

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.Nos.27827, 27829, 27831 and 27833 of 2018

V.Baskaran

...Petitioner in all CrI.O.Ps/Accused

Versus

The Assistant Director of Enforcement Directorate,
Government of India,
Sasthri Bhavan, 26, Haddows Road,
Chennai.

...Respondent in all CrI.O.Ps

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 20.11.2018 passed by the Additional Chief Metropolitan Magistrate (E.O.-I) Egmore, Chennai in E.O.C.C.Nos.163/1996, 45/1998, 17/1997 and 44/1998 respectively.

For Petitioner : Mr.K.V.Dhanapalan
in all cases

For Respondents : Mr.G.Rajagopalan
ASGI
Assisted by Ms.G.Hema
Spl. Public Prosecutor
in all cases

COMMON ORDER

These petitions have been filed challenging the order dated 20.11.2018 passed by the Additional Chief Metropolitan Magistrate (E.O.-I) Egmore, Chennai in E.O.C.C.Nos.163/1996, 45, 17 and 44 respectively.

2. These petitions have been filed by the second accused. The accused person is facing proceedings before the Court below for an offence under Section 68(1) of FERA 1973, punishable under Section 56(1) (i) of FERA 1973. The Court below had read over the charges to all the three accused persons on 21.06.2017. On the same day, the 1st and 2nd accused have denied the charges and A2 has also signed for himself and also

on behalf of the A1 company.

3. The learned counsel for the petitioner would submit that contrary to the above fact available on record, the Court below has now passed an order dated 20.11.2018, wherein, the Court below has directed the accused persons to again appear for re-framing of charges. In order to substantiate the said arguments, the learned counsel brought to the notice of this Court, the order passed by the Court below and the same is extracted hereunder:

"Both sides present, argument heard. Documents perused. Against A1 to A3 the charge was framed on 21.06.2017. At the time the accused A3-Sasikala was examined through video conference in accordance with order Crl.M.P.No.979 of 2017. But the sign of accused Sasikala A3 was not obtained for her answer. Further the charge framing, does not contain the statement as charge is read over and explained to the accused along with the sign of then Judge. All these are the procedural irregularities that can be rectified at any time. So the charge against A1 to A3 is to be re-framed again. So the accused A1 to A3 is directed to appear on and the complainant is directed to furnish particulars of case/imprisonment/jail of A3 Sasikala undergoing so as to cause production of the accused Sasikala. Call on 30.11.2018.

4. By pointing out the above order, the learned counsel would submit that the Court below has proceeded as if the statement of the charge was not read over to the accused and the signature of the accused has not been taken at the time of questioning. According to the learned counsel for the petitioner, this finding goes contrary to the records that are available. The learned counsel would submit that the charges were read and explained and thereafter, the petitioner had also denied the charges and has also signed for himself and on behalf of A1 company and therefore there was no requirements for the Court below to again call the accused persons for the purpose of re-framing the charges. The petitioner is now aggrieved by the order of the Court below calling the accused persons for re-framing of charges.

5. The learned Additional Solicitor General would submit that if the records show that the charges have already been read over and explained to the accused persons and the

accused persons have also denied the charges and had assigned their signature, this Court can direct the Court below to proceed further with this case instead of calling the accused persons for re-framing the charges again. The learned Additional Solicitor General would further submit that if the requirements contained under the Code of Criminal Procedure has already been fulfilled, the same exercise need not be done again and the Court below can be directed to proceed further in this case.

6. This Court has carefully considered the submissions made on either side.

7. It is seen from the records that the petitioner was clearly read over and explained the charges and the petitioner after having understood the same had denied the charges and had also put the signature for himself and on behalf of A1 company. This has happened as early as on 21.06.2017. The petitioner is assailing the order of the Court below only on the ground that the finding of the Court below goes contrary to the materials available on record and according to the learned counsel for the petitioner, there is no requirement to call the petitioner again for the purpose of re-framing the charges.

8. Since it is the specific case of the petitioner that the requirements for framing of charges has been fulfilled by reading over it and explaining to the petitioner, this Court does not find any purpose to re-do the said exercise again. In view of the specific stand taken by the petitioner before this Court, this Court is of the considered view that the Court below need not undertake the exercise of reading over and explaining the charges again to the petitioner. According to the learned counsel for the petitioner there are no irregularities in the procedure followed at the time of framing of charges and the petitioner has perfectly understood the charges framed against him and has also denied the same.

9. The learned Additional Solicitor General has specifically submitted that if the petitioner is satisfied with the fulfillment of the requirements for framing of charges, the Court below need not undertake the said exercise once again and the Court below can be directed to proceed further with the case in accordance with law.

10. In view of the above discussion, this Court finds that the charges have already been read over and explained to the petitioner and he having understood the same had also denied the same and also assigned his signature on 21.06.2017 and the same is clearly seen from the records. Therefore, there is no requirement for the Court below to again re-do the same exercise. In view of the same, the order of the Court below

ordering for re-framing of charges is hereby set aside.

11. The Court below is directed to proceed further in this case and shall complete the entire proceedings within a period of four months from the date of receipt of a copy of this order. It is made clear that the accused persons shall Co-operate for the disposal of the case within the time stipulated by this Court, since the case is pending from the year 1996 onwards. The Court below is also directed to file a Compliance Report before this Court, after the completion of the proceedings within the time stipulated by this Court.

12. All the Criminal Original Petitions are disposed of with the above direction.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ub/ssr

To

1. The Assistant Director of Enforcement Directorate,
Government of India,
Sasthri Bhavan, 26, Haddows Road,
Chennai.
2. The Public Prosecutor,
High Court, Madras.
3. The Section Officer,
Criminal Section, High Court,
Madras.

+4cc to Mr.K.V.Dhanapalan, Advocate, S.R.No. 81701, 81702,
81703, 81704

CrI.O.P.Nos.27827, 27829, 27831 and 27833 of 2018

BR(CO)
GN(28/11/2018)