



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.07.2018

PRONOUNCED ON : 09.08.2018

CORAM:

THE HONOURABLE Mrs. JUSTICE R. THARANI

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Crl.O.P.(MD)No.8440 of 2018

E.Samy

... Petitioner

Vs.

1.The Inspector of Police,
Thallakulam Police Station,
Madurai,
In Crime No.679 of 2016.

2.The Inspector of Police,
C.B.I.A.C.B,
Nungambakkam,
Cheenai,
In F.I.R. No.R.C.No.M.A.1 2016 A 0012/
CBI/ACB/Chennai, dated 08.04.2016

... Respondents

PRAYER : The petition filed under Section 482 Cr.P.C. to defer the trial in C.C.No.2 of 2017 pending on the file of the learned Additional District Court NO.II for CBI Case, Madurai till the disposal of Crl.O.P.(MD) No.17080 of 2016 pending on the file of the this Court.

For Petitioner : Mr.M.Gururaj

For Respondent no.1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

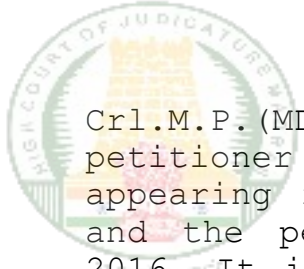
For Respondent No.2 : Mr.N.Nagendran
Special Public Prosecutor

ORDER

Heard Mr.M.Gururaj, learned counsel appearing for the petitioner, Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the first respondent and Mr.N.Nagendran, learned Special Public Prosecutor appearing for the second respondent.

2.This Original Petition has been filed to defer the trial in C.C.No.2 of 2017 pending on the file of the learned Additional District Court NO.II for CBI Case, Madurai till the disposal of Crl.O.P.(MD) No.17080 of 2016.

3.On the side of the petitioner, it is stated that the petitioner is A6 and when the petitioner filed a petition in



Crl.M.P.(MD)Nos.1003 and 1004 of 2018 without hearing the petitioner and without giving an opportunity to the counsel appearing for the petitioner, the trial Court has passed an order and the petitioner has filed Crl.O.P.(MD)Nos.17080 and 17081 of 2016. It is further stated that for the same cause of action, two FIRs are registered against the petitioner and others and prayed that the case is to be deferred until the disposal of Crl.O.P.(MD) No.17080 of 2016.

4.On the side of the respondents, it is stated that on 18.12.2016, one Ashok Raja approached N.Muruganandam and demanded Rs.75,000/- (Rupees Seventy Five Lakhs only) as bribe, threatening as if the said Muruganandam has to pay Rs.20,00,000/- as service Tax. A trap was laid against A11. A11 received the bribe amount in the presence of witness, and A11 and A12 were caught red-handed by the CBI Police and phenolphthalein test was conducted and the respondent seized a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) from the room and when the CBI Officer were writing down the necessary papers, at the instigation of A1, A2, A3 to A9, the accused entered the premises and attacked the CBI Officers with iron lever and iron rod and wooden sticks and they destroyed the material evidence necessary for the case and they took away Rs.75,000/- (Rupees Seventy Five Thousand only) and tainted currency notes and destroyed the other case materials. With a motive to screen the offence, the petitioner and others destroyed the phenolphthalein test bottles and took away the tainted notes. Hence, case under Sections 120B, 147, 148, 450, 332, 307, 397 and 506(ii) of IPC was registered against them, for unlawful assembly and for attempting to murder etc.

5.On the side of the respondents, it is stated that two FIRs are registered for two different offences. One is for screening the offence and the other is for attacking the Officers and there is no double jeopardy as both cases are different from each other.

6.Records perused. The offence stated is grievous in nature and specific overt act is stated against this petitioner in Crime No.679 of 2016. The offence stated is attacking the CBI Officers. The another case is for destroying the evidence and screening the offence and was numbered in C.C.No.75 of 2016. It is clear that the respondents herein are the Investigating Officers in C.C.No.75 of 2016. The respondents are the witness and the complainant in Crime No.679 of 2016. The offences are distinct and the Investigating Agency is different and this Court cannot come to the conclusion whether this two cases amounts to double jeopardy at this juncture. Under Section 19(c) of P.C.Act no Court is having power to stay the proceedings. The petitioner want the case to be deferred by asking for deferring the trial indirectly insisting upon a stay order. The petitioner filed another Crl.O.P.(MD) No.17080 of 2016 which is pending before another forum of this Court.



7. In these circumstances, there is no necessity for allowing this petition at this juncture. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-III)

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/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Inspector of Police,
Thallakulam Police Station,
Madurai.

2. The Inspector of Police,
C.B.I.A.C.B.,
Nungambakkam,
Chennai.

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

MRN

DS RSK SAR-3 ; 27.08.2018; 3P/4C

CrI.O.P. (MD) No. 8440 of 2018
09.08.2018