



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.RC(MD) No.495 of 2016

G.Ramadoss

... Petitioner / Petitioner

-vs-

State

rep.by the Inspector of Police

Anti-Land Grabbing Special Cell

Madurai

(Crime No.248 / 2012

of Vadipatti Police Station) .. Respondent / Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records of the learned Special Judicial Magistrate, Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, in Copy Application No.64 of 2016 in C.C.No.5 of 2015 and set aside the order, dated 29.06.2016.

For Petitioner: Mr.P.Saravanakumar

For Respondent: Mrs.S.Prabha

Govt.Advocate (Crl.Side)

O R D E R

The *de facto* complainant in C.C.No.5 of 2015, aggrieved by the non-compliance of C.A.No.64 of 2016 in C.C.No.5 of 2015, by the learned Special Judicial Magistrate, Special Court for Anti-Land Grabbing Cases, Madurai, has directed this revision.

2. In this case, the prosecution obtained Handwriting Expert's Report based on certain questioned documents and certain admitted documents. The Report of the Handwriting Expert has been furnished to the accused. Now, the request is not coming from the accused, it is coming from the victim / *de facto* complainant. Admittedly, the complainant got the copy of the Handwriting Expert's Report. He filed C.A.No.64 of 2016 for furnishing him the questioned document and the admitted document, which were compared by the Expert in giving his opinion.



3. The learned Magistrate, by his impugned Order, dated 29.06.2016, denied him furnishing of certified copy of the documents sought for. However, the learned Magistrate observed that after getting prior permission from the Magistrate the *de facto* complainant can peruse the document on any working day in the presence of the Head Clerk.

4. The legality or correctness of the same is being questioned in this revision by the *de facto* complainant.

5. The learned counsel for the revision petitioner submitted that almost under similar circumstances, this Court (by me) in **Sankar v. H.D.F.C.Bank Ltd., [Crl.R.C.No.428 of 2016, dated 28.03.2016]**, considering the principle of transparency, directed the learned Chief Metropolitan Magistrate, Egmore, Chennai, to comply the request of the petitioner therein to furnish him copies of certain documents, when especially C.M.M.Court is a Criminal Court and the proceedings were initiated in a Criminal Court.

6. As per Article 22(1) of Constitution of India and Section 303 Cr.P.C., an accused is entitled to have documents to put effective defence. But, the *de facto* complainant is not going to defend. Actually, he will prosecute the accused, whether it is a Police case or a private case. A party to the criminal case can seek any part of the Criminal Court's record, provided he must give reasons for the same, because the Court must be satisfied that he will not be used to misuse it.

7. Further, the *de facto* complainant is a complainant in a criminal case. He is the real victim and the Police is only a *de jure* complainant. The *de facto* complainant will not misuse it. For the connected case proceedings, he needs the same. He may use it for the present case also. Further, those documents are not classified documents or secret documents and if they are given the affairs and the relationship of countries will not get spoiled. The decision in **Shankar** (supra) applies to this case.

8. Ordered as under:

- (i) This revision is allowed.
- (ii) The impugned order, dated 29.06.2016, passed in C.A.No.64 of 2016 in C.C.No.5 of 2015, by the learned Special Judicial Magistrate, Special Court for Anti-Land Grabbing Cases, Madurai, is set aside.
- (iii) The learned Magistrate will comply C.A.No.64 of 2016 without any delay.

Sd/-

Assistant Registrar (Records)

/True Copy/



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To:

1.The Special Judicial Magistrate,
Special Court for Anti-Land Grabbing Cases,
Madurai.

2.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Anti-Land Grabbing Special Cell,
Madurai.

+1CC to Mr.P.Kalaiyarasi Bharathi, Advocate Sr.No.38740

GJM/ARK/pV/1.8.16-3p-5c

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