

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

CrI.R.C.No.1219 of 2017

P.C.Koshy

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
City Crime Branch,
Chennai.

... Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. to set aside the order passed by the learned Judicial Magistrate I Poonamallee, dated 12.04.2017 in CrI.Mp.770/2017 in C.C.No. 329/2012 and direct the learned Judicial Magistrate I to return the original Power of Attorney to the petitioner.

For Petitioner : Mr.K.Pasupathy

For Respondent : Mr.R.Sekar
Government Advocate (CrI.Side)

ORDER

This revision case has been filed against the order passed by the learned Judicial Magistrate I Poonamallee in CrI.M.P.No.770 of 2017 in C.C.No.329 of 2012 (Crime No.187 of 2011) on the file of the City Crime Branch, Egmore Police Station by order dated 12.04.2017.

2. The case of the petitioner is that the charge sheet has been laid against the petitioner by the respondent/police for the alleged offences under Sections 420, 468, 471 r/w 34 IPC. However, the said charge had been quashed by this Court, at the instance of the petitioner, who filed CrI.O.P.No.25548 of 2016, by order dated 31.01.2017. In spite of the said charge has been quashed by this Court, when the petitioner moved before the trial Court to return the document belongs to the petitioner, it had been rejected by the impugned order dated 12.04.2017, as against which the present petition has been filed.

3. I have heard Mr.K.Pasupathy, learned counsel appearing for the petitioner and also Mr.R.Sekar, learned Government Advocate (Criminal Side) appearing for the State.

4. In fact, it is brought to the notice by the learned Government Advocate (Criminal Side) that as against the charge framed against the petitioner in Crime No.187 of 2011 on the file of the City Crime Branch, Egmore, the petitioner had moved CrI.O.P.No. 25548 of 2016, whereby this Court by order dated 31.01.2017, quashed the very charge itself. And that being so there can be no further impediment for the petitioner to get back the document and therefore, the rejection made in this regard by the learned Magistrate through the impugned order may not be justifiable one.

5. I have considered the submission made by both sides and also I have gone through the materials placed before this Court.

6. In fact, by order dated 31.01.2017, made in Crl.O.P.No.25548 of 2016, in the matter of P.C.Koshy Vs. The State represented by the Inspector of Police, City Crime Branch, Egmore and two others, this Court passed the following orders:

"3. In view of the same, recording the averments made in the affidavits filed by the respondents 2 and 3, the proceedings in C.C.No.329 of 2012 on the file of the Judicial Magistrate No.I, Poonamallee, in Crime No.187 of 2011 (C.C.B Egmore), pending against the petitioner is quashed and the criminal original petition is allowed."

7. Therefore, the charge in Crime No.187 of 2011 on the file of the City Crime Branch, Egmore, has already been quashed by this Court. However, in the very same Crime Number, which has been numbered in C.C.No.329 of 2012, the said petition in C.M.P.No.770 of 2017 was filed by the petitioner, for return of document, invoking Section 451 of the Criminal Procedure Code. However, the learned Judge had rejected the same on the ground that it was opposed by the State/Public Prosecutor.

8. On perusal of the impugned order, this Court finds that the order quashing the charge by this Court, as referred above,

probably had not been brought to the notice of the trial Court and therefore, without having the knowledge about the same, this impugned order seems to have been passed.

9. Therefore, this Court has no hesitation to set aside the said order which is impugned herein and accordingly, this petition is allowed. In the result, the document No.1399 of 1997 in Crime No.187 of 2011 in C.C.No.329 of 2012 on the file of the learned Judicial Magistrate I Poonamallee shall be returned to the petitioner.

10. With these directions, the criminal revision case is allowed.

14.09.2017

Speaking/Non speaking order

Index:Yes/no

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सत्यमेव जयते

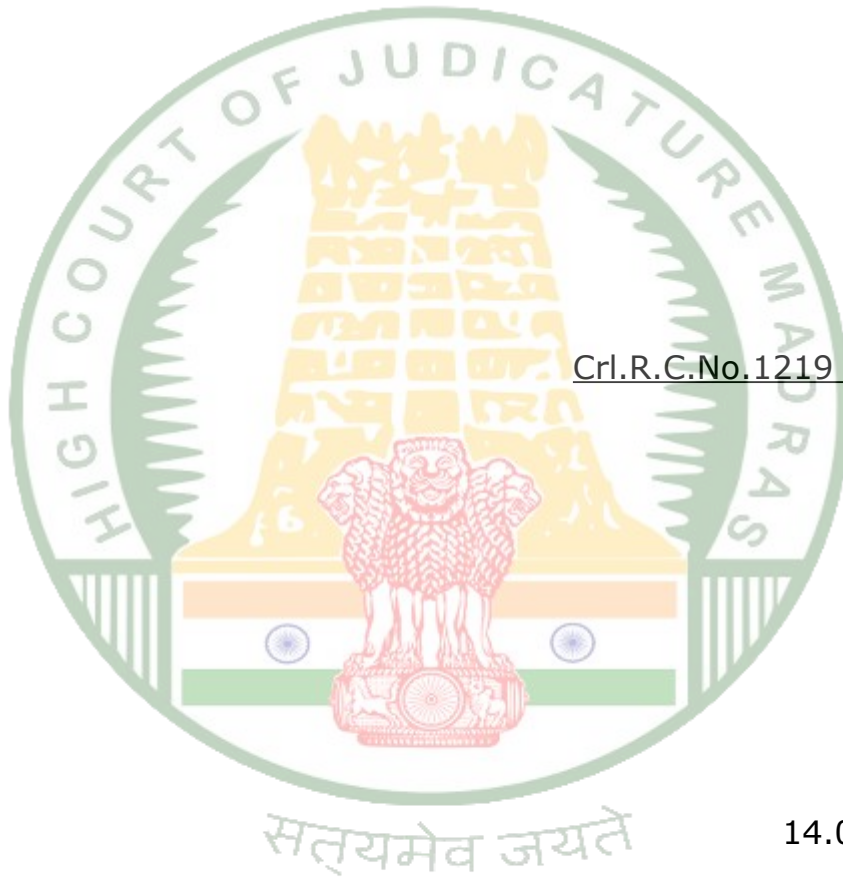
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To

1. The Presiding Officer,
The Judicial Magistrate I,
Poonamallee.
2. The Inspector of Police,
City Crime Branch,
Chennai.
3. The Public Prosecutor
High Court, Madras.

R. SURESH KUMAR, J

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