

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.13256 of 2019

& Crl.M.P.No.6691 of 2019

- 1.M/s.Ramaraj Trading Company P.Ltd.,
rep by its Director Mr.D.Gobichandran
 - 2.M/s.Jaimatha Farm Dealers Private Ltd.,
rep by its Director Mr.D.Gobichandran
 - 3.M/s.Well stores(Madras) Private Ltd.,
rep by its Director Mr.D.Gobichandran
 - 4.M/s.Indeco Builders P.Ltd.,
rep by its Director Mr.D.Gobichandran
 - 5.M/s.Sanjeevi Packaging P.Ltd.,
rep by its Director Mr.D.Gobichandran
 - 6.M/s.Abhinav Exim (Madras) P.Ltd.,
rep by its Director Mr.D.Gobichandran
- Petitioners/Accused 20-25

/Vs/

- 1.State represented by
The Inspector of Police,
CBI/EOW/Chennai
- 2.Indian Bank,
rep by its Chief Manager,
Credit Division,
Head Office, Chennai. Respondents

PRAYER: Criminal Original Petition filed under section 482 of Cr.P.C., to grant an interim stay of all further proceedings in C.C.No.36 of 1998 on the file of the Principal Special Judge for CBI Cases, Chennai (VIII Additional City Civil Court, Chennai) pending disposal of the above Criminal Original Petition and to call for the records in Crl.M.P.No.3438 of 2019 in C.C.No.36 of 1998 dated 07.05.2019 on the file of the Principal Special Judge for CBI Cases, Chennai (VIII Additional City Civil Court, Chennai)and set aside the same.

For Petitioners : Mr.Ramakrishnan
for M/s.Waraon And Sairams
For R-1 : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)

O R D E R

The Criminal Original Petition has been filed seeking to grant an interim stay of all further proceedings in C.C.No.36 of

1998 on the file of the Principal Special Judge for CBI Cases, Chennai (VIII Additional City Civil Court, Chennai) pending disposal of the above Criminal Original Petition and to call for the records in Crl.M.P.No.3438 of 2019 in C.C.No.36 of 1998 dated 07.05.2019 on the file of the Principal Special Judge for CBI Cases, Chennai (VIII Additional City Civil Court, Chennai).

2.The petition in Crl.M.P.No.3438 of 2019 has been filed under Section 91 Cr.P.C by the petitioners, to direct the respondents/Complainants to produce the original/certified copies of the following documents namely:

(a) Letter dated 02.12.1995 issued by the Credit Division, Madras Desk (North) of Indian Bank, Head Office, Chennai signed by N.Chandrasekhara Rao, Assistant General Manager (DC), addressed to the Zonal Manager, Indian Bank, Madras communicating the Chairman and Managing Director's permission to release a secured overdraft limit of Rs.5 Crores to M/s.Indeco Builders P.Ltd., at Egmore Branch;

(b)Letter dated 02.12.1995 issued by the Credit Division, Madras Desk (North) of Indian Bank, Head Officer, Chennai signed by N.Chandrasekhara Rao, Assistant General Manager (DC), addressed to the Zonal Manager, Indian Bank, Madras communicating the chairman and Managing Director's permission to release a secured overdraft limit of Rs.5 Crores to M/s.Abhinav Exim (Madras) P. Ltd., at Thirumangalam Branch;

(C)Letter dated 02.12.1995 issued by the Credit Division, Madras Desk (North) of Indian Bank, Head Officer, Chennai signed by N.Chandrasekhara Rao, Assistant General Manager (DC), addressed to the Zonal Manager, Indian Bank, Madras communicating the Chairman and Managing Director's permission to release a secured overdraft limit of Rs.5 Crores to M/s.Jai Matha Farm Dealers P. Ltd., at Anna Salai Branch.

3.In the petition it had been stated by the petitioners that one Mr.N.Chandrasekhara Rao, Assistant General Manager (DC), who is the author of the above mentioned letters, had been examined as D.W.1 and during the course of his examination the xerox copies of the above mentioned documents were show to him and they were marked as Exs.D11 to 13. It had been further averred since the prosecution has objected for marking of the xerox copies, it was necessary for production of the original/certified copies of the above documents before the trial Court. The respondent had filed a counter before the trial Court stating that the petition had been filed with an object of delaying the proceedings. It had been further objected on the ground that the case was posted at the stage of arguments and the petition at the stage of arguments was filed only to delay

the Judgment being rendered. The trial Court after hearing both counsel and after perusing the materials found that the xerox copies of the documents which were sought to be called have already been marked as Exs.D.11 to 13 and observing that the petition had been filed only to evade the deliverance of Judgment, had dismissed the petition. Against which, the present petition has been filed.

