



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Crl.O.P. (MD) No.17143 of 2017

and

Crl.M.P. (MD) No.11265 of 2017

V.Mohan

...Petitioner/Petitioner/
Accused No.1

Vs.

1.State Represented through
The Sub Inspector of Police,
Vengamedu Police Station,
in Crime No.1566 of 2006.

... Respondent/Respondent/
Complainant

2.B.Shanmugam

...Respondent

(R2 has been impleaded, vide order of this Court dated 19.12.2017 made in Crl.MP (MD)No.11464/2017 in Crl.OP (MD)No.17143/2017)

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the petition in Crl.M.P.(MD) No.5867 of 2017 in C.C.No.120 of 2009 and set aside the order passed by the learned Judicial Magistrate No.I, Karur dated 16.11.2017 in Crl.M.P.(MD) No.5867 of 2017 in C.C.No.120 of 2009 as illegal and order to give an opportunity to send for the documents mentioned in the annexure in Exhibit P-18 in C.C.No.120 of 2009.

For Petitioner

: Mr.C.M.Arumugam

For R1

: Mr.K.S.Durai Pandian

Additional Public Prosecutor

For R2

: Mr.Veera Kathiravan

Senior Counsel

for M/s.Veera Associates

O R D E R

The petitioner is the first accused in the criminal case in C.C.No.120 of 2009 which was filed for the alleged offences under Sections 120(b), 465, 468 and 471 IPC. It is the case of the petitioner that during the process of trial, P.W.9, by name, Ganesan was examined and that he admitted the position that the documents annexed in Ex.P.18 are in his possession. Since the documents are



not served to the petitioner by the prosecution and the said documents are shown as annexure in Ex.P.18, the learned counsel for the petitioner would submit that the documents enumerated in Ex.P.18 are required to be furnished to the petitioner to prove his case.

2. In these circumstances, it is stated that the petitioner has filed a petition before the trial Court under Section 91 Cr.P.C., explaining the necessity for production of the said documents. It is further stated that the trial Court, without appreciating the facts and circumstances of the case, dismissed the petition on 16.11.2017 and therefore, this petition is filed to set aside the order of lower Court in CrI.M.P.(MD) No.5867 of 2017 in C.C.No.120 of 2009 dated 16.11.2017.

3. The learned counsel for the petitioner submitted that the order passed by the lower Court is erroneous, ignoring the vital aspects of the case. The trial Court has categorically found that the accused is not entitled to peruse the case diary, in view of Section 172(3). However, the learned counsel for the petitioner submitted that this reason is erroneous.

4. It is not in dispute that the petitioner should be given an opportunity to prove his case, by convincing the evidence and it is mandatory on the part of the respondent to provide an opportunity to the petitioner. It is true that it is not one's right to claim every documents on the police file and the claim cannot be allowed mechanically in every case. However, in this case, the document Ex.P.18 is a crucial document and the annexure to this documents are also relevant to interpret Ex.P.18.

5. The learned Senior Counsel, Mr.Veera Kathiravan, appearing for the second respondent submitted that the documents, which are sought to be perused by the petitioner are already available and the present writ petition is a vexatious one.

6. Be that as it may, having regard to the facts and circumstances of the case and the nature of grievance expressed by the petitioner in defending the criminal case, this Court is inclined to entertain the petition. As a result, this petition is allowed and the order passed by the learned Judicial Magistrate No.I, Karur dated 16.11.2017 in CrI.M.P.(MD) No.5867 of 2017 in C.C.No.120 of 2009 is set aside and the petition in CrI.M.P.(MD) No.5867 of 2017 in C.C.No.120 of 2009 stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar



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To

1.The Judicial Magistrate No.I, Karur

2.The Sub Inspector of Police,
Vengamedu Police Station,
Karur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.C.M.Arumugam, Advocate, SR.No.93698

+2ccs to M/s.Veera Associates, Advocate, SR.No.93764

mm/cmr

RL/7C/3P/SV/MMS/SAR1/22/12/2017

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and
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