

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2017

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CrI.O.P.No. 4876 of 2017

1. Mr. G. Vaidyanathan
S/o. R. Gopalan

2. P.A. Sasikumar @ Kumar
S/o. Arunachalam

...Petitioners/Accused Nos.3 & 4

Versus

State: represented by
Inspector of Police,
Special Police Establishment,
Central Bureau of Investigation,
Economic Offence Wing,
Chennai.R.C.No.11(E)/2008

...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records from the Learned Additional Chief Metropolitan Magistrate, Alikulam, Chennai in C.C.No.5127 of 2009 and quash the charges framed on 19.08.2016 as well as all the proceedings pending on the file of the Hon'ble Additional Chief Metropolitan Magistrate, Alikulam, Chennai in C.C.No.5127 of 2009.

For Petitioners : Ms. G. Ramadhevi

For Respondent : Mr. K. Srinivasan,
Special Public
Prosecutor (CBI Cases)

ORDER

This Criminal Original Petition is filed to quash the charge framed on 19.08.2016 in C.C.No.5127 of 2009 on the file of the learned Additonal Chief Metropolitan Magistrate, Alikulam, Chennai.

2. According to the petitioner, he filed a Discharge Petition under Section 239 Cr.P.C before the Trial Court and it was pending before the Trial Court in CrI.M.P.No.1328 of 2012.

3. While the above Discharge Petition was pending, the petitioner/accused moved this Court challenging the orders passed by the Trial Court in Crl.M.P.No.1016 of 2013 under Section 306(4) and (5) of Cr.P.C and the same was dismissed by this Court in Crl.R.C.No.227 of 2016 dated 05.07.2016.

4. It is alleged by the petitioner that when the Discharge Petition was pending, without hearing the petitioner/accused and the counsel, and without giving an opportunity, the trial Court dismissed the two Discharge Petitions in Crl.M.P.Nos.1234 of 2012 and 1328 of 2012 on 19.08.2016 and proceeded to frame charges against the petitioner under Prevention of Corruption Act. With this sort of allegation against the Presiding Officer, the petitioner had moved this Court on 01.03.2017, and the same has been heard by this Court on 10.03.2017, and notice ordered to the learned Special Public Prosecutor CBI, to file objections. Central Bureau of Investigation(CBI) has filed its counter affidavit on 05.06.2017. Since then, this matter is kept pending.

5. When the matter was posted for hearing, on all the previous occasion, the learned counsel representing the petitioner sought adjournment and same was granted. Today, again, adjournment is sought under some pretext. A fair opportunity to the parties does not mean that they can have their own time and at sweet will, take adjournment and later make allegations against the Presiding Officer that he has dismissed the petition without giving an opportunity. Opportunity means fair opportunity and adequate opportunity not infinite opportunity.

6. When a person move the Court seeking relief, he must be ready to putforth his submissions. When the matter is taken up for hearing, after filing the petition, he cannot play hide and seek game with the Court. Thereafter, he has no locus standi or right to say, opportunity not given to him.

7. Having given adequate opportunity to the party to putforth his case, the party has failed to avail the opportunity. The Court cannot wait for such party perpetually. Hence, this Criminal Original Petition shall stand dismissed.

Sd/-
Assistant Registrar(CS)

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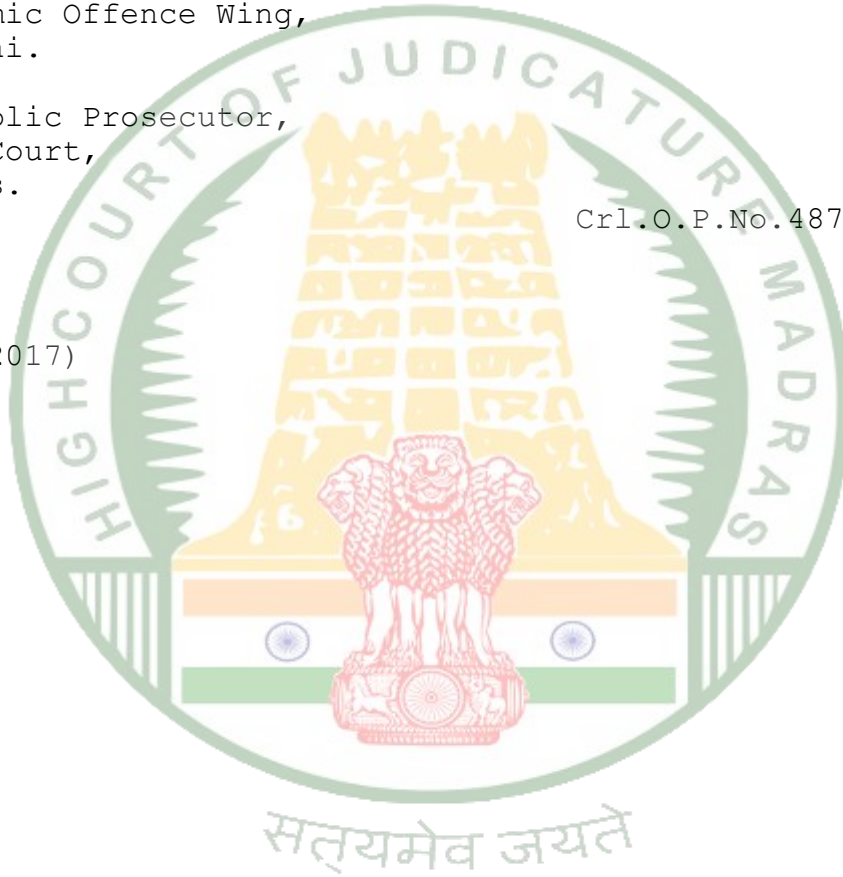
Sub Assistant Registrar

To

1. The Additional Chief Metropolitan Magistrate,
Alikulam,
Chennai.
2. Inspector of Police,
Special Police Establishment,
Central Bureau of Investigation,
Economic Offence Wing,
Chennai.
3. The Public Prosecutor,
High Court,
Madras.

CrI.O.P.No.4876 of 2017

DK(CO)
EU(11/12/2017)



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