

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal R.C.No.818 of 2014

and

M.P.No.1 of 2014 and Crl.M.P.No.5830 of 2017

Intelligence Officer,
Narcotic Control Bureau
Chennai Zonal Unit,
Chennai-90.

... Petitioner/Complainant

Vs.

Vasudeva Vemal Kaliperumal ... Respondent/Accused

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code praying to set aside the order dated 28.05.2014, passed in Crl.M.P.No.902 of 2014 in R.R.No.4 of 2014 in C.C.No.39 of 2014 on the file of the learned Judge, Principal Special Court for NDPS Act Cases, Chennai.

For Petitioner : Mr.N.P.Kumar

For Respondent : Mr.J.Senthamilarasu

ORDER

The respondent herein is an accused in NCB F.Nos.48/1/7/2013-NCB/MDS and 48/1/8/2013-NCB/MDS, on the file of the Intelligence Officer, NCB, Chennai Zonal Unit.

2.Earlier on 22.12.2013, the petitioner seized 38 gms and 44 gms of white crystalline powder from the respondent and the sample of the seized powder was sent for testing before the Custom House Laboratory, Chennai, and after testing, a report has been filed by the testing laboratory as follows:

Report: Lab No.661, dt.06.01.2014 (marked as SI):

The sample is in the form of white crystalline powder, presence of Amphetamine could not be detected, however it answers the tests for the presence of Methamphetamine hydrochloride.

Wt.of sample along with plastic pouch
received=5.9 gms

Wt.of sample along with plastic pouch returned=4.2 gms

3. Subsequently, the respondent filed another application before the Court below seeking direction to send the sample for a second test before the Tamil Nadu Forensic Laboratory, Chennai, to ascertain whether the seized material contains any Methamphetamine Hydrochloride and the exact content of the same. The Court below allowed the application and directed the Tamil Nadu Forensic Laboratory to analyse the sample to ascertain the following points:

- (1)Whether the Methamphetamine Hydrochloride and Methamphetamine are one and the same material.
- (2)Whether the entire contents analysed contains Methamphetamine or its mixture.
- (3)Analyse the actual nature of the material and submit a report quantitatively.

Challenging the same, the petitioner filed the present revision.

4. Mr.N.P.Kumar, learned counsel appearing for the petitioner contended that the sample were tested by the authorized testing laboratory and they have also given a report regarding the presence of Methamphetamine Hydrochloride and there is no necessity for sending the same for second chemical analysis. Apart from that, to ascertain whether the Methamphetamine Hydrochloride and Methamphetamine are one and the same and there is no necessity for sending it for second chemical examination, it could be ascertained from expert during the trial. On the ground, he assailed the order passed by the Court below.

5. Learned counsel appearing for the respondent submitted that the earlier report submitted by the laboratory is not very clear and in order to ascertain whether the alleged material have has contained any Methamphetamine substance, it is necessary to send the seized material for an authenticated testing by the Tamil Nadu Forensic Laboratory, Chennai.

6. Considering, the above said fact, the Court below allowed the application and there is no illegality or irregularity on the order passed by the Court below.

7. I have considered the rival submissions.

8. Admittedly, the seized material was sent to Customs House Laboratory, Chennai and after testing the samples of the seized material, a report has been filed stating that the seized material answered the test for the presence of Methamphetamine

Hydrochloride. However, the report says the presence of Amphetamine could not be deducted.

9. In the above circumstances, to ascertain whether the Methamphetamine Hydrochloride and Methamphetamine are one and the same, the second test is not required. It can be ascertained from the expert during the trial. When the earlier report has categorically stated about the presence of Methamphetamine, there is no necessity to ascertain once again whether the entire material contains Methamphetamine Hydrochloride or its mixture. Hence, the direction issued by the Court below for the second test will not achieve any purpose, as a reference is already answered in the earlier report.

10. In the above circumstances, there is no necessity for sending the material for second test. Hence, the order passed by the Court below is liable to interfere. In the above circumstances, the order passed by the Court below is set aside and the Criminal Revision is allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Special Judge,
Principal Special Court under EC&NDPS Act,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.J.Senthamilarasu Advocate sr24651

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gj(co)

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