

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.RC.No.935 of 2017

C.Manoharan

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Petitioner

Vs

State Rep.by
The Sub Inspector of Police
Anti Land Grabbing Cell,
Tiruvannamalai.

...

Respondent

Prayer:- Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C.,
pleased to call for the records and set aside the order made in
Crl.MP.No.2684 of 2016 dated 04.10.2016 passed by Judicial Magistrate
No.1, Tiruvannamalai in Crime No.11/2012.

For Petitioner

:Mr.B.Jawahar

For Respondent

:Mr.R.Sekar, Government Advocate
(Criminal side)

ORDER

This revision case has been filed to call for records and to set
aside the order made in Crl.MP.No.2684 of 2016 dated 04.10.2016 passed by
Judicial Magistrate No.1, Tiruvannamalai in Crime No.11/2012.

2. The case of the petitioner is that he had filed a complaint before the respondent police against the accused persons who allegedly have involved in offences punishable under Section 468, 417, 471, 419, 420 r/w 120 (b) IPC. Based on the said complaint the respondent police had investigated the case. During the investigation the Investigation Officer had obtained, from the petitioner, certain original documents including the original deeds of Educational Trust started and run by the petitioner. All those documents seems to have been sent to expert opinion for comparing the signature of the accused persons, who involved in the crime, whereby, certain documents were created.

3. When the investigation was almost over, those original deeds belongs to educational trust of the petitioner were very much required to the petitioner for raising loan and for other academic activities of the trust. The petitioner had approached before the trial Court for interim custody of the following documents.

1. ***"27.08.2008 Maharishi Education Trust deed***
2. ***10.10.2008 Sale Deed***
3. ***08.02.2010 Supplement Deed - 1***
4. ***08.02.2010 Lease Deed***
5. ***04.02.2011 Supplement Deed - 2"***

4. The said petition was heard and ultimately rejected by the

has been filed.

5. The learned Judge primarily has given reason for the rejection of the petition, that the investigation was still pending and if the documents were given to the petitioner it would affect the investigation and therefore, mainly on that ground, the learned Judge has rejected the petition for interim custody.

6. The learned counsel for the petitioner would submit that the petitioner is a de-facto complainant and he is running the trust where some other persons also are members. In order to substantiate his contention that the accused persons have committed a crime, as he is the in charge of the trust, he has produced those documents voluntarily to the respondent/Investigating Officer, and based on which, the investigation has been completed. Further, two more persons have been arrayed as accused and after completion of the investigation, the learned counsel for the petitioner submits that, the respondent/police has also filed charge sheet.

7. The learned counsel would further submit that these documents are very important documents for running the trust as are very much required to be produced before various statutory authorities as well as the Central and the State Government, for continuous running of the

Educational Institution, which the trust runs. Therefore, the learned counsel would submit that the interim custody of these documents would no way affect the respondent/prosecution. More over, the learned counsel for the petitioner also submits that, whenever those documents are required at the time of trial, he is ready and willing to produce the same and to that effect the petitioner is ready to submit an undertaking. In order to have the clutches on the petitioner some condition may be imposed to ensure safety and prompt production of those documents, if it is required.

8. The learned Government Advocate by relying upon the counter affidavit filed by the respondent has made submissions. He submits that based on the complaint given by the petitioner, investigation was taken up and during the investigation the Investigating Officer obtained certain original deeds of the educational trust from the petitioner. Along with those documents a sample signature of the accused one Shanmugam was also sent for expert opinion through Judicial Magistrate I Thiruvannamalai.

9. The learned Government Advocate would further submit that after completion of comparing all signatures, the expert has given opinion and thereafter the investigation has been completed and charge sheet has been filed against A1 to A5 by altering the sections into 468, 417, 471, 419, 420 r/w 120 (b) IPC and the charge has been made before the Court below

on 26.06.2015. However, the Court has not taken the said charge on file thereafter. After completing the investigation the respondent police has produced those documents, which are sought for interim custody by the petitioner, to the Court below, and they are now, in fact, in the custody of the trial Court.

10. I have considered the rival submissions made by both side. The primary reason which convinced the learned judge to reject the application of the petitioner is that, at that time the investigation was in progress and was yet to be completed. Therefore during the investigation if those prime documents, which are the main basis for completing investigation, are given to the petitioner, by way of interim custody, it would affect the investigation and only, on that context, the learned Judge refused to entertain the petitioner's plea for interim custody of the documents.

11. From the averments made by the respondent in the counter affidavit, as has been submitted by the learned Government Advocate, it is now clear that, the investigation is completed and charge sheet is also filed against the accused and those documents, which were originally sent for expert opinion, had been returned and it has been now kept at the custody of the trial Court.

12. Since these documents have been supplied only by the petitioner who is the defacto complainant and those documents are primarily relate to the Educational Trust and for running the trust/ Educational Institutions these documents are very much required and for other educational activities of the trust, the same may be required to be produced to various statutory authorities, there is every justification on the part of the petitioner to seek custody of those documents. More over, since the investigation has been completed and charge sheet has also been filed, the only reason stated by the trial Court that, before filing the charge sheet if the documents are returned to the petitioner, the same will affect the case of the prosecution, in my view cannot be accepted and therefore I am inclined to allow this revision. In the result this Court passes the following orders:-

a. The trial Court shall release the following documents to the petitioner on condition that the petitioner shall give an undertaking that as and when those documents are required, at the time of trial, the same shall be produced before the trial Court, without altering, changing or tampering it.

- 1. 27.08.2008 Maharishi Education Trust deed**
- 2. 10.10.2008 Sale Deed**
- 3. 08.02.2010 Supplement Deed - 1**
- 4. 08.02.2010 Lease Deed**

5. 04.02.2011 Supplement Deed - 2

b. The trial Court shall have copies of the documents in its custody. There shall also be a condition that the petitioner shall execute a security bond for a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the satisfaction of the learned trial Court within a period of two weeks from the date of receipt of a copy of this order. The said documents shall be released to the petitioner after complying with the above directions.

13. With the above directions the criminal revision case is allowed.

27.07.2017

Index : Yes/No

Internet : Yes/No

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R. SURESH KUMAR,J.

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To

1. The Judicial Magistrate No.1,
Tiruvannamalai
2. The Sub Inspector of Police
Anti Land Grabbing Cell,
Tiruvannamalai.
3. The Public Prosecutor,
High Court, Madras.



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