

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.2317 of 2018

G.Selvakumar

.. Petitioner

Vs

The State rep by,
The Inspector of Police,
T-16 Nazarthpet Police Station,
Chennai-123.
Crime No.646 of 2014

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Inspector of Police, T-16 Nazarthpet Police Station/respondent to destruct the narcotic substance kept in the petitioner godown situated at Door No.9, Balaji Nagar, Puliampedu, Noombal, Chennai-77 within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondent : Mrs.M.Prabhavathi, APP

O R D E R

The petitioner is the owner of a godown, bearing door No.9, Balaji Nagar, Puliampedu, Noombal, Chennai-77 and had rented the same to one Marimuthu by way of rental agreement dated 01.03.2014 for 11 months. The rent was fixed at Rs.14,000/- per month and the tenant had paid Rs.1,00,000/- as advance. While that being so, on 13.09.2014, the respondent Police registered a case in Crime No.646 of 2014 under Section 304(ii), 201 and 177 IPC r/w Section 8(c) r/w Section 22(c), 23, 25, 27(A), 29 and 9(A) r/w Section 25(A) of NDPS Act. Pursuant to the registration of the FIR, the Police came to the said godown and also to the another godown at 13/43, Canal Bank Road, R.A.Puram, Chennai-28 owned by one Priyalakshmi. On searching the two godowns, the Police found certain chemical substances there. On the reasonable belief that they could be narcotic drugs or psychotropic substances, the Police lifted samples from the materials found in the two godowns and also sealed the godowns in September' 2014. Investigation proceeded as against the accused and after completing the same, the Police have filed a Charge Sheet in C.C.No.42 of 2015 before the Special Court for NDPS Act Cases, Chennai for

the aforesaid offences against 10 accused. The owners of the two godowns, namely, the petitioner and Priyalakshmi has not been shown as accused and they have been shown as witnesses in the Charge Sheet. Now, it is the grievance of the petitioner that from 2014 to 2016, the godowns are under lock and key and that, the Police are not removing the substances, nor paying any rent for it. Therefore, this petition has been filed.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

3. Today, Mr. M. Venkataraju, Spl. Sub Inspector of Police, T-5, Thiruverkadu Police Station is present before this Court. Mr. M. Jayachandran, Inspector of Police, T-16 Nazarethpet Police Station has filed a counter dated 29.10.2018. In Paragraph No.11 of the counter, he has stated as follows:

"11. It is further submitted that the raw materials kept in the petitioner's Godown at No.9, Balaji Nagar, Puliyanbedu, Thiruverkadu, Chennai-77 measuring about 52,500 Kgs of various raw materials such as Toluene, Magnesium Sulphate, Borate, Sodium Sulphate, Hydrochloric Acid, Acetone, Methanol, Cyclopentyl Chloride and unknown substance. The said measurement was arrived in the year 2014 at the time of Inventory taken in the presence of the Hon'ble Magistrate and the same may be varied due to natural evaporation and other reasons. The respondent Police is ready to dispose of the raw materials lying in the godowns."

4. On instructions, learned Additional Public Prosecutor fairly conceded that the chemical substances found in the said two godowns are neither narcotic drugs nor psychotropic substances and on account of efflux of time, they may not have any much monetary value.

5. In the opinion of this Court, the State cannot retain the property of a person indefinitely, for no fault of his. The reports of the Assistant Director of Drugs Control, dated 09.05.2018 shows that those chemicals do not fall within the purview of Narcotic Drugs and Psychotropic Substances Act.

6. In view of the above, the Deputy Commissioner of Police, Ambattur District and the Inspector of Police, T-16 Nazarethpet Police Station, Chennai are directed to take necessary steps to dispose of the chemicals, either in public auction or in any other manner, including destruction with the help of the Assistant Director of Drugs Control, Thiruvallur Zone, Thiruvallur-1 and handover possession of the two godowns to the respective owners within four months from the date of receipt of a copy of this order.

With the above direction, this petition is closed.

gya

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Police,
Ambattur District.

2.The Inspector of Police,
T-16 Nazarathpet Police Station,
Chennai.

3.The Assistant Director of Drugs Control,
Thiruvallur Zone, Thiruvallur-1.

4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr. K.V. Muthu Visakan, Advocate Sr.74118

CRL.OP.No.2317 of 2018

(CS-DR)
EU(02/11/2018)

सत्यमेव जयते

WEB COPY