

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.No.8879 of 2017
and Crl.MP.No.6395 of 2017

Samsundar Nicholas

... Petitioner

Vs.

1. State rep.by the Inspector of Police
(CID), Puducherry.

2. Central Bureau of Investigation
Joint Director and Head of Zone
III Floor, E.V.K. Sampath Building
College Road, Chennai - 600 006

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, praying to direct the 2nd respondent to re-investigate in C.C.No.148 of 2009 pending trial on the file of the CJM, Puducherry.

For Petitioner : Mr.Vijay Anand
for M/s.Pavel

For R1 : Mr.M.R.Thangavelu
Additional Public Prosecutor (Pondy)

For R2 : Mr.K.Srinivasan
Special Public Prosecutor

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O R D E R

The petitioner has come forward with this petition for a direction to the 2nd respondent to reinvestigate the case in C.C.No.148 of 2009 pending on the file of the Chief Judicial Magistrate, Puducherry.

2. Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor (Pondicherry) appearing for the 1st respondent, the learned Special Public Prosecutor

appearing for the 2nd respondent (CBI) and perused the materials available on record.

3. From the records, it is seen that a criminal case has been registered against the petitioner and others in Crime No.6 of 2007 for the alleged offence punishable under Section 420 of IPC and Sections 4 and 20 of Indian Telegraph Act and Section 3 and 6 of Indian Wireless and Telegraph Act read with 120 of IPC based on the complaint given by the defacto complaint, wherein the petitioner has been arrayed as 1st accused.

4. According to the prosecution, the petitioner, along with other accused, entered into criminal conspiracy and had set up illegal telecom network and thereby caused huge loss to the Government.

5. It is the contention of the learned counsel for the petitioner that the rank of the accused has not been properly arrayed by the respondents. According to the learned counsel, instead of accused 3 and 4 being arrayed as main accused, the petitioner has been wrongly named as 1st accused.

6. On the face of the record, such petition is not maintainable for the simple reason that investigation is in the domain of the concerned jurisdictional police. The concerned jurisdictional police, who has collected materials, has filed the charge sheet in question. It is needless to state that the merits and demerits of the case cannot be gone into at this stage nor re-investigation can be directed even if the petitioner has valid defence. It is for him to establish the same at the time of trial, as it is the domain of the Trial Court to assess the same. Therefore, this Court is of the view that the issue now raised by the learned counsel for the petitioner can very well be raised before the Trial Judge.

7. Accordingly, the Criminal Original Petition stands dismissed as devoid of merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

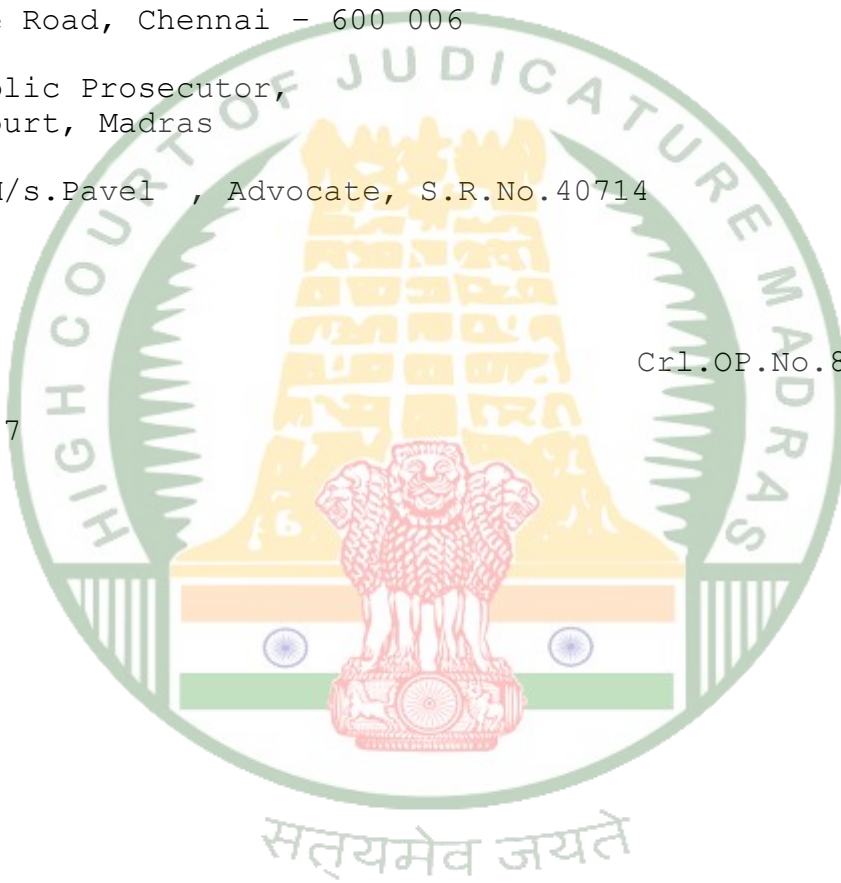
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To

1. The Chief Judicial Magistrate,
Puducherry.
 2. The Inspector of Police
(CID), Puducherry.
 3. Joint Director and Head of Zone
The Central Bureau of Investigation
III Floor, E.V.K. Sampath Building
College Road, Chennai - 600 006
 4. The Public Prosecutor,
High Court, Madras
- +1cc to M/s.Pavel , Advocate, S.R.No.40714

CrI.OP.No.8879 of 2017

CS/18/07/17



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