



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P.(MD) No.2783 of 2016

and

Cr1.M.P.(MD) No.1355 of 2016

Ilayaraja

... Petitioner

vs.

State represented by
The Inspector of Police
C-5, Karimedu Police Station
Madurai District
(Crime No.235 of 2009)

... Respondent

PRAYER: This petition is filed under Section 482 Cr.P.C., to set aside the order, dated 03.02.2016, made in Cr.M.P.No.64 of 2016, in Sessions Case S.C.No.12 of 2011, on the file of IV Additional District Court, Madurai.

For Petitioner : Mr.M.Vivekanandan

For Respondent : Mr.K.V.Rajarajan, G.A.(Cr1.Side)

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, to set aside the Order, dated 03.02.2016, made in Cr.M.P.No.64 of 2016 in S.C.No.12 of 2011, by the learned IV Additional District Judge, Madurai.

2. It is seen that the petitioner herein is facing prosecution for the offences punishable under Sections 147, 148, 448, 307 and 302 I.P.C., in S.C.No.12 of 2011, before the learned IV Additional District Judge, Madurai. He filed an application, in Cr.M.P.No.64 of 2016, under Section 91 Cr.P.C., for production of pocket notebook of the Police Officials, duty roaster, general diary and the grave crime report of the respondent Police. In the said petition, the petitioner had not even stated about the relevancy of those documents. In State of Orissa vs. Debendra Nath Padhi, AIR 2005 SC 359, the Hon'ble Supreme Court has stated that an enquiry under Section 91 cannot be permitted to make a fishing enquiry. However, the Trial Court has passed the following order, on 03.02.2016.



"Reply finally to prosecute that the document filed by the petitioner do not come under the careful presentation by him and it is submitted that they are not able to be produced.

It is the duty of the petitioner to maintain the above requested records, since the above records are not produced, the accused will be entitled to the benefit of both non-production. With the above observation, the petition is closed. No costs."

3. In the considered opinion of this Court, the Trial Court should have first insisted the petitioner to state about the relevancy of those documents and after that, it should have stated that the accused will be entitled to the benefit of non-production of those documents, if it is really relevant to the case of the petitioner. However, the order of the Trial Court cannot be said to be totally illegal. Under such circumstances, this Court finds no reason to interfere with the Order, dated 03.02.2016, passed by the Trial Court, at this stage.

4. In the result, this criminal original petition is dismissed. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

1.The IV Additional District Judge,
Madurai.

2.The The Inspector of Police
C-5, Karimedu Police Station
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

krk

RL/4C/GSV/AN/29/2/2016