

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

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

Crl.O.P. No.24171 of 2016 & Crl.M.P. No.11507 of 2016

S. Siva

Petitioner

Vs.

The Inspector of Police
S-10, Pallikkarana Police Station
Chennai 600 100

Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure seeking to issue a direction to the Judicial Magistrate Court, Alandur, Chennai - 16 to take the copy application no.15318 of 2016 in C.C. No.916 of 2007 and further proceed as per law.

For petitioner Mr. S. Siva - Party-in-person

For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to issue a direction to the Judicial Magistrate Court, Alandur, Chennai - 16 to take the copy application no.15318 of 2016 in C.C. No.916 of 2007 and further proceed as per law.

2 On 08.11.2016, this Court passed the following order:

It is indeed surprising as to how the Registry numbered this Criminal Original Petition. Perhaps, since this petition has been filed by a party-in-person, the Registry would have chosen to relax the rigour and numbered the petition.

2 The petitioner Siva appears to be a chronic litigant, which is manifest from the number of cases he has filed before this Court. On the complaint of Ambika, two cases, viz., C.C. No.803 and 916 of 2007, are pending against Siva before the Judicial Magistrate Court, Alandur. Siva has been doing everything possible to torpedo the prosecutions by filing one petition or the other, but, in vain. In fact, I myself have dismissed four

Criminal Original Petitions, viz., CrI.O.P. Nos.4196 of 2011, 4191 of 2013, 12497 of 2016 and 15110 of 2016. The present Criminal Original Petition relates to the prosecution in C.C. No.916 of 2007.

3 At this juncture, it is felicitous to point out that in CrI.O.P.No.15110 of 2016, Siva took a stand that he had filed C.M.P.No.9600 of 2009 in C.C. No.916 of 2007 for discharge and that the then Judicial Magistrate, Alandur, had discharged him from the prosecution on 15.09.2009.

4 In support of the said plea, he submitted to this Court, the photocopy of the order purported to have been passed by the Judicial Magistrate, Alandur, discharging him from the prosecution in C.C.No.916 of 2007.

5 Smelling something fishy in the matter, this Court called for a report from the Judicial Magistrate, Alandur. In response, the Judicial Magistrate, Alandur, sent a report dated 26.07.2016 stating that she had thoroughly checked the entire case records and the Court records, including the C.M.P. register and found that C.M.P. No.9600 of 2009 was never filed in the Court and that the last C.M.P. number for the year 2009 was C.M.P. No.5493 of 2009. In the report, it is further stated that even in the "A" Diary and Calendar Case register, there is no reference to C.M.P. No.9600 of 2009.

6 On the strength of the aforesaid report submitted by the Judicial Magistrate, Alandur, this Court dismissed CrI.O.P. No.15110 of 2016 on 26.08.2016, with a direction to the Judicial Magistrate, Alandur, to proceed with the trial in C.C. No.916 of 2007.

7 Thereafter, Siva has filed a copy application on 05.10.2016 in the Court of Judicial Magistrate, Alandur, seeking certified copy of the discharge petition, affidavit and the order copy in C.C. No.916 of 2007. The Judicial Magistrate, Alandur, has returned the copy application. Siva represented the Copy Application and has now come up with the present Criminal Original Petition for a direction to the Judicial Magistrate, to take the Copy Application No.15318 of 2016 in C.C. No.916 of 2007 and proceed in accordance with law.

8 It is pertinent to point out that Section 482, Cr.P.C. cannot be invoked by filing a petition seeking a direction to the Trial Court to deal with Copy Applications, because, such applications are

dealt with at the level of the Registry and not by the Presiding Officer of the Court. When the alleged Discharge Petition itself has not been filed as contended by Siva, one cannot fathom as to how a certified copy of a non-existent document be issued and that too, for a non-existent case. That is why, this Court has observed, in the very beginning of this order, its wonderment on this Criminal Original Petition being numbered by the Registry.

9 During the course of argument, Siva reiterated his stand and produced the discharge petition, the affidavit filed accompanying the said petition and the order dated 15.09.2009 purported to have been passed in the discharge petition by the Judicial Magistrate, Alandur. Siva contended that earlier, in Crl.O.P. No.15110 of 2016, he had filed only the photocopy of the record, but, today, he has brought the original and submitted the same in the open Court.

