

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.6661 of 2016

in

Crl.M.P.No.3472 of 2016

M/s.Vinayaka Missions Hospital College,
Rep. by its Dean,
Prof.Dr.K.Jayapal,
Sankari Main Road (NH-47), Seeragapaid Village,
Salem - 636 308. Petitioner/Respondent/Accused

Vs.

The Tamil Nadu Pollution Control Board,
Rep. by its District Environmental Engineer, Salem,
Dr.Senthil Kumar,
Siva Tower, No.1/276, Meyyanur Main Road,
Salem - 636 004,
Salem District.
.. Respondent/Petitioner/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 29.10.2015 in Criminal Miscellaneous Petition No.1256 of 2015 in C.C.No.148 of 2014, on the file of Judicial Magistrate No.IV, Salem.

For Petitioner : M/s.K.Selvaraj

O R D E R

This petition has been filed challenging the order passed by the Court below which allowed the application filed by the respondent under Section 311 of Cr.P.C to summon the authorities to produce certain documents.

2. The petitioner is facing trial before the Court below for an offence under Environment (Protection) Act, 1986. During the course of trial, the respondent had filed an application under Section 311 of Cr.P.C, for the purpose of issuing summon to AICTE and UGC to produce the building map submitted from 2002 onwards. The Court below after taking into

consideration the fact that the respondent required those documents in order to substantiate the prosecution case, allowed the petition by an order dated 29.10.2015.

3. The learned counsel for the petitioner submitted that the proceedings were initiated in the year 2014 and it is being kept pending for a very long time without progress. The learned counsel further submitted that the petition itself is not bona fide and there is no requirement to summon the authorities for the production of building plans, which are already available with the local authority.

4. There is no appearance on behalf of the respondent.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and also the materials available on record.

6. The respondent has filed a criminal complaint against the petitioner on the ground that the petitioner has constructed a building area of more than 20,000 Sq.metres, which requires prior environmental clearance and the same has not been obtained and therefore it is in violation of the provisions of the Environmental Protection Act. For that purpose, the respondent wanted to summon the authorities to produce certain documents to prove the extent to which the plan has been submitted for the purpose of putting up the construction.

7. The Court below has thought it fit to allow the petition on the ground that those documents are necessary in order to come to a just decision.

8. This Court does not find any illegality or infirmity in the order passed by the Court below and even if the documents are summoned before the Court and the witness is examined regarding the same, the petitioner will always have the right to cross examine the witness and defend himself in the case. No prejudice will be caused to the petitioner, if those documents are summoned, since admittedly these documents were presented by the petitioner to the concerned authorities.

9. In view of the above, this Criminal Original Petition is dismissed and the Court below is directed to proceed further with the case and complete the proceedings in C.C.No.148 of 2014, on the file of the Judicial Magistrate No.IV, Salem, within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

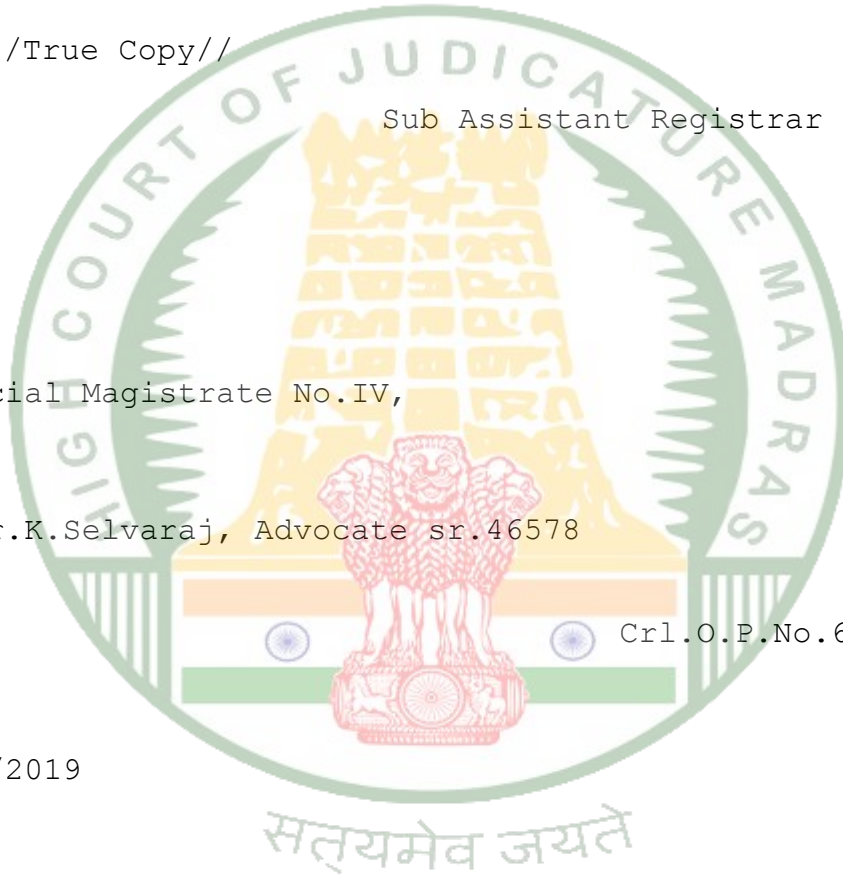
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To

The Judicial Magistrate No.IV,
Salem.

+1cc to Mr.K.Selvaraj, Advocate sr.46578

CrI.O.P.No.6661 of 2016

pvs[col]
srg 03/07/2019



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