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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
09.02.2018	16.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) Nos.7444, 7445, 7446, 7447, 7448 & 7449 of 2016
and
Crl.R.C.(MD) Nos.244 & 246 of 2015

K.Muthuselvam ... Petitioner / A4 in Crl.R.C.(MD) No.244 of 2015

P.Ganesan ... Petitioner / A3 in Crl.R.C.(MD) No.246 of 2015

E.Ramesh ... Petitioner / Accused in Crl.O.P. (MD) Nos.7444, 7445 & 7449 of 2016

A.K.Sharma ... Petitioner / Accused in Crl.O.P. (MD) Nos.7446, 7447 & 7448 of 2016

-vs-

State by
The Deputy Superintendent of Police
CBI/ACB
Chennai
(Crime No.RCMA1 2012 A 0006) ... Respondent / Complainant in Crl.R.C.(MD) No.244 of 2015

State by
The Deputy Superintendent of Police
CBI/ACB
Chennai
(Crime No.RCMA1 2012 A 007) ... Respondent / Complainant in Crl.R.C.(MD) No.246 of 2015

State by
The Deputy Superintendent of Police
SPE/CBI/ACB
Chennai
(Crime No.RCMA1 2012 A 0007) ... Respondent / Complainant in all Crl.O.Ps.

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PRAYER (in Crl.R.C.(MD) No.244 of 2015): Criminal revision filed under Sections 397 and 401 Cr.P.C., to call for the records from the lower Court and to duly set aside the order passed by the learned II Additional District Judge for C.B.I.Cases, Madurai, Madurai District, in Crl.M.P.No.331 of 2013, dated 31.03.2015 in C.C.No.8 of 2013.

PRAYER (in Crl.R.C.(MD) No.246 of 2015): Criminal revision filed under Sections 397 and 401 Cr.P.C., to call for the records from the lower Court and to duly set aside the order passed by the learned II Additional District Judge for C.B.I.Cases, Madurai, Madurai District, in Crl.M.P.No.340 of 2013, dated 07.04.2015 in C.C.No.4 of 2013.

PRAYER (in Crl.O.P.(MD) No.7444 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.4 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.4 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.4 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai.

PRAYER (in Crl.O.P.(MD) No.7445 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.5 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.5 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.5 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai as against this petitioner.

PRAYER (in Crl.O.P.(MD) No.7446 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.6 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.6 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.6 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai.

PRAYER (in Crl.O.P.(MD) No.7447 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.7 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.7 of 2013, on the file of

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the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.7 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai.

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PRAYER (in Crl.O.P.(MD) No.7448 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.8 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.8 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.8 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai.

PRAYER (in Crl.O.P.(MD) No.7449 of 2016): Criminal original petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.9 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, dispense with the personal appearance of the petitioner in C.C.No.9 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai, pending disposal of this petition and quash the charge sheet in C.C.No.9 of 2013, on the file of the II Additional District Court for C.B.I.Cases, Madurai.

For Petitioners (in all Crl.O.Ps)	:	Mr.K.Suresh Babu
For Petitioners (in both revisions)	:	Mr.Arul Vadivel @ Sekar for Mr.K.Prabhu
For Respondent (in all cases)	:	Mr.N.Nagendran Spl. Public Prosecutor for C.B.I.Cases

C O M M O N   O R D E R

Investigation in this case began when the officials of the Directorate of Revenue Intelligence, Tuticorin (hereinafter, referred to as “the D.R.I.”) intercepted a container covered under a bill of entry No.446476, dated 06.10.2008, filed by M/s.Edge, Mumbai, after the truck carrying the container left Concord CFS, Tuticorin. The officials of D.R.I. checked the container and it was found to contain steel measuring tapes. They drew three samples, namely S1, S2 and S3 and forwarded the same to the Customs Laboratory vide Test Memo No.1 of 2009, dated 12.02.2009 in order to ascertain its weight, gauge etc. After receiving the report from the Customs Laboratory, it came to light that the consignment would attract anti-dumping duty, but the same had not been paid by the importer. Further enquiry revealed that the

