



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.OP.(MD)No.12694 of 2018

and

CRL.MP.(MD)Nos.5767 & 5768 of 2018

K.Sermaraja

... Petitioner/Accused No.2

Vs.

The Inspector of Police,
CBCID,
Virudhunagar.
(Cr.No.176 of 2009)

... Respondent/Complainant

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records of the Charge Sheet in C.C.No.131 of 2012, pending on the file of learned Judicial Magistrate No.I, Virudhunagar and to quash the same as illegal in respect of the Petitioner.

For Petitioner : Mr.M.Rajendran

For Respondent : Mr.Prabhu Ramachandran
Government Advocate (Crl. Side)

ORDER

This criminal original petition has been filed to call for the records in C.C.No.131 of 2012, on the file of learned Judicial Magistrate No.I, Virudhunagar and to quash the same.

2. Heard the learned Counsel appearing on either side and perused the materials placed on record.

3. According to the learned Counsel for the petitioner, the seizure was effected by the District Supply Officer, who was not authorised to search and seize the food grains and therefore, it is highly illegal. Moreover, without giving any opportunity to the petitioner, report has been filed against him and thereby, principles of natural justice has been violated. Hence, no cognizance can be taken under Section 11 of EC Act and therefore, he prays for quashing the impugned proceedings.

4. Per contra, the learned Government Advocate (Crl. Side), on instructions, would submit that charge sheet has been filed as early as on 2012. Moreover, prosecution witness, namely, PW1, has been examined before the Court below and at this stage, the present



criminal original petition itself is not maintainable. He would further submit that the petitioner can raise all such grounds before the Court below and therefore, he prays for dismissing the present criminal original petition.

5. In view of the foregoing discussions and also considering the fact that charge sheet has been filed in the year 2012 and PW1 has also been examined on the side of prosecution, this Court is not inclined to entertain this criminal original petition at this stage. Hence, this criminal original petition is liable to be dismissed and the same is accordingly dismissed.

6. At this juncture, the learned Counsel for the petitioner prays for dispensing with the personal appearance of the petitioner before the Court below, for which, the learned Government Advocate (Crl. Side) has no serious objections.

7. In such a view of the matter, the personal appearance of the petitioner before the learned Judicial Magistrate No.I, Virudhunagar, in C.C.No.131 of 2012, is dispensed with. However, the petitioner shall appear before the Court below, as and when, the Court insist upon his appearance. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Judicial Magistrate No.I,
Virudhunagar.

2.The Inspector of Police,
CBCID,
Virudhunagar.

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

+1cc to M/S.M.Rajendran, Advocate SR.No. 75284

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