

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.23750 of 2017
and CrI.M.P.Nos.13772 & 15904 of 2017

The Intelligence Officer
Narcotic Control Bureau
Chennai Zonal Unit
Chennai 77.

..Petitioner/Complainant

vs.

1.Javeed Basha
2.Sadiq Basha

..Respondents/Accused

Criminal Original Petition filed under Section 482 Cr.P.C. against the order passed in C.C.No.45 of 2015 on 27.10.2017 cancelling the recall order passed in CrI.M.P.No.2731 of 2017 dated 14.10.2017 by the learned Principal Special Judge for (EC & NDPS) Cases at Chennai.

For petitioner Mr.N.P.Kumar
Special Public Prosecutor

For Respondents Mr.R. Vijayakumar

O R D E R

Shorn of unnecessary details, it is seen that the respondents are facing trial in C.C.No.45 of 2015 before the Special Court for NDPS Act Cases, Chennai. The prosecution filed CrI.M.P.No.2731 of 2017 in C.C.No.45 of 2015 under Section 311 Cr.P.C. for recalling Saravanan [P.W.4], Investigating Officer, for the purpose of marking a mobile phone. The said petition was allowed by the trial Court on 14.10.2017. While so, on 27.10.2017, Saravanan [P.W.4] was present, but the mobile phone which was supposed to be marked through him was not brought. Therefore, the trial Court recalled the order in CrI.M.P.No.2731 of 2017 and proceeded further in this case. Aggrieved by the order dated 27.10.2017, the petitioner/complainant is before this Court.

2. Heard Mr.N.P.Kumar, learned Special Public Prosecutor and Mr.V.Ramamoorthy, learned counsel for the accused.

3. Mr.V.Ramamoorthy, fairly conceded that the fruits of the order dated 14.10.2017 should not be denied to the party on the ground that on the said date, the mobile phone was not brought.

4. Mr.N.P.Kumar submitted that since the mobile phone was kept in the safe custody of the Superintendent of NCB godown and since the Superintendent was on leave on 27.10.2017, the prosecution was not able to bring the said mobile phone to the Court. He submitted that if one opportunity is given to the prosecution, they would produce the mobile phone and mark it through Saravanan [P.W.4].

5. Accepting the submission made by the learned Special Public Prosecutor, that portion of the order dated 27.10.2017 passed by the trial Court in C.C.No.45 of 2015 recalling the order dated 14.10.2017 in CrI.M.P.No.2731 of 2017 is hereby set aside and the prosecution is permitted to examine Saravanan [P.W.4] and mark the mobile phone on any date as fixed by the Court.

Accordingly, this petition is ordered. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

gms
To

1.The Intelligence Officer
Narcotic Control Bureau
Chennai Zonal Unit
Chennai 77.

2.The Principal Special Judge for (EC & NDPS) Cases,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.R. Vijayakumar, advocate sr 25594.

CrI.O.P. No.23750 of 2017

SP(13/04/2018)