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importer was one Sanjay H Shah (A1) and that he had engaged M/s.Green Port Shipping Agency, Tuticorin, as his clearing agent for clearing the consignment. The documents accompanying the consignment revealed that the consignment had been imported from China. At this juncture, it may be relevant to say about the Rule relating to anti-dumping duty. The Government of India published the principal Notification No.147 of 2003, Customs, dated 07.10.2003, wherein it has been stated that import of steel and fiber glass tapes and its parts and components originating in or exported from Republic of China would attract anti-dumping duty, since the domestic industry would suffer. According to the said Notification, steel measuring tapes, its parts and components imported from China costing less than 4.106 US$ per Kilogram would attract anti-dumping duty (emphasis supplied). The Notification also explained in detail how the landed value of the consignment should be assessed and how the anti-dumping duty for the same should be calculated. To continue with the narration of the facts from where it was left, the D.R.I.Officials proceeded further with the investigation and summoned Sanjay H Shah (A1), Proprietor of M/s.Edge, Mumbai and recorded his statement under Section 108 of the Customs Act. He confessed to the effect that he had imported twelve consignments from 2006-2008 onwards and had cleared the goods through K.S.Murugan (A2) of M/s.Green Port Shipping Agency, Tuticorin, without payment of anti-dumping duty. The Central Bureau of Investigation (hereinafter, referred to as “the C.B.I.”) got wind of this and registered two first information reports on 20.02.2012 in R.C.Nos.MA1 2012 A0006 and MA1 2012 A0007.

2. In R.C.No.6 of 2012, Sanjay H Shah (Proprietor of M/s.Edge, Mumbai), K.S.Murugan (Proprietor of M/s.Green Port Shipping Agency, Customs House Agent, Tuticorin), Thirugnanam (Retd. Superintendent of Customs), T.M.Ramalingam (Retd. Superintendent of Customs), V.Thirumanivasagam (Retd. Superintendent of Customs), B.S.Krishnamurthy (Superintendent of Customs), R.Ramamurthy (Superintendent of Customs), R.Venugopal (Inspector of Customs), S.Ganapathy (Inspector of Customs), K.Jayasrinivasan (Retd. Inspector of Customs) and J.Jayakumar (Inspector of Customs) were arrayed as A1 to A11 respectively. The F.I.R. in R.C.No.6 of 2012 relates to six consignments imported by Sanjay H Shah (A1) between July, 2006 and August 2007, which were cleared by the above named Customs Officials, namely, A3 to A11 without levying anti-dumping duty.

3. In R.C.No.7 of 2012, Sanjay H Shah (Proprietor of M/s.Edge, Mumbai), Murugan (Proprietor of M/s.Green Port Shipping Agency, Customs House Agent, Tuticorin), S.Sivaraman (Superintendent of Customs), G.Rajendran (Retd. Superintendent of Customs), P.Ganesh (Retd. Superintendent of Customs), V.Ponnusamy (Superintendent of Customs), C.Govindasamy (Superintendent of Customs), S.Joseph Aloysius (Inspector of Customs), K.Venkateswaran @ K.Sekaran (Inspector of Customs), S.Kaleeswaran

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(Inspector of Customs) and K.Muthuselvam (Inspector of Customs) were arrayed as A1 to A11 respectively. The F.I.R. in R.C.No.7 of 2012 relates to six consignments imported by Sanjay H Shah between October, 2007 and October, 2008, which were cleared by the above named Customs Officials, namely, A3 to A11 without levying anti-dumping duty.

