

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.6832 and 6833 of 2018
and Crl.M.P.Nos.3494 and 3495 of 2018

1.T.Kumaravel
2.P.Sathyaraj

.....Petitioners in both Crl.O.Ps.

Vs

Union of India,
Represented by Inspector,
Railway Protection Force,
Southern Railway,
Villupuram Junction,
Villuppuram RPF Post.

.....Respondent in both Crl.O.Ps.

Criminal Original Petition No.6832 of 2018 filed under Section 482 Cr.P.C., praying to set aside the order passed in Crl.M.P.No.3465 of 2017 in C.C.No.116 of 2005 in Cr.No.2 of 2004 order dated 23.11.2017 by the learned Judicial Magistrate No-I, Cuddalore and consequently to direct the learned Judicial Magistrate No-I, to issue summons for production of DAR proceedings dated 04.09.2004 u/s 91 of Cr.P.C..

Criminal Original Petition No.6833 of 2018 filed under Section 482 Cr.P.C., praying to set aside the order passed in Crl.M.P.No.3787 of 2017 in C.C.No.116 of 2005 in Cr.No.2 of 2004 order dated 23.11.2017 by the learned Judicial Magistrate No-I, Cuddalore and consequently to direct the learned Judicial Magistrate No-I, Cuddalore to issue summons to the defence witnesses to examine on his behalf u/s 243(2) r/w 247 Cr.P.C.

For Petitioners : Mr.Dr.G.Krishnamurthy

For Respondent : Mr.P.T.Ramkumar,
Standing Counsel for Southern
Railway.

C O M M O N O R D E R

The petitioners are facing a prosecution in C.C.No.116 of 2005 before the Judicial Magistrate No.I, Cuddalore for an

offence under Section 3(a) of the Railway Property (Unlawful Protection) Act, 1966 (for short "the Act"). It is the case of Union of India that on suspicion, a lorry was intercepted on 19.03.2004, in which, 20 rails, cylinder, oxygen cylinder and other properties belonging to the Railways were found. A case was registered by the Railway Protection Force and after completing the investigation, a complaint for the said offence was filed and the same was taken on file as C.C.No.116 of 2005. A prosecution of this nature is conducted in terms of Chapter XIX-B Cr.P.C. - Cases instituted otherwise than on police report, under which, the prosecution should examine the witnessess first and only thereafter, charges will be framed. Thus, from 2005 to 2018, the trial has prolonged. The prosecution evidence was completed and the petitioner examined himself as D.W.3, after filing an application under Section 315 Cr.P.C. Thereafter, the petitioners filed Cr.M.P.No.3465 of 2017 and Cr.M.P.No.3787 of 2017 in C.C.No.116 of 2005 for a direction to the authorities to produce the statements given during the departmental inquiry of one Veeramani and also examine the said Veeramani as a defence witness. The trial Court after hearing either side, has dismissed both the applications, challenging which, the petitioners/accused are before this Court.

2.Heard Mr.Dr.G.Krishnamurthy, the learned counsel for the petitioners and Mr.P.T.Ramkumar, learned Standing Counsel for Southern Railway.

3. Learned counsel for the petitioners submitted that the evidence of Veeramani is very much essential and the documents relating to the departmental enquiry are also essential in order to disprove the reverse burden contemplated by the provisions of the Act.

4. Per contra, the learned counsel for the respondent refuted the contentions.

5.In this case, after the closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. The accused also waived their right of silence under Section 315 Cr.P.C. and examined himself as D.W.3.

6.The short question that falls for consideration is whether the departmental enquiry proceedings in respect of one Veeramani would in any manner improve the case of accused? It is a trite law that the proceedings in the departmental enquiry would have no bearing before the Criminal Court where the standard of proof is different from the standard of proof that is required in a departmental enquiry. That apart, the relevancy of the statement in departmental enquiry has to be brought

within the four corners of Sections 5 to 55 of the Indian Evidence Act.

7. In this case, the petitioner himself has given evidence as D.W.3 and therefore, his statement in the departmental enquiry, not connected with the present case, can have no bearing at all. Therefore, this Court does not find any infirmity in the orders passed by the Court below, warranting interference.

Accordingly, these petitions stand dismissed as being devoid of merits. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Audit)

//True copy//

Sub Assistant Registrar

mbi/gms

To

1. The Judicial Magistrate No-I, Cuddalore.
2. -do- Through Chief Judicial Magistrate, Cuddalore.
3. The Inspector, Union of India,
Railway Protection Force, Southern Railway,
Villupuram Junction, Villupuram RPF Post.

+1cc to Mr.P.T.Ramkumar, Senior Counsel SR.No.60513

+1cc to Mr.V. Jaisankar, Advocate SR.No.60086

CRL.OP.Nos.6832 and 6833 of 2018

GMV (11/09/2018)