

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.890 of 2013
and M.P.No.1 of 2013

The Directorate of Enforcement,
Represented by the Assistant Director (PMLA)
Govt. of India, Ministry of Finance,
Department of Revenue,
3rd Floor, 3rd Block,
26 Haddows Road,
Chennai - 600006. Petitioner

Vs.

1. The Assistant Commissioner of Police,
Copy Right Wing,
Central Crime Branch,
Egmore, Chennai.
2. M. Nagarajan
3. S. Martin
4. G. Moorthy Respondents

This Criminal Revision Case filed under Section 397 read with 401 of Code of Criminal Procedure to call for the entire records related to the Trial Court order dated 19.04.2013 in CMP No.83049 of 2012 in Cr.No.304 of 2012, S-8, Adambakkam Police Station and set aside the same.

For Petitioner : Mr.N.Ramesh,
Spl.Public Prosecutor for Enforcement.

For Respondent 1 : Mr.R.Ravichandran
Govt. Advocate (Crl. Side)

For Respondents 2-4: Mr.R.Srinivas
Ms.Mythli Srinivas

O R D E R

The Criminal Revision Case has been filed by the revision petitioner to set aside the order of the Trial Court dated 19.04.2013 in CMP No.83049 of 2012 in Cr.No.304 of 2012, S-8, Adambakkam Police Station.

2. It is the case of the revision petitioner that on 12.03.2012, on a specific information, the house of the accused, M.Nagarajan/2nd respondent herein, at Thillai Ganga Nagar, Nanganallur, Chennai, was searched in the presence of two independent witnesses. During the search, a sum of Rs.7,20,05,000/- was recovered along with records such as transporting of lottery tickets to other states like West Bengal, Bhutan and Sikkim, were seized.

3. Based on the confession statement of the 2nd respondent, a case in S-8 Adambakkam Police Station was registered in Crime No.304 of 2012 for the offences punishable under Sections 294 (A), 420 & 120 (b) IPC. Further, the house of the 4th respondent was searched and an amount of Rs.50,00,000/- was seized on 12.03.2012.

4. Seized amount from the 2nd and 4th respondents viz., Rs.7,20,05,000/- & Rs.50,00,000/- (In cash) respectively, were submitted before the learned Judicial Magistrate Court, Alandur, Chennai, under form 95 and the same was taken by the above said Court vide P.I.No.123 of 2012 on 21.03.2012.

5. During the course of the investigation, the officer has altered the Sections into under Sections 467, 468 and 471 of IPC, against the 2nd and 4th respondents on the ground that the documents submitted by the accused are fabricated, in order to get bail.

6. In the meantime, the revision petitioner moved a petition before the learned Judicial Magistrate Court, Alandur, Chennai, in C.M.P.No.83049 of 2012. After hearing the arguments made by the learned counsel for the petitioner as well the counsel for the 3 to 5th respondents, the trial Court passed orders to transfer/change the title of the deposit of Rs.7,20,05,000/- in favour of the petitioner's department on 03.01.2013. But the copy of the order was not issued by the learned Judicial Magistrate, Alandur, Chennai, to the revision petitioner.

7. Against which the revision petitioner preferred a Criminal Original Petition in CrI.OP.No.7384 of 2013 before this Hon'ble Court. After hearing both sides, this Court, set aside the order in CMP.No.83049 of 2012 dated 03.01.2013 and remitted the case back to the trial Court for fresh consideration and

directed to dispose of the petition on or before 19.04.2013.

8. Further, the learned Judicial Magistrate, Alandur, Chennai, passed an order dated 19.04.2013 in CMP.No.83049 of 2012, stating that the other co-accused is yet to be arrested and the case is at preliminary stage of investigation and therefore, the possession of the attached property to be decided only after full-fledged trial. During the course of investigation, a petition for taking possession of the attached property does not arise and accordingly, CMP.No.83049 of 2012 is liable to be dismissed on merits and accordingly dismissed the same.

9. Aggrieved against the order of the learned Judicial Magistrate, Alandur, Chennai, in CMP.No.83049 of 2012 dated 19.04.2013, the revision petitioner is before this Court with this Criminal Revision Case.

10. The learned Special Public Prosecutor, appearing for the petitioner would submit that as per the direction of this Court in Crl.OP.No.7384 of 2013 dated 05.04.2013, the learned Judicial Magistrate, Alandur, Chennai, dismissed the petition on 19.03.2013, but, the copy of the counter was not served to the revision petitioner. Without giving opportunity to the revision petitioner, the learned Judicial Magistrate, Alandur, Chennai, dismissed the petition.

11. The learned Government Advocate (crl.side) appearing for the 1st respondent would submit that on 15.04.2013, the first respondent filed a counter in open Court. Further, this Court called for the records and found that there is no endorsement either from the revision petitioner nor from the trial Court, to support the contention of 1st respondent. Further, there is no proof to show that the counter has been filed by the first respondent on time, either from the 1st respondent or from the trial Court.

12. Heard both sides, perused the materials available on record.

13. Under these circumstances, this Court is inclined to set aside the order passed by the learned Judicial Magistrate, Alandur, Chennai, in CMP.No.83049 of 2012 dated 19.04.2013 and to remit back the matter to the trial Court for fresh consideration.

14. In the result, the Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate, Alandur, Chennai, in CMP.No.83049 of 2012 dated 19.04.2013 is set aside and further, the matter is remitted back to the trial Court for fresh consideration. While disposing the matter, the trial Court

may take steps to serve a copy of the counter, in the manner know to law, to the revision petitioner herein and give an opportunity to both sides and proceed further in accordance with law. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Alandur. (FAC/FTC)
2. The Assistant Commissioner of Police,
Copy Right Wing,
Central Crime Branch,
Egmore, Chennai.
3. The Public Prosecutor
Madras High Court.

+1 cc to M/s.N.Ramesh, Advocate Sr.No.65337
+1 cc to Mr.R.Srinivas, Advocate Sr.No,64931

CrI.R.C.No.890 of 2013
& M.P.No.1 of 2013

CSL/20.03.2019



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