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4. After completion of the investigation in both crime numbers, the C.B.I., were able to collect incriminating materials only with respect to seven bills of entry and they were not able to collect materials with regard to five bills of entry. Therefore, the C.B.I., have filed seven charge sheets in C.C.Nos.3 to 9 of 2013, before the Special Court for C.B.I.Cases, Madurai, for the offences under Sections 120-B r/w 420 I.P.C., and Sections 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. It may be necessary to state here that Sanjay H Shah (A1) and Murugan (A2) have been shown as accused in all the seven charge sheets. The following accused named in the first information reports were deleted and not included in the charge sheets, namely, Thirugnanam, Venugopal, Ramalingam, Thirumanivasam, Ganapathy, Jayasrinivasan, Krishnamurthy, Ramamurthy, Jayakumar and Govindasamy. However, the Customs Officials, who have not been named in the First Information Reports, have been included in various charge sheets. Each charge sheet relates to the clearance of one bill of entry and therefore, there are seven charge sheets.

5. Ganesan, Superintendent of Customs (A3 in C.C.No.4 of 2013), filed Crl.M.P.No.340 of 2013, under Section 239 Cr.P.C., for discharge and the same was dismissed by the Trial Court on 07.04.2015. Challenging the same, he has filed Crl.R.C.(MD) No.246 of 2015.

6. Similarly, Muthuselvam, Inspector of Customs (A4 in C.C.No.8 of 2013) filed Crl.M.P.No.331 of 2013, under Section 239 Cr.P.C., for discharge and the same was dismissed by the Trial Court on 31.03.2015. Challenging the same, he has filed Crl.R.C. (MD) No.244 of 2015.

7. Ramesh, Group Appraiser, Customs, who is the accused in three charge sheets, has filed three quash applications in Crl.O.P.(MD) Nos.7444, 7445 and 7449 of 2016, against C.C.Nos.4, 5 and 9 of 2013 respectively.

8. Similarly, one A.K.Sharma, Group Appraiser, Customs, who is the accused in three charge sheets, has filed three quash applications in Crl.O.P.(MD) Nos.7446, 7447 and 7448 of 2016, against C.C.Nos.6, 7 and 8 of 2013 respectively. Therefore, all the above criminal original petitions and criminal revision petitions were heard together and are being disposed of by this common order.

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9. Heard Mr.K.Suresh Babu, learned counsel appearing for the petitioners in the criminal original petitions, Mr.C.Arul Vadivel @ Sekar, learned counsel appearing for Mr.K.Prabhu, learned counsel on record for the petitioners in the criminal revision petitions and Mr.N.Nagendran, learned Special Public Prosecutor for C.B.I.Cases in all cases and perused the materials filed in the form of typed set of papers.

10. On the directions of this Court, Mr.C.S.Moni, Additional Superintendent of Police, C.B.I., was present with case diary to assist this Court.

11. The overall case of the prosecution is as follows:

Sanjay H Shah (A1) imported steel measuring tapes from China via Tuticorin Port. He appointed one Murugan (A2) of M/s.Green Port Shipping Agency to act as Customs House Agent. The imported consignment was kept in the customs shed for examination by the Customs Officers. On the papers presented by the Customs House Agent, a computerised bill of entry was generated. Ramesh, Customs Appraiser, has dealt with three bills of entry and A.K.Sharma, Customs Appraiser, has dealt with three bills of entry. They had ordered the Shed Appraisers to conduct first check on the consignment and their order was approved by the Assistant Commissioner of Customs. The order to conduct first check on the consignment was transmitted by Local Area Network (LAN) to the Shed Examining Officers of the Customs.

12. It is alleged that at the Shed Examination Centre, the Customs Officers had deliberately weighed only the metal tape and had excluded the weighment of the metal case. After thus weighing, the details of the same were transmitted by LAN to the desk of Ramesh and A.K.Sharma. However, Ramesh and A.K.Sharma did not levy anti-dumping duty and instead, they levied only customs duty, which has been approved by the Assistant Commissioner. After paying the customs duty, as levied by Ramesh and A.K.Sharma, the consignment was taken delivery from the customs shed. Thus, the allegation made against the Ramesh and A.K.Sharma is that each of them had dealt with three bills of entry relating to Sanjay H Shah (A1) and they had not levied anti-dumping duty and had levied only ordinary customs duty and hence, the charge.

13. Mr.K.Suresh Babu, learned counsel appearing for Ramesh and A.K.Sharma, submitted that they were only Group Appraisers and they were not Shed Appraisers and that they had no occasion to go in person and check the consignment.