4.The learned counsel for the petitioners would submit that though the original/certified copies of the documents have been allowed to be marked as Exs.D11 to D13, the prosecution has objected to the same, thereby necessitating the petitioners to seek for production of the originals of the documents. Whereas, the learned trial Judge without taking into consideration, the need for marking the originals had dismissed the same. Further, he would submit that the author of the documents who has been examined as D.W.1, has accepted the documents and its contents.

5.The learned Special Public Prosecutor for CBI Cases would submit that the case relates to the year 1998 and that D.W.1 was examined as defence witness and through him the xerox copies of the documents sought to be called for were marked as Exs.D.11 to 13 under objections. He would further submit that if the petitioners had been vigilant and were really interested in calling for the originals of the documents, they should have called for the originals prior to examining D.W.1 or immediately after it had been objected by the respondents. Whereas, at this stage, only in order to delay the deliverance of Judgment, the petition has been filed and the learned trial Judge finding that the petition has been filed with an oblique motive to delay the deliverance of Judgment has rightly dismissed the same. He would further submit that admittedly the author of the documents has not denied the same and it is for the trial Court to decide about the veracity of the documents marked as Exs.D.11 to 13.

6.Heard both sides and perused the materials available on record.

7.Admittedly the documents sought to be called for have been marked as Exs.D.11 to 13 and the author of the documents viz., D.W.1 has not denied/doubted the contents of the xerox copies. The trial Court has also allowed the documents to be marked under protest. When such being so, this Court is of the opinion that the present petition filed to call for the original/certified copies of the above documents is only a tactics adopted to delay the deliverance of the Judgment. The trial Court has rightly dismissed the same. I do not find any infirmity in the order and I do not find any merits in this petition.

8. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

ssi/jer

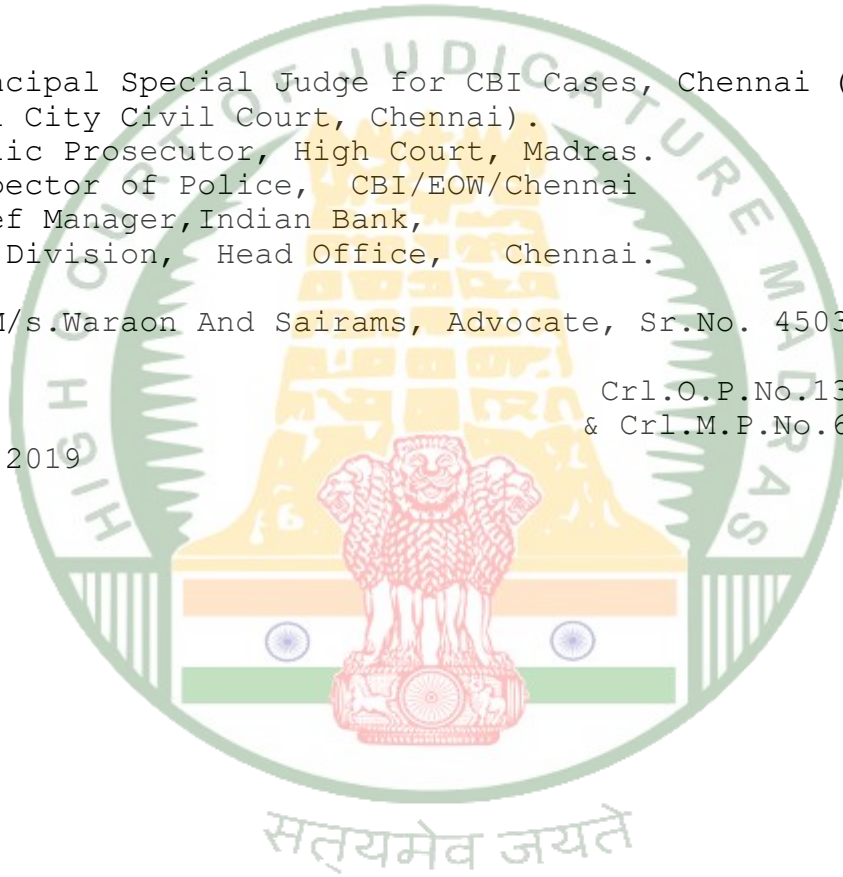
To

- 1.The Principal Special Judge for CBI Cases, Chennai (VIII Additional City Civil Court, Chennai).
- 2.The Public Prosecutor, High Court, Madras.
- 3.The Inspector of Police, CBI/EOW/Chennai
- 4.The Chief Manager, Indian Bank,
Credit Division, Head Office, Chennai.

+1 cc to M/s.Waraon And Sairams, Advocate, Sr.No. 45033

Crl.O.P.No.13256 of 2019
& Crl.M.P.No.6691 of 2019

CSL/04.07.2019



WEB COPY