

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.2668 of 2016

1.Annappan
2.Selvaraj

... Petitioners

-Versus-

The State
Rep. by Inspector of Police,
Central Crime Branch,
Chennai City Police,
Chennai.
[Crime No.758 of 2005]

... Respondent

Prayer: This petition is filed under Section 482 Cr.P.C. praying to direct the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, to dispose of the Memo filed by the petitioners on 17.10.2013 direct the respondent police to furnish the documents concerned therein in CC No.2393 of 2007 which were relied on by the prosecution within a reasonable time.

For Petitioners : Mr.M.Muthappan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This original petition has been filed seeking for a direction to the learned Chief Metropolitan Magistrate, Egmore, Chennai, to dispose of the Memo dated 17.10.2013 filed by the petitioners for a direction to the respondent police to furnish the documents relied on by them in C.C.No.2393 of 2007.

2. Pursuant to the directions of this court, the learned Chief Metropolitan Magistrate, Egmore, Chennai, has sent a report dated 03.03./2016 wherein he has stated as follows:-

"Further I submit that the case in CC No.2393 of 2007 was initially taken on file by the Additional Chief Metropolitan Magistrate, Egmore, at Allikulam Complex and subsequently, the same was transferred to this court on 14.10.2008.

I submit that on perusal of the list of documents filed along with the charge sheet in C.C.No.2393/07, X Cr.No.758/2005, it is seen that the prosecution has not filed the documents as called for by the petitioners i.e.,

1) Tax Receipt Dt: 28.05.11

2) The Letter addressed to Tahsildar in MuMu No.4467/03-Dt: 31.03.03 requesting to implement the Assistant Settlement Officer Order in MuMu No.878100, Dt: 29.06.02

(The Order of Assistant Settlement Officer in MuMu No.878/00 Dt: 29.06.02 is available in Sl.No.3, in the list annexed to Form 95 DT: 15.10.05 in Sl.10 of the list of documents filed by the prosecution).

I submit herewith the copy of list of documents by the prosecution along with the list of enclosure of Form 95 for His Lordship's kind perusal and consideration."

3. From the above report, it is seen that the documents sought for by the petitioner have not at all been filed by the prosecution and therefore, there is no question of furnishing the copies of documents as sought for by the petitioner.

4. In view of the above, the petitioner cannot urge the disposal of his memo dated 17.10.2013 filed in C.C.No.2393 of 2007 before the learned Chief Metropolitan Magistrate, Emgore, Chennai, inasmuch as the very document he has sought for have not at all been filed filed by the police into the court.

5. Recording the above, the criminal original petition is closed.

6. At this juncture, the learned Additional Public Prosecutor submitted that the case has been pending from 2007 onwards and it is because of the non cooperation of the accused. It was strongly refuted by the learned counsel for the petitioners.

7. Be that as it may, since the case is of the year 2007, the learned Chief Metropolitan Magistrate, Egmore, Chennai, is directed to expedite the trial in C.C.No.2393 of 2007 and dispose of the same as expeditiously as possible. If the accused do not cooperate with the trial, it is open to the trial court for remanding him to custody under Section 309 of Cr.P.C., as held by the Supreme Court in State of U.P. v.

Shambhu Nath Singh, reported in 2001 (4) SCC 667. If the petitioner/accused thereafter absconds, a fresh FIR shall be registered under Section 229-A of IPC.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

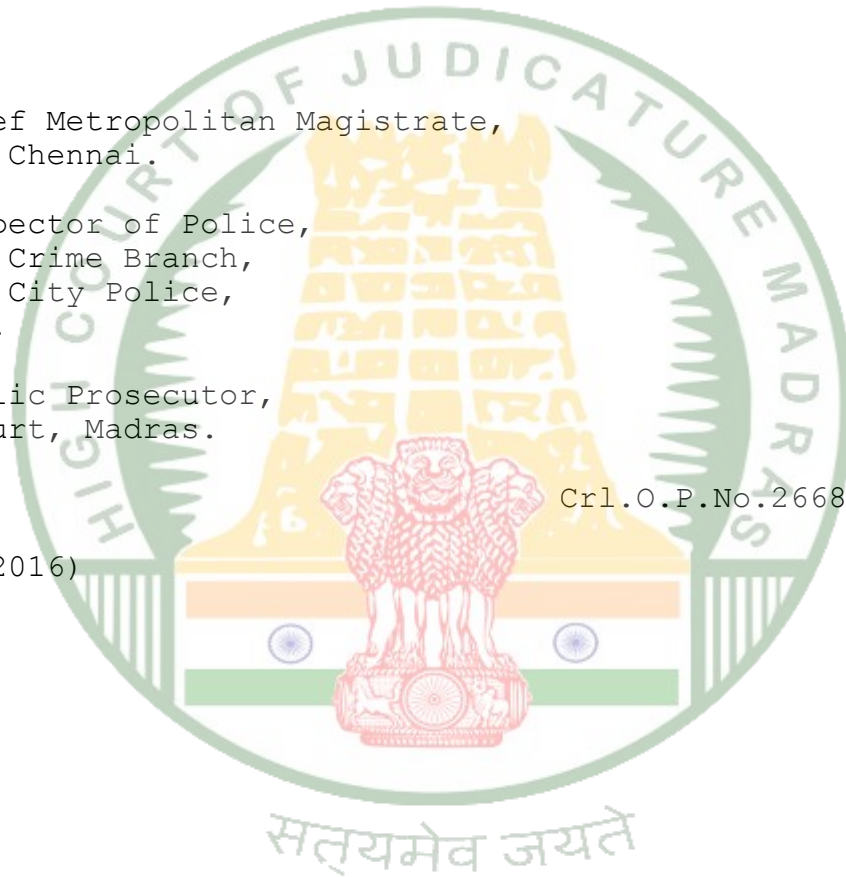
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To

- 1.The Chief Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Inspector of Police,
Central Crime Branch,
Chennai City Police,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

KSJ(CO)
CA(08/12/2016)

Crl.O.P.No.2668 of 2016



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