

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.28831, 28835, 28838 & 28840 of 2018
and Crl.M.P.Nos.16845 to 16848 of 2018

V.K.Sasikala ...Petitioner in all Crl.O.Ps.

Vs.

1.The Chief Enforcement Officer,
Enforcement Directorate
Government of India,
Shastri Bhavan
Chennai 600 006.

...Respondent in Crl.O.P.No.28831/2018

2.The Assistant Director,
Enforcement Directorate
Government of India,
Shastri Bhavan
Chennai 600 006.

...Respondent in Crl.O.P.Nos.28835/2018,
28838 and 28840/2018

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to set aside the order dated 20.11.2018 and 30.11.2018 made in EOCC.No.17 of 1997, EOCC.No.168/2001, EOCC.No.163/1996 and EOCC.No.44/1998 respectively on the file of Additional Chief Metropolitan Magistrate, E.O.I, Egmore, Chennai.

For Petitioner in all Crl.O.Ps :Mr.B.Kumar, Senior Advocate
for A.Asokan

For Respondents in all Crl.O.Ps : M/s.G.Hema
Special Public Prosecutor
Mr.G.Rajagopalan
Additional Solicitor General

O R D E R

These petitions have been filed challenging the order passed by the Court below dated 20.11.2018 and 30.11.2018, wherein, the Court below has directed the petitioner to be produced before the Court for the purpose of questioning the petitioner for framing of charges.

2.The learned Senior counsel appearing on behalf of the petitioner brought to the notice of this Court, the earlier order passed by the learned Additional Chief Metropolitan Magistrate (E.O.1), Egmore, Chennai wherein, the Court below had decided to put the questions for the purpose of framing of charges through video conferencing. The learned Senior counsel specifically brought to the notice of this Court the following extracted portion of the order passed by the Court below:-

"16)Therefore in the light of the Law enunciated by the Hon'ble Supreme Court in the case of resorting to Video Conferencing facility this Court is of the view that this petition can be allowed accordingly.

In the result the petition is allowed subject to the following conditions.

1)In accordance with the pleadings in the petition and submissions made on behalf of the petitioner/A3, the petitioner shall file an undertaking in the form of Affidavit that no prejudice would be caused to her in any manner by dispensing with her presence during such questioning and such undertaking of the petitioner shall be attested by the concerned jail authority.

2)Considering the background of the case, it is considered necessary that the petitioner shall also state in the above said undertaking that in which language i.e whether in Tamil or English the questions are to be put to her.

3)On filing such affidavit, the copy of this order shall be forthwith to be communicated to the Home Secretary of Government of Karnataka and to the Superintendent of Central Prison, Parapana Agrahara, Bengaluru, State of karnataka, where the petitioner is also at present in jail in the Crime No.13/AC/96/HQ in C.C.No.208/2004 on the file of 36th Additional City Civil Court and Sessions Judge, Special Court, Bengaluru in order to make necessary arrangements for video conferencing.

4)On failing to comply with the above conditions by the petitioner within two weeks from the date of this order, this petition shall stand dismissed, as it would be deemed that the petitioner is unwilling for examination by video conferencing facility."

3.The learned Senior counsel pointing out the above order passed by the Court below, contended that the present order directing the petitioner to be produced before the Court, was contrary to the earlier order and if at all the Court below wants to question the petitioner and frame charges, the same has to be done through video conferencing and there is no necessity to produce the petitioner before the Court.

4.The learned Additional Solicitor General appearing on behalf of the respondent would submit that the questioning can be done through video conferencing in view of the earlier order passed by the Court below and the specific undertaking given by the petitioner stating that the questioning can be made through video conferencing for the purpose of framing of the charges.

5.This Court has carefully considered the submissions made on either side. It is relevant to extract the undertaking affidavit filed by the petitioner before the Court below:-

"1.I am the petitioner herein and arrayed as 3rd accused in this case. The respondent/complainant filed the complaint against petitioner/accused for the alleged offences under Sections 8(1), 9(1) (a) of the FERA 1973 punishable under Section 56(1) (i) of FERA 1973 on 29.01.1997. The prosecution witnesses were examined and closed by the Special Counsel for the complainant. For framing of charges, the case was adjourned for the presence of the accused/petitioner and a petition for permission to be granted for answering the charges through video conferencing was filed and the same was allowed by this Hon'ble Court vide order dated 04.05.2017 subject to the conditions that the petitioner/accused should file an undertaking affidavit duly attested by the Jail authority to the effect that no prejudice could be caused to her in any manner by dispensing with her presence during such questioning and that she has to state in which language, that is, whether in Tamil or English the questions are to be put to her.

2.The petitioner/Accused undertakes to state that by dispensing with her presence during the questioning on the charges through video conferencing, no prejudice would be caused to her in any manner and she further submits that the questioning on the charges are to be put to her in Tamil language only.

3.The petitioner respectfully submits she would not plead that she would be prejudiced on account of questioning under the video conferencing facility before this Hon'ble Court or any other forum. Further she may be questioned only in Tamil as that is the only language known to her."

6.In view of the above undertaking given by the petitioner, there is no requirement to produce her before the Court below for questioning on the charges and the same can be done through video conferencing. On an earlier occasion, when the questions were put to the petitioner, it is seen from the records that she has denied the charges, but however her signature is not found. It is only for this purpose, the Court below wants to again question the petitioner on the charges so that the irregularity can be rectified.

7.The order passed by the Court below, insofar as directing the production of the petitioner is hereby set aside. The Court below is directed to proceed further to question the petitioner on the charges through video conferencing. This procedure has already been agreed upon by the petitioner in her undertaking affidavit filed before the Court below and which has been extracted supra. In the result this Criminal Original Petition is disposed of with the direction to the Court below to question the petitioner on the charges through video conferencing and proceed further in accordance with law. The Court below shall keep in mind the time fixed by this Court for the completion of the proceedings while passing the orders in CrI.O.P.Nos.27827, 27829, 27831, 27833 of 2018, dated 29.11.2018.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Chief Enforcement Officer,
Enforcement Directorate
Government of India,
Shastri Bhavan
Chennai 600 006.

2.The Assistant Director,
Enforcement Directorate
Government of India,
Shastri Bhavan
Chennai 600 006.

+1cc to Mr.G.Hema, Advocate, S.R.No.85393

+8cc to Mr.A.Asokan, Advocate, S.R.No.85294,85297,85295,85296

CrI.O.P.Nos.28831, 28835, 28838 & 28840 of 2018

KAN(CO)
GSP(13/12/2018)



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