10 This Court received those papers and found that an order dated 15.09.2009 has been typed in Tamil and there is a signature in green ink showing, as if it has been passed by the Judicial Magistrate, Alandur. This Court posed a question to Siva, i.e., if the order produced by him is the original order, then, how did he get possession of it from the Court? Siva had no satisfactory answer for the said question. He was going on talking incoherently and irrelevantly trying to botch up his misdemeanor.

11 As stated above, the Judicial Magistrate, Alandur, in the report dated 26.07.2016, has clearly stated that no discharge application was ever filed in C.C. No.916 of 2007 and no discharge order has ever been passed. While so, it is indeed shocking to note that Siva is submitting a document to this Court as if he has been discharged from the prosecution in C.C. No.916 of 2007. Hence, it becomes imperative for an enquiry to be conducted on the document dated 15.09.2009.

12 In view of the above, this Court directs the Registry to take a photocopy of the discharge petition, the affidavit filed in support of the said petition and the order dated 15.09.2009 and keep one copy of the same in the case file and send the original of the said documents to the Judicial Magistrate, Alandur, through a special messenger, with a copy of this order.

13 Further, the Judicial Magistrate, Alandur, is directed to verify the genuineness of the alleged order of discharge dated 15.09.2009. On verification, if it is found that the alleged order dated 15.09.2009 is a fabricated one, the Judicial Magistrate, Alandur, shall direct the Head Clerk of the Court to lodge a criminal complaint with the Central Crime Branch, Chennai, against Siva, for fabricating a Court document. On receipt of the complaint from the Head Clerk, the Central Crime Branch, Chennai, shall register an FIR and conduct investigation in accordance with law. It is made clear that the pendency of the present Criminal Original Petition shall not be a bar for the Judicial Magistrate, Alandur, to proceed with the trial in C.C. No.916 of 2007.

The Registry to report compliance on 22.11.2016. Post for orders on 22.11.2016 at 2.15 p.m.

3 Pursuant to the aforesaid order passed by this Court, the Judicial Magistrate, Alandur, has sent a report dated 21.11.2016, which is as follows:

"I respectfully submit that, after receipt of the order copy of Hon'ble High Court, Madras in CrI.O.P. No.24171/16 dated 08.11.2016, I have thoroughly verified the Court records, and on verification, in the 12A court fees register, the alleged petitions filed by Siva was filed before this Court on 18.12.2007 as copy application petition and the same was returned by this Court. I further respectfully submit that the accused Siva using the returned copy application, he was altered the petition prayer as discharge petition and fabricated the above document, and prepared forged judicial order dated 15.09.2009 with forged signature of the presiding officer. The copy of 12A Register is herewith submitted for your Honour's kind perusal and consideration.

Hence, I have directed the Head Clerk of this Court to lodge a complaint before the Deputy Commissioner, Central Crime Branch, Chennai. Further, humbly submitted that immediately the Head Clerk of this Court lodged a complaint on 17.11.2016, and the same was pending investigation before Central Crime Branch, Chennai. The copy of the complaint is herewith submitted for your Honour's kind perusal and consideration."

4 In view of the above, recording the same, the Central Crime Branch, Chennai, is directed to register a regular FIR on the complaint given by the Head Clerk of the Judicial Magistrate Court, Alandur and proceed further with

the investigation of the case. The Deputy Commissioner, Central Crime Branch, Chennai, is directed to nominate a police officer in the rank of Inspector to investigate this case.

With the above directions, this Criminal Original Petition is closed. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Judicial Magistrate
The Judicial Magistrate Court
Alandur
Chennai - 16
- 2 The Deputy Commissioner
Central Crime Branch
Vepery
Chennai
- 3 The Inspector of Police
S-10, Pallikaranai Police Station
Chennai 600 100
- 4 The Public Prosecutor
High Court of Madras
Chennai 600 104

Crl.O.P. No.24171 of 2016

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EU 20.12.16

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