14. Mr.K.Suresh Babu, learned counsel, further submitted that Ramesh and A.K.Sharma had merely acted on the report sent by the Shed Examiners and levied customs duty based on the weighment of the metal case made by the Shed Examiners.

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15. Mr.K.Suresh Babu, learned counsel, also submitted that only in C.C.No.9 of 2013, samples were drawn and tested and therefore, there is no *corpus delicti* in the other calender cases. In the absence of the actual weighment of material objects relating to the exports prior to the one in C.C.No.9 of 2013, no charge can be framed against the accused. Furthermore, the statement of Prabhu, Employee of M/s.Green Port Shipping Agency, who was managing the clearance work, had not implicated Ramesh at all.

16. Mr.Arul Vadivel @ Sekar, learned counsel appearing for Ganesan (A3 in C.C.No.4 of 2013) and Muthuselvam (A4 in C.C.No.8 of 2013), submitted that even going by the records relied upon by the prosecution, it is seen that there is absolutely no material to show that they had not properly conducted the weighment of the consignment in the shed. It is very specific that Ganesan and Muthuselvam were Shed Examiners and that they had handled one consignment each and their report to the Group Appraisers, which has been relied upon by the prosecution, clearly shows that they had weighed the consignment as it is and not the metal tape alone.

17. Per contra, Mr.N.Nagendran, learned Special Public Prosecutor for C.B.I.Cases submitted that when there are *prima facie* materials to show that the accused are involved in the offences, a roving enquiry cannot be conducted by this Court while dealing with either the quash applications or revision petitions preferred against the order of dismissal of the discharge applications.

18. This Court gave its anxious consideration to the rival submissions.

19. This Court is in complete agreement with the submissions of the learned Special Public Prosecutor for C.B.I.Cases that a mini trial cannot be conducted by this Court. The law on the said subject is no longer *res integra* and this Court is bound by the law laid down by the Honourable Supreme Court in ***State of T.N. v. N.Suresh Rajan***, reported in ***(2014) 11 SCC 709***, wherein it has been held that a mini trial cannot be conducted. However, this Court is not precluded from seeing whether there are *prima facie* materials to prosecute the petitioners herein.

20. It is true that the material objects relating to the import under the bill of entry No.446476, dated 06.10.2008, which is the subject matter of C.C.No.9 of 2013 alone is available. This is because C.C.No.9 of 2013 relates to the bill of entry No.446476, dated 06.10.2008, which was intercepted by the Officials of D.R.I., on 07.10.2008 and samples were drawn therefrom. Thus, in C.C.No.9 of 2013, the material objects and the documentary evidence are available. Obviously, the material

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objects relating to the previous consignments will not be available, since Sanjay H Shah (A1) had cleared them and they must have found their way into the local markets. Therefore, this Court cannot expect either the D.R.I., or C.B.I., to do the impossible. Can it be stated that just because the material objects relating to the earlier imports are not available, the prosecution should fail? The answer for the same is an emphatic No. In a murder case, can an accused be acquitted on the ground that the dead body was not recovered? Similarly, in this case, this Court has to see whether the prosecution has produced sufficient oral and documentary evidence to show that there was any criminality in the clearance of earlier consignments of Sanjay H Shah (A1).

21. Though Ramesh and A.K.Sharma, the Group Appraisers had directed the Shed Examining Officers to thoroughly examine the consignment, it is seen that while calculating the customs duty, they had not levied anti-dumping duty on the consignment despite they knew that the consignment was from China and that the consignment relates to steel measuring tapes.

