



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.08.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)Nos.689 and 897 of 2018
and CRL.M.P.(MD).Nos.292 and 393 of 2018

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State represented by
The Deputy Superintendent of Police,
'Q' Branch CID, Madurai City,
Tallakulam PS (Cr.No.1507/2016)

... Petitioner/Respondent/
Complainant in both petitions

-vs-

Roopesh

... Respondent/Petitioner/
Accused in both petitions

Prayer: Criminal Original petitions are filed under Section 482 of Criminal Procedure Code, to call for the records relating to the orders passed in Cr.M.P.Nos.648 and 647 of 2017, dated 24.10.2017, respectively on the file of the IV Additional District and Sessions Judge, Madurai and set aside the same.

For Petitioner : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)

For Respondent : Mr.A.B.Natarajan
Legal Aid Counsel.
(in both petitions)

COMMON ORDER

The State has preferred these Criminal Original Petitions under Section 482 of Cr.P.C., challenging the order passed by the IV Additional District and Sessions Judge, Madurai, wherein the learned IV Additional District and Sessions Judge had directed the State to translate the copies of the final report filed in Crime No.507 of 2016 (S.C.No.277 of 2017) and in Crime No.656 of 2015 (S.C.No.278 of 2017) into English and furnish the same to the respondent.

2.The respondent is an accused in S.C.Nos.277 and 278 of 2017 and the final reports have been filed against him for the offences punishable under Sections 379, 419, 420, 468, 471 IPC r/w 13, 18(b), 20 of Unlawful Activity and Prevention Act. After the final reports were filed, the respondent has come forward to file a petition to provide English translation of the final reports, on the ground that the contents of the final reports and the materials relied upon in the final reports are in Tamil language and that the respondent does not know to read or write in Tamil language, since he is a native of Kerala. The learned Additional District and Sessions Judge has allowed the petitions filed by the respondent and directed the State to furnish copies of the final report in both cases in English within a month from the date of the order. Challenging, the same the present Criminal Original Petitions have been filed.



3.The learned Government Advocate (Criminal Side) would submit that several cases are pending against the respondent for similar offences and the present petitions have been filed by him only to drag on the proceedings. The learned Government Advocate (Crl. side) further submitted that the respondent has been residing in Tamilnadu since 2012 onwards and he is involved in weapon training with 'Tamil movoist tholar' and he knows the language very well. That apart, the learned counsel would further submit that a number of Tamil books were seized from the respondent by the police at the time of his arrest and therefore, it will be too late in the day for the respondent to plea of ignorance of Tamil language. The learned Government Advocate therefore, would submit that the Court below went wrong in ordering the petitions filed by the respondent without proper appreciation of the facts and circumstances of the case.

4.Per contra, the Legal Aid Counsel Mr.A.B.Natarajan, who was appointed to represent the respondent, would submit that the respondent does not appear through a counsel and he only appears in person and therefore, it becomes important to furnish copies of the final report along with all other relevant documents in the language that is known to the respondent. Since the respondent knows to read and write English, the Court below was right in directing the State to furnish the final report along with all other materials in English language. The learned counsel would further submit that the very purpose of furnishing copies to an accused person under Section 207 Cr.P.C is only to give him an opportunity to understand the materials that are placed against him and if the accused is not able to understand the materials that are placed against him in a language that he does not know, then it will amount to denying an opportunity to the accused to defend himself effectively in the Criminal case.

5.This Court has carefully considered the submissions made on either side. Admittedly, in these cases, the State has filed the final reports against the respondent and the final reports and the materials relied upon are in Tamil language. The respondent, subsequent to the filing of the petitions to translate the final report and the relevant materials in English, has also chosen to file a petition under section 227 of Cr.P.C praying for discharge from the cases. The said petition has been placed before this Court. In the discharge petition, the respondent has specifically dealt with the statements given by the witnesses under Section 161 Cr.P.C that has been relied upon by the prosecution and has submitted his version about such statements. The discharge petition runs to nearly four pages and the respondent has dealt with each aspect of the final report and it also dealt with the materials that has been relied upon by the prosecution along with the final report. If really, the respondent does not understand Tamil, it is not possible for the respondent to prepare a discharge petition in which he has dealt with the entire final report and the statements made by the witnesses. The discharge petition has been filed before the



District and Sessions Court and it has also been assigned a number by that Court and the same is pending enquiry.

6.The learned Legal Aid Counsel for the respondent has placed reliance upon the judgment of this Court in M.Subramaniyan Vs. State Rep. by Inspector of Police, CBI;ACB, Chennai (through Special Public Prosecutor) (Spl.C.C.No.6/2010) in CrI.R.C.No.243 of 2015, wherein, the learned counsel has relied upon the following paragraphs.

