

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.RC.No.343 of 2019

R.Kumaresan @ Mukesh

... petitioner

Vs.

The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road,
T.Nagar, Chennai-17.

..Respondent

Prayer: Criminal revision filed under Section 397 r/w.401 of Criminal Procedure Code to call for the records in R.R.No.33 of 2018 on the file of the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai and to set aside the order in Crl.M.P.No.145 of 2019 dated 14.03.2019.

For petitioner : Mr.K.Senguttuvan

For Respondent : Mr.N.P.Kumar

Special Public Prosecutor

O R D E R

This Criminal revision is filed to call for the records in R.R.No.33 of 2018 on the file of the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai and to set aside the order in Crl.M.P.No.145 of 2019 dated 14.03.2019.

2. The respondent police have registered the case against the revision petitioner for the offences under Section 135(a) & (b) of the Customs Act, 1962. The respondent has filed a petition in R.R.No.33 of 2018 before the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai-8. During the pendency of the case, the petitioner has filed a petition under section 451 read with section 457 Cr.P.C., in Crl.M.P.No.145 of 2019 before the same Court. After hearing both sides, the learned Judge dismissed the petition. Challenging the order dated 14.03.2019 passed by the learned Additional Chief Metropolitan Magistrate, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that the petitioner has not involved in any import activities of the exotic birds. The petitioner engaged only in the sale of birds.

Further, keeping and dealing in exotic birds and animals are not prohibited under the wildlife protection Act 1972. The petitioner has engaged in other business viz., buying and selling of cars and selling of animal feeds, bird nest and other accessories related to pets. Out of the seized birds, many birds have died in the zoo, since no proper care has been given to the birds. The learned Judge has failed to consider all these aspects, mechanically dismissed the petition which warrants interference.

4. The learned Special Public Prosecutor would submit that the petitioner has indulged in smuggling of exotic birds and animals from Thailand into India through Indo Myanmar Border and transported the same from Kolkata to Chennai through Air India Cargo illegally. The investigation is still pending with the respondent department. Charge sheet is not yet filed. At this stage, any application filed under Section 451 Cr.P.C. may not be entertained. Therefore, this Court cannot interfere with the investigation agency.

5. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor appearing for State and perused the materials available on record.

6. On a perusal of the records, it could be seen that the petitioner has indulged in smuggling of exotic birds and animals from Thailand. The other items which were seized by the respondent viz., cash, original passport, laptop and tablet, mobile phones, motor vehicles, digital video recorder, bills and invoices and test reports and attachment of bank accounts are used and involved in the commission of the crime. According to the learned Special Public Prosecutor, the investigation is still pending and charge sheet is not yet filed.

7. This Court, after considering the facts and the materials placed on record, this Court is not inclined to grant any relief to the revision petitioner. The case is under investigation with the respondent department and at this stage, this Court is not inclined to interfere with the order passed by the Magistrate at this stage. This Court does not find any perversity in the order passed by the learned Additional Chief Metropolitan Magistrate (E.O.II) Egmore, Chennai in CrI.M.P.No.145 of 2019 in R.R.No.33 of 2018 dated 14.03.2019.

8. In the result, the Criminal Revision Case is dismissed.

Sd/-

Deputy Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

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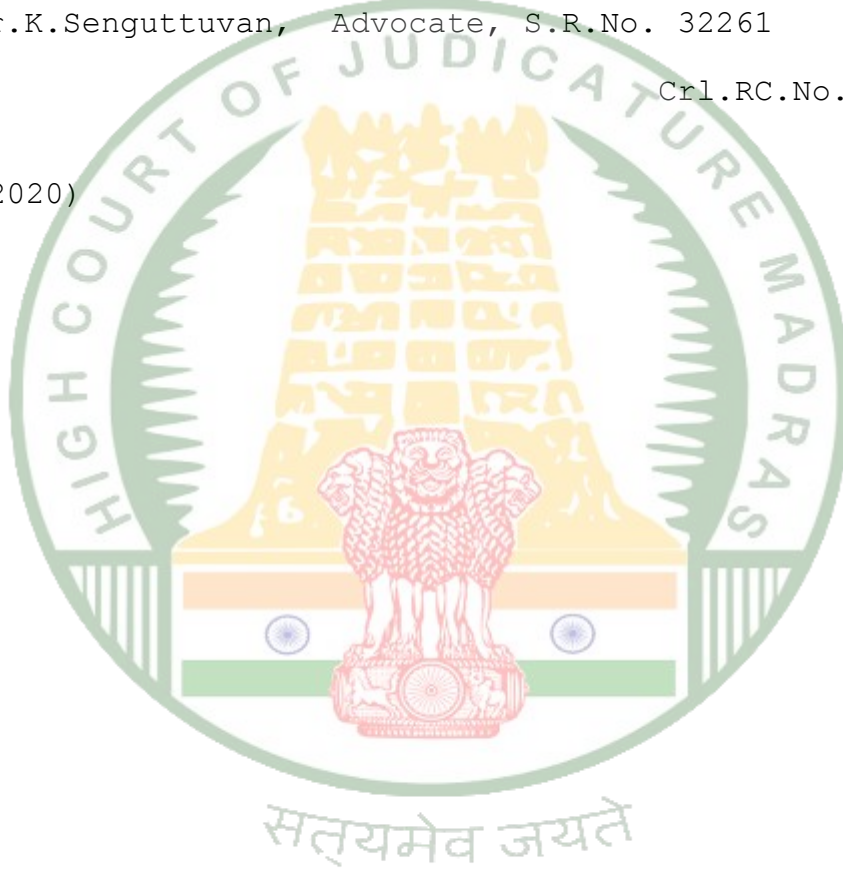
To

1. The Additional Chief Metropolitan Magistrate,
EOI, Egmore, Chennai.
2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road,
T.Nagar, Chennai-17.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Senguttuvan, Advocate, S.R.No. 32261

Cr1.RC.No.343 of 2019

PM(CO)
GN(28/01/2020)



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