22. Mr.k.Suresh Babu, learned counsel submitted that Ramesh and A.K.Sharma had only followed the formula for calculation of customs duty and since the calculation made by them showed that the value exceeded the value fixed by the Notification, dated 07.10.2003, they did not levy anti-dumping duty. In the considered opinion of this Court, this is a disputed question of fact, which cannot be looked into in a quash application. The C.B.I. have recorded the statement of Sundar, Superintendent of Customs, who has spoken about the procedure to be adopted by the Group Appraisers and Shed Appraisers. There are *prima facie* materials to show that Ramesh and A.K.Sharma have not followed the procedure while calculating the duty. Hence, it cannot be stated that there is no *prima facie* material as against them to frame a charge. At this juncture, it may be necessary to bear in mind that both Ramesh and A.K.Sharma had cleared three consignments of Sanjay H Shah (A1) and therefore, one cannot say that they had inadvertently calculated the duty each time.

23. Mr.K.Suresh Babu, learned counsel, submitted that the Group Appraisers had calculated the customs duty only on the report of the Shed Appraisers and therefore, they cannot be faulted.

24. Per contra, Mr.N.Nagendran, learned Special Public Prosecutor for C.B.I.Cases, submitted that except in C.C.Nos.4 and 8 of 2013, in all other cases, the Shed Appraisers, who are also accused in these cases, have sent Screen Shot Reports to the effect that they had measured the rods. This should not have been overlooked by the Group Appraisers, because they knew that the

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Notification, dated 07.10.2003, has clearly stated that anti-dumping duty will be levied for steel measuring tapes, its parts and components. Therefore, they should not have accepted the Screen Shot Reports of the Shed Appraisers, which only show that they were in collusion with the Shed Appraisers and Sanjay H Shah (A1). There seems to be much force in the submission of the learned Special Public Prosecutor for C.B.I.Cases. In such view of the matter, this Court does not find any merit in the quash applications filed by Ramesh and A.K.Sharma and accordingly, they are dismissed.

25. The case of Ganesan:

Ganesan, Superintendent of Customs, is A3 in C.C.No.4 of 2013. At the relevant point of time, he was Shed Appraiser and dealt with bill of entry No.440973, dated 16.07.2008. Admittedly, the material objects with regard to this bill of entry are not available and therefore, one has to go on the available records in order to find out the culpability of this petitioner.

26. Mr.N.Nagendran, learned Special Public Prosecutor for C.B.I.Cases, submitted that Prabhu, employee of M/s.Green Port Shipping Agency, Tuticorin, who was in-charge of clearing the consignments, has implicated Ganesan in his statement by saying that only metal tapes were weighed by Ganesan in respect of bill of entry No.440973, dated 16.07.2008 (C.C.No.4 of 2013).

27. On a reading of the statement of Prabhu, it is seen that he has spoken about six bills of entry and has stated that the Shed Appraisers, who checked the consignments, had measured only the tapes. Saying so, he has implicated even those Shed Appraisers like, Thirugnanam, Venugopal, Ramalingam etc., who though named in the first information reports, were not included in the charge sheets for the simple reason that the Screen Shot Reports sent by them to the Group Appraisers showed that they had measured the consignment as it is and not the rod or tapes. In this case, the Screen Shot Report of Ganesan reads as follows:

> *FIRST CHECK CONDUCTED ON 17.7.2008.*
> *INSPECTED THE CONTAINER. MARKS AND NOS - AGREED. OPENED & AND EXAMINED 60 CTNS IN THE PRESENCE OF SUPDTS & CHA AND ON EXAMINATION, THE CARGO FOUND TO BE STEEL MEASURING TAPES OF 3M & 5M PACKED IN WEIGHMENT OF ONE PCS OF 3M & 5m CONDUCTED AND THE WEIGHMENT DETAILS ARRIVED AS FOLLOWS:*
> *1)NET WEIGHT OF ONE PCS OF 3M IS 45 GRM =(TOTAL WT 0.45X162000PCS (3M) - 7290KGS."*

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28. The above document has been relied upon by the prosecution as a part of the charge sheet and it clearly shows that Ganesan has not weighed the rod or tape alone and therefore, his case is *in pari materia* with those of Thirugnanam, Venugopal, Ramalingam etc., and therefore, Ganesan should not have been included in the charge sheet as an accused. Hence, this Court is of the view that there are no *prima facie* materials to show that Ganesan had measured only the rod / tape. The prosecution document extracted above clearly shows that he had measured the whole consignment and hence, Ganesan is entitled for discharge from the prosecution initiated against him in C.C.No.4 of 2013.

