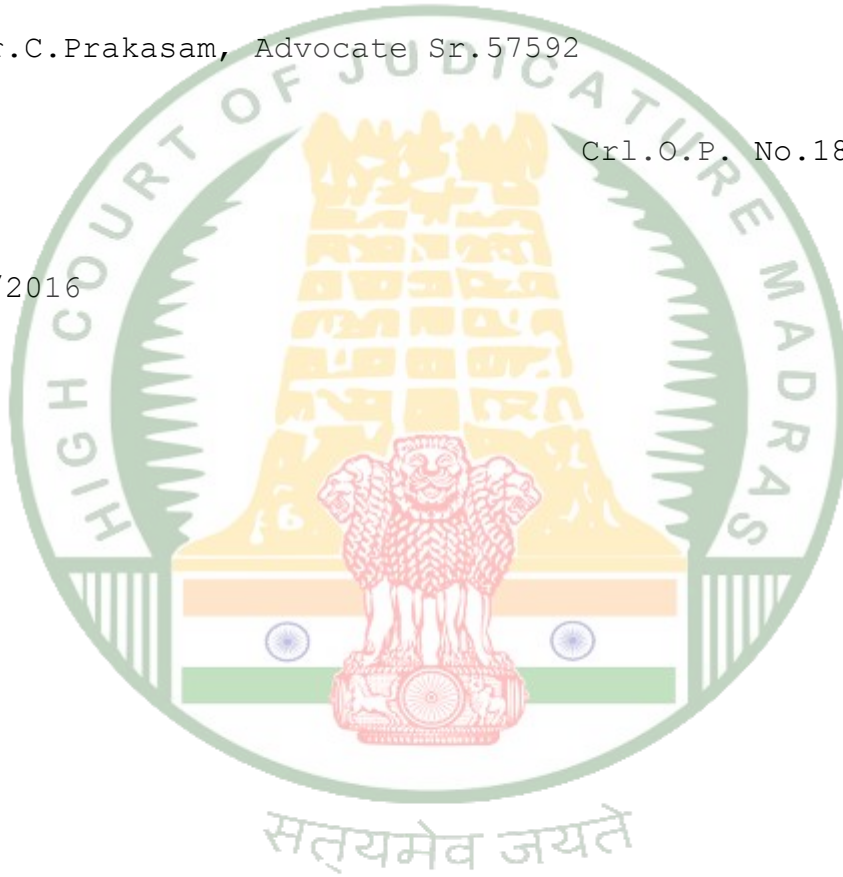
1 The Inspector of Police,
Civil Supplies CID,
Vellore,
Vellore District.

2 The Public Prosecutor,
Madras High Court,
Chennai 600 104.

+1cc to Mr.C.Prakasam, Advocate Sr.57592

Crl.O.P. No.18167 of 2009

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