

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.OP.No.22385/2019 and
CrI.MP.No.11642/2019

S.Rajeswari

Petitioner/Accused-1

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Vs

The State of Tamilnadu
rep by Inspector of Police,
V & AC Dharmapuri Cr. No.2/AC/2015
Dharmapuri, Chennai.

...

Respondent/Complainant

Prayer:- Petition filed under section 482 Cr.P.C., to set aside the order passed by the learned Special Judge/Chief Judicial Magistrate Dharmapuri, in CMP.No.308 of 2019 in Spl.C.C.No.1/2019 dated 27.06.2019 and directed the Chief Judicial Magistrate Dharmapuri to furnish the copies of the documents No.7,19,23,35,49 and 56 to 59 in the list of documents filed along with the final report in Spl.CC.No.1/2019.

For Petitioner :Mr.M.Devaraj

For Respondent :Mr.K.Prabakar, APP

ORDER

- 1.The present petition is filed by the petitioner seeking to set aside the order passed by the learned Special Judge/Chief Judicial Magistrate, Dharmapuri dated 27.06.2019 in CrI.MP.No.308/2019 in Special Calendar Case No.1/2019, in dismissing the petition held under 206 of Cr.P.C and directing the learned Trial Judge to furnish copies of documents No.7, 19, 23, 35, 49 and 56 to 59 in the list of documents filed along with final report in Spl.C.C.No.1/2019.
- 2.The petitioner is arrayed as Accused No.1 in Spl.C.C.No.1/2019 and on receipt of the summons from the trial Court, the petitioner appeared before the trial Court on 11.03.2019 and 04.04.2019 and copies of the documents relied on by the prosecution, were furnished to the petitioner u/s. 207 of Cr.P.C. On verification the petitioner found that the

documents No.7,19,23,35,49,56 to 59 (list enclosed under the charge sheet.) were not furnished in due compliance of section 207 of Cr.P.C. Thereby the petitioner had filed a petition on 09.04.2019, in CMP.No.308/2019, requesting the Court to furnish the copies of the same.

3. The respondent had filed a counter stating that the petition is not maintainable, since copies of the documents No.7,19,23,35,49,56 to 59 were voluminous and document No 7 was already furnished to the petitioner. Further, it had been stated in the counter that the document No.19 is an Admission Register of Sri Sakthi ITI from 04/08/2006 to 27.08.2010 and it is a very big volume . Document No.23 consists of 73 sheets, Document No.35 pertains to application of students and sanction of scholarship for 78 students, Document No.49 consists of 209 sheets, Document No.56 consists of 272 pages, Document No.57 consists of 172 pages and Document No. 58 consists of 57 pages and Document No.59 consists of 100 pages and thereby, contended that the copies could not be furnished. It had been further submitted that since the documents are voluminous, the petitioner may be directed to peruse the documents as per proviso under Section 207 of Cr.P.C.
4. The learned counsel would submit that the petitioner has not been furnished with copies of the documents which are necessary to answer the charges. He would submit that the documents are necessary and only after going through the documents, the petitioner will be able to properly answer the charges and defend his case and thereby, by non-furnishing of the copies, the right of the petitioner is gravely affected and thereby, would seek to set aside the order passed by the learned trial Judge and would pray for issuance of copies of the documents sought for.
5. Per contra the learned Additional Public Prosecutor would submit that there is no infirmity in the order passed by the learned trial Judge and the trial Judge on perusal finding that the documents sought for by the petitioner are voluminous in nature and thereby as per the second Proviso to section 207 of Cr.P.C, being satisfied regarding the size of the documents, had refused granting of copies to the petitioner, however in the very same order, the learned Judge has granted permission to the petitioner to peruse the documents sought for after obtaining leave of the court. He would further submit that the present petition has been filed to delay the progress of trial.
6. I have heard the submissions made by both side learned counsel and I carefully pursued the orders passed by the learned Judge.
7. It is apposite to refer to section 207 of Cr.P.C:
"207. Supply to the accused of copy of police report and other documents

In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following:-

- (i) the police report;
- (ii) the first information report recorded under section 154;
- (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 173;
- (iv) the confession and statements, if any, recorded under 164;
- (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub-section (5) of section 173:

PROVIDED that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:

PROVIDED FURTHER that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it wither personally or through pleader in court."

8. As per the second proviso to Section 207 of Cr.P.C, if the Magistrate is satisfied that any documents referred to in clause (v) is voluminous, he shall instead of furnishing the accused with copy thereof, direct that the accused would only be allowed to inspect either personally or through pleader in Court. The Trial Judge on perusal of the documents and being satisfied that they are voluminous in nature, has rejected the prayer, however, granting permission to the petitioner to pursue the documents sought for after obtaining leave of the court.
9. This Court does not find any infirmity in the order. The order has been passed after due satisfaction.
10. In view of the above this Court is of the opinion that the order passed by the learned Judge needs no interference. However, on appropriate application/Memo being filed by the petitioner, the petitioner may be permitted to peruse the

documents and during the perusal of the documents, if it is found that the some of the documents are not voluminous, the petitioner may file an application and the trial Court being satisfied, with regard to the necessity of granting copy may decide so.

11. With the above directions, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Special Judge/Chief Judicial Magistrate,
Dharmapuri
2. The Inspector of Police,
V & AC Dharmapuri
Chennai.
3. The Additional Public Prosecutor
High Court, Chennai.

+lcc to Mr.M.Devaraj, Advocate sr.71616

Cr1.OP.No.22385/2019

mp(co)
nr 24/09/2019

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