

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.2873 of 2018

Selvakumar

... Petitioner/6 Accused

Vs.

State: rep.by

The Deputy Superintendent of Police,
CBCID Namakkal, Namakkal.

... Respondent

Prayer in CrI.O.P.No.2873 of 2018:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 16.12.2017 made in the Criminal Miscellaneous petition CrI.M.P.No.1218 of 2017 in Sessions case No.78 of 2016 on the file of the Principal Sessions Judge, Namakkal (Special Court constituted under the Scheduled castes and the Scheduled Tribes(Prevention of Atrocities) Act 1989 by allowing this Criminal Original Petition.

For Petitioner : Mr.A.V.Arun

For Respondent : Mr.P.Kritika Kamal
Government Advocate.

ORDER

The Order under challenge is the rejection of the petition filed by the 6th accused under Section 207 Cr.P.C in CrI.O.P.No.2873 of 2018. One of the main ground raised by the petitioner is that the Trial Court without furnishing some of the documents sought for by the petitioner, had rejected the petitioner's application seeking for discharge petition.

2. The documents which is now sought for by the petitioner are documents in S.nos.4,11,12,15,121,126 and 181 annexed with the final report, which according to the petitioner are the only documents which have not been furnished to him. Under Section 207 Cr.P.C, the petitioner would be entitled for copies of all the documents relied upon in the final report by the prosecution. As such there no impediment on the part of the Trial Court in furnishing such documents earlier to the petitioner. According to the learned counsel for the petitioner apart from the afore said seven documents the rest of the documents have already been furnished to him.

3. According to the learned counsel for the petitioner the impugned order dismissing his discharge petition is improper since it does not comply with the earlier orders of this Court passed in Crl.O.P.No. 26970 of 2017 dated 07.12.2017. The learned Government Advocate on the other hand submitted that the documents that are now been sought for by the petitioner are the documents pertaining to the original investigation and therefore the same are not required to be furnished. The learned Government Advocate further submitted that the documents relied upon in the present investigation has already been furnished to the petitioner herein.

4.I have given careful consideration to the submissions made by the respective counsels.

5.Though it is seen that some of the documents sought for by the petitioner herein pertains to the earlier investigation a reference has been made in the statement of the witnesses about the earlier investigation and therefore the documents sought by the petitioner herein may be justified. It is further seen that by an earlier order in Crl.O.P.No.26970 of 2017 dated 07.12.2017 the Trial Court was earlier directed to take the petition seeking for copies of certain documents on file and dispose of the same on its own merits. On a perusal of the present impugned order dated 07.12.2017 it is seen that, though an observation of my earlier order has been referred to in the present impugned order, no orders have been passed for supply of the documents.

6.Since, the petitioner would be entitled for supply of the documents relied upon by the prosecution in the final report under Section 207 Cr.P.C, the discharge petition ought to have been considered by supplying the petitioner with such copies which has not been furnished to him, there by denying an opportunity giving due opportunity to present his case. Hence, it would be impediment to set aside the impugned order and remit back the same for fresh consideration.

7. It is also brought to my notice that in an incidental proceedings which came to be disposed by the Hon'ble Supreme Court of India in the case of State Rep. By Additional Superintendent of Police vs. S.Yuvaraj in Criminal Appeal No.1757 of 2017 dated 19.12.2017, a direction was given to complete the trial within 18 months. As such it would be appropriate to fix a time limit for disposal of the discharge petition.

8. In the result the impugned order in Crl. M.P.No.1218 of 2017 dated 16.12.2017 on the file of the learned Special Principal Sessions Judge, Namakkal(Special Court constituted under the Scheduled Castes and the Schedules Tribes (Prevention of Atrocities Act 1989) is set aside. Consequently the learned sessions Judge is directed to supply the petitioner with the documents available in S.Nos.4,11,12,15,121,126 & 181 along with the final report to the petitioner within 2 days from the date of receipt of a copy of this order. After supply of the documents the discharge petition, in Crl.M.P. 1218 of 2017,

shall be disposed of within a period of one week from thereafter.

9.The learned principal Session Judge, Namakkal shall also endeavor considering any other petitions from the other accused seeking for supply of all documents which have not already been furnished to him as expeditiously as possible in order to avoid any further delay in this matter.

The Criminal Original Petition No.2873 of 2018 shall stand disposed of accordingly.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

smn

To

1.The Principal Sessions Judge,
Special Court Constituted under SC & ST ACT) Namakkal.

2.The Deputy Superintendent of Police,
CBCID Namakkal, Namakkal.

3. The Public Prosecutor, High Court, Madras

+1cc to Mr.A.V.Arun, Advocate sr.no.15094

Crl.O.P.No.2873 of 2018

nr 06/03/2018

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