

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.4721 OF 2019

IN CRL.A.NO.775 OF 2016

L.KUMAR

[PETITIONER / RESPONDENT (ACCUSED)]

Vs

THE STATE

[RESPONDENT]

REP BY THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, ACB, CHENNAI

Petition praying that in the circumstances stated therein the High Court will be pleased to return the following Exhibits and replace the same with Certified Copies in CRL.A.NO.775 of 2016 serious prejudice would be caused to the petitioner if the petition is not ordered as prayed for on the contrary no harm or loss would be caused to the Respondent.

S.NO.	EXHIBIT NO.	Particulars
1	P-26	Kanchipuram Joint Sub Registrar -2 Document No.1295 of 1996 (7 Sheets)
2	P-27	Kanchipuram Joint Sub Registrar -2 Document No.809 of 1997 (8 Sheets)
3	P-28	Kanchipuram Joint Sub Registrar -2 Document No.2242 of 1998 (9 Sheets)
4	P-29	Tambaram Joint Sub Registrar -2 Document No.4579 of 1993 (4 Sheets)

S.NO.	EXHIBIT NO.	Particulars
1	P-30	Tamparam Sub Registrar Office Document No. 5319 of 1991
2	P-31	Tamparam Sub Registrar Office Document No.396 of 1988
3	P-32	Tamparam Sub Registrar Office Document No. 3968 of 1990
4	P-33	Tamparam Sub Registrar Office Document No. 5772 of 1990
5	P-34	Tamparam Sub Registrar Office Document No. 5374 of 1991

S.NO.	EXHIBIT NO.	Particulars
1	P-154	Sale deed in Document. No.458/2004

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.M.RAJA SEKHAR, Advocate for the petitioner and of MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES on behalf of the Respondent the court made the following order:-

This petition has been filed seeking to return of Exs.P.26 to P.34 and Ex.P.154 and replace the same with certified copies in Crl.A.No.775 of 2016.

2.The learned counsel for the petitioner would submit that the petitioner was tried for the offences under Section 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988, and after trial, he was acquitted by the Trial Court. He would submit that during trial, 49 witnesses were examined by the respondent/appellant and 177 exhibits were marked on the side of the prosecution. He would further submit that the case was in respect of alleged possession of assets disproportionate to the known source of income. During the trial, Exs.P.30 to P.34 were the documents in respect of properties stated to have been purchased by the petitioner prior to the check period and Exs. P.26 to P.29 and Ex.P.154, are the documents relating to properties stated to have been purchased by the petitioner and his wife during the check period. He would submit that at the time of passing an order of Judgment, the Trial Court had not passed any orders with regard to return of the documents. He would further

submit that though consequent to the acquittal, the petitioner is entitled to seek return of all the documents, the petitioner is at present restricting his claim only in respect of documents Exs.P.30 to P.34, which are pertaining to the properties, which were purchased prior to the check period. Since, these documents do not have any relevance or bearing with regard to the issue of disproportionate assets said to have been acquired by the petitioner.

3.The learned counsel for the petitioner would further submit that now all the records have been called for from the Trial Court and now in the custody of this Court in CrI.A.No.775 of 2016, and thereby the petitioner is constrained to file a petition under Section 482 of Cr.P.C seeking return of all the documents pending disposal of the CrI.A.No.775 of 2016 and he would further submit that no prejudice will be caused to the respondent/appellant/complainant by returning documents Exs.P.30 to P.34 and substituting them by certified copies of the same.

4.The respondent has filed a counter, wherein it has been stated that the documents sought to be returned have been marked as Exs.P.20 to P.34 and P.154 before the Trial Court, however, no specific objection has been made in respect of return of the documents.

5.The learned Special Public Prosecutor appearing for the respondent would submit that these documents, which now the petitioner restricts, and seek to be returned are relating to the properties, which are stated to have been purchased by the petitioner prior to the check period and that they have been taken into consideration only for computing the disproportionate assets and they have no bearing with regard to deciding the case in the appeal.

6.Heard both sides and perused the documents.

7.Ex.P.30, is in respect of property purchased on 09.10.1991; Ex.P.31 property was purchased on 24.06.1988; Ex.P32 property has been purchased on 22.08.1980; Ex.P33 property has been purchased on 08.11.1990 and Ex.P34 property has been purchased on 11.10.1991. Since, these documents have been purchased prior to the check period and since they do not have relevance or bearing with regard to deciding the appeal, and that they are only necessary for computing disproportionate assets, this Court is of the opinion that the above original documents may be returned after substituting them by certified copies and after obtaining due receipts for return of the original documents from the petitioner/respondent and his counsel. The petitioner/respondent shall be duly identified by the counsel on record.

8. In view of the same, the Registry is directed to return the originals of Exs.P.30 to P.34 marked in C.C.No.2 of 2007, on the file of the learned II Additional District Judge (CBI Cases), Coimbatore, and now pending before this Court in Crl.A.No.775 of 2016 to the petitioner after taking certified copies and substituting the same. This petition is ordered accordingly.

-sd/-
22/04/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL DISTRICT JUDGE
(CBI CASES), COIMBATORE.

2 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES,
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, ACB, CHENNAI

COPY TO

1 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

[FOR NECESSARY ACTION]

2 THE SECTION OFFICER,
CRIMINAL SECTION (RECORD)
HIGH COURT, MADRAS.

[FOR NECESSARY ACTION]

+1C.C. to M/S.M.RAJA SEKHAR Advocate on payment of necessary charges SR NO.8131

Order

in
CRL MP.4721/2019
in
CRL.A.775/2016

Date :22/04/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:24/04/2019



WEB COPY