29. <u>The case of Muthuselvam:</u>

Muthuselvam is A4 in C.C.No.8 of 2013. He had handled only one consignment relating to the bill of entry No.432726, dated 14.03.2008. The allegation made against him is that he was the Shed Appraiser at the relevant point of time and that he had measured the rod / tape and not the entire item. The Screen Shot Report sent by Muthuselvam to the Group Appraisers reads as follows:

> *"FIRST CHECK CONDUCTED ON 15.03.2008. INSPECTED THE CONTAINER MARKS AND NOS - AGREED, OPENED AND EXAMINED 50 CTNS. IN THE PRESENCE OF SUPDT. & CHA. THE CARGO FOUND TO BE STEEL MEASURING TAPES. THE MEASURING TAPES ARE IN TWO DIFFERENT SIZES VIZ. 3 M LENGTH AND 5 M LENGTH. MEASUREMENTS ARE GIVEN IN CMS/METERS AS WELL AS INCHES/FEET QTY TALLIED IN THE EXAMINATION CTNS. WEIGHMENT OF THE MEASURING STEEL TAPE FOR BOTH SIZES ARE AS DETAILED BELOW"*

30. The above extracted prosecution document clearly shows that Muthuselvam had measured the entire item and not measured merely the tape / rod. Hence, this Court is of the view that there are no *prima facie* materials to show that Muthuselvam had measured only the rod / tape. Therefore, Muthuselvam is entitled for discharge from the prosecution initiated against him in C.C.No.8 of 2013.

31. In the result,

i. The criminal revision petitions, namely, Crl.R.C. (MD) Nos.244 and 246 of 2016 are allowed and the impugned orders, dated 31.03.2015 and 07.04.2015, made in Crl.M.P.Nos.331 and 340 of 2013 respectively, by the learned Special Judge for C.B.I.Cases, Madurai, are hereby set aside.

ii. The revision petitioners, namely, Ganesan and Muthselvam are hereby discharged from the prosecution initiated against them in C.C.Nos.4 and 8 of 2013 respectively.

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iii. The criminal original petitions, namely, Crl.O.P.(MD) Nos.7444, 7445, 7446, 7447, 7448 & 7449 of 2016 are dismissed.

iv. E.Ramesh and A.K.Sharma are directed to appear before the Trial Court within two weeks and if they are not on bail, they shall furnish a bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] each, without sureties under Section 88 Cr.P.C., to the satisfaction of the Trial Court. Further, this Court directs them to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioners file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses on the day they are examined in chief, as held by the Hon'ble Supreme Court in ***Vinod Kumar vs. State of Punjab,*** reported in ***2015 (1) Scale 542,*** in their absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If they abscond, a fresh First Information Report can be registered against them under Section 229-A of the Indian Penal Code. If they adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence.

v. This Court places on record its deep appreciation to Mr.N.Nagendran, Special Public Prosecutor for C.B.I. and Mr.C.S.Moni, Additional Superintendent of Police, C.B.I., for fairly and actively assisting this Court without suppressing any fact.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

1. The II Additional District Judge for C.B.I.Cases, Madurai.

2. The Special Public Prosecutor for CBI cases, Madurai Bench of Madras High Court, Madurai.

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3.The Deputy Superintendent of Police,
SPE/CBI/ACB,
Chennai.

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+ 6 ccs TO Mr.N.Sekar , Advocate in SR Nos. 49448 to 49453
+ 2 ccs TO Mr.K.Prabhu , Advocate in SR Nos. 49408,49409

krk/mm
AE/SKN RSK/SAR1/02.03.2018/12P/12C

COMMON ORDER
IN
Crl.O.P.(MD) Nos.7444, 7445, 7446,
7447, 7448 & 7449 of 2016
and
Crl.R.C.(MD) Nos.244 & 246 of 2015
16.02.2018

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