"13.There cannot be second thought over the proposition that fair trial, fair justice, fair opportunity requires furnishing of copies of all incriminating materials proposed to be projected against the accused and only when he is made to understand those materials, he could be able to defend himself effectively, Section 207 Cr.P.C. is an example of extending principles of natural justice to criminal law.

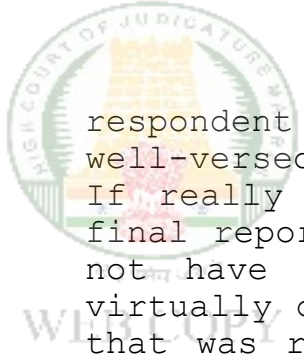
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15.In a criminal case, the Court has to see whether any prejudice is caused to the accused by denying him any opportunity such as non supply of copies of document, inclusive of non supply of translated version of copies of document."

7.In the judgment that has been relied upon by the learned counsel mentioned supra, this Court, on the facts of the case, came to the conclusion that the counsel who represented the petitioner understood the final report in English language and had advised the accused person about the contents of the final report and therefore, this Court found that in view of the fact that the accused person had understood the final report that has been filed against him on being instructed by his counsel, there is no requirement for translating the final report.

8.The whole attempt of the Code of Criminal Procedure is to ensure that the accused person is given a fair opportunity to understand the charges against him and to effectively defend himself of the charges. The Code also ensures that for the purpose of defending himself effectively, if in any case, the accused is not in a position to engage a counsel, a counsel is appointed from the legal aid to defend the rights of the accused persons. The purpose is obviously to make the accused to understand as to what are the charges faced by him and what is the offence that is going to be laid against him in the trial. The moment this is ensured, no accused person can complain that fair opportunity was not afforded to him to defend himself in a Criminal case.

9.In the instant case, from the records, it can be seen that the respondent is facing several cases of similar nature against him. A reading of the petitions that have been filed for providing him the translated copy and also the discharge petition filed by the



respondent clearly shows that the respondent is knowledgeable and well-versed about his rights under the Code of Criminal Procedure. If really the respondent did not understand the contents of the final report and the materials relied therein, the respondent could not have prepared a discharge petition in such details, which virtually deals with the entire final report and also the statement that was recorded by the police during investigation of the case. Therefore, the ground on which the respondent has filed the application for providing with translated copies, itself becomes highly doubtful and questionable.

10. There is yet another angle from which this case can be approached. Ultimately, the respondent has to effectively defend himself in the cases that have been filed against him. If the respondent is not in a position to engage a counsel, a Legal Aid Counsel will always be provided to assist the respondent in the criminal case. Even, for defending the present criminal original petitions, a Legal Aid Counsel has been appointed and he has effectively put forth the case of the respondent before this Court. Therefore, the respondent cannot be permitted to say that he will not engage a counsel and in every State, where he has a criminal case, he will go and defend himself in person and for that purpose, every State will have to translate the final report in a language known to the respondent, and the same would be too much for the respondent to ask the Court. The opportunity to defend, that is contemplated under the Code of Criminal Procedure and to provide assistance to the accused persons in that regard, is only for those persons who do not have anybody to assist them and who are not in a position to safeguard their rights.

11. In the instant case, the respondent seems to be a highly knowledgeable person and a reading of the petitions that have been prepared by him clearly shows that he understands the case that has been filed against him and he also understands the various rights that have been given to him under the Code of Criminal Procedure. The ground taken by the respondent that he does not know Tamil language gets falsified by the very fact that he subsequently chose to file a discharge petition by extensively referring to the final report and the 161 Cr.P.C statements from the witnesses. It, therefore, becomes clear that the petition have been filed by the respondent before the Court below only to drag on the proceedings.

12. The learned District and Sessions Judge allowed the petitions only on the ground that the respondent is defending himself as a party in person and he does not know 'Tamil Language'. But the subsequent conduct of the respondent shows that he understands Tamil language and that is why, he chose to file the discharge petition after going through the final reports and the materials filed along with the final report. It is the respondent's choice to either defend himself in person or through a counsel. If the respondent is not in a position to engage any counsel, then it is always open to him to make a request to the Court to appoint a



Legal Aid Counsel. This Court does not find any merit in the petitions filed by the respondent before the Court below.

13. The Common order passed by the learned IV Additional District and Sessions Judge, Madurai, in Cr.M.P.Nos.647 and 648 of 2017, dated 24.10.2017 is hereby set aside and the learned IV Additional District and Sessions Judge, Madurai, is directed to proceed further in accordance with law and afford sufficient opportunity to the respondent to defend the case. The criminal original petitions filed by the state are accordingly allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The IV Additional District and Sessions Judge, Madurai.

2. The Deputy Superintendent of Police,
'Q' Branch CID, Madurai City,
Tallakulam Police Station.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.A.B.Natarajan, Advocate, SR.No. 78083

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