

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.21273 of 2011

Chidambaram
S/o.Periyasamy,
Under Trial Prisoner in TADA Case,
Confined IN Central Prison-2,
Puzhal, Chennai-66. Petitioner

Vs

1.The State of Tamil Nadu,
Rep. By the Chief Secretary to Government,
Secretariat,
Chennai-600 009.

2.State by Deputy Superintendent of Police,
Q-Branch C.I.D
Chennai.

.... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Mandamus directing the respondent No.1 to dispose the petitioner's representation dated 01.10.2010, and constitute the review committee.

For Petitioner : Mr.P.Pugalthi

For Respondents : Mr.A.Zakir Hussain
Government Advocate for R1 t& R2

ORDER

This Writ Petition is filed praying to direct Respondent No.1 to dispose of the petitioner's representation dated 01.10.2010, and constitute the review committee. The contention of the Petitioner is that he has been falsely implicated in a case in Crime No.160/1990 and remanded on 11.01.2010 before the TADA Court. It is further contended that the illegal confinement in Police station for two days and the case foisted against him require scrutiny by a Screening Committee or a Review Committee constituted by the Central Government.

2. A Counter affidavit is filed on behalf of the first respondent wherein, it has been stated that a Review Committee is to be formed in all the States to review the cases under TADA and the Government of Tamil Nadu had also formed such a Committee. Similarly a review meeting is also conducted in Tamil Nadu State also. After the arrest of the Petitioner on 11.01.2010, the Petitioner's case was placed before the Review Committee meetings headed by the Chief Secretary to Government of Tamil Nadu on 19.03.2010, 17.08.2010, 23.11.2010, 18.03.2011 and 30.09.2011. It is further stated that the allegation of the Petitioner that his case was not placed before the Review Committee for review is totally false and is denied. After the completion of investigation, a final report was filed in the TADA Court-II and charges against the Petitioner were framed on 30.06.2010. So far 31 witnesses were examined out of 61 witnesses and appropriate action will be taken to dispose the case at an early date.

3. The aforesaid submission has been made by the 1st respondent in the counter affidavit dated 13.12.2011. Today, when the matter is called, the learned Government Advocate has placed the subsequent developments in the case and produced the status report filed by the Deputy Superintendent of Police, Q Branch, CID, Chennai, the 2nd respondent herein. It is stated that based on the opinion of the Special Public Prosecutor of the Designated Court, the then Inspector of Police, laid a charge sheet on 03.09.1993 against the accused (A-1 to A-14) for offences under Section 120(B) IPC r/w. Sections 3(3) and 4(1) of TADA (P) Act and 5 of the Explosive Substances Act, 1908 and the same was taken on file vide C.C.No.1 of 2010 dated 28.09.1993. The Court of V Additional Special Court, [Presiding Judge, Designated Court-I under TADA (P) Act, 1987], Chennai, after due trial, convicted and sentenced the Petitioner/accused viz., Chidambaram, vide C.C.No.1 of 2010 dated 19.07.2012 as under:-

Section of law	Conviction and sentence
120-B IPC r/w. Section 3(3) of TADA (P) Act, 1987.	Life Imprisonment.
120-B IPC r/w. Section 4(1) of TADA(P) Act, 1987	Life Imprisonment
120-B IPC r/w. Section 5 of Explosive Substances Act, 1908.	Rigorous Imprisonment for 10 years.

It is further stated that during the course of undergoing the conviction and sentence passed by the trial court, the Petitioner/accused moved the Supreme Court of India and filed an appeal vide Criminal Appeal No.81/2013 during February, 2013 and the said appeal is still pending before the Honourable Supreme

Court.

4. The learned Government Advocate further produced a copy of Judgment of a Division Bench of this court passed in W.A.No.1624 of 2006 in the case of E.Shahul Hameed Vs. State of Tamil Nadu, Rep., by its Chief Secretary, Chennai, wherein, it is held that the role of Review Committee or Screening Committee ends with reviewing the action of the enforcing authorities under TADA and it is for the Public Prosecutor to carry further and apply his mind independently according to the well-settled legal principles interpreting Section 321 of the Code of Criminal Procedure and ultimately it is for the Special Court trying the cases to decide whether the plea of Public Prosecutor to withdraw the prosecution, if made, is acceptable or not.

5. Recording the above submission of the learned Government Advocate and the statement made in Status Report filed by Superintendent of Police, Q Branch, CID., Chennai/2nd respondent, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The State of Tamil Nadu,
Rep. By the Chief Secretary to Government,
Secretariat,
Chennai-600 009.

2.State by Deputy Superintendent of Police,
Q-Branch C.I.D
Chennai.

+1cc to Government Pleader sr.6493

nr 28/02/2019

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