

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.19101 of 2017

and

CrI.M.P.Nos.11585 & 11586 of 2017

1.V.Palanisamy

2.A.Kandasamy

... Petitioners

Vs

State represented by
Deputy Superintendent of Police,
Organized Crime Unit II,
C.B.C.I.D., Chennai - 3.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.10731 of 2010 on the file of XI Metropolitan Magistrate, Saidapet, Chennai and Quash the proceedings initiated therein, in so far as the petitioners are concerned as abuse of process of Court.

For Petitioners: Mr.K.V.Sridharan

For Respondent : Mr.M.Mohamed Riyaz,

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.10731 of 2010 on the file of XI Metropolitan Magistrate, Saidapet, Chennai, having been taken cognizance for the offences punishable under Sections 406, 420, I.P.C. and Section 7 r/w 3 of Essential Commodities Act, 1955 r/w Clause 3 of Fertilizer (Movement Control) Order 1973 and clause 25 of Fertilizer Control Order, 1985 as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the learned XI Metropolitan Magistrate, Saidapet, Chennai has taken cognizance in C.C.No.10731 of 2010 for the offences punishable under Sections 406, 420, I.P.C. and Section 7 r/w 3 of Essential Commodities Act, 1955 r/w Clause 3 of

Fertilizer (Movement Control) Order 1973 and clause 25 of Fertilizer Control Order, 1985 as against the petitioners and others.

3. He further submitted that the proceedings against the accused A1 to A3, who are the main accused in this case already approached this Court in CrI.O.P.Nos.27503 & 27504 of 2010, wherein this Court by order dated 05.09.2014 quashed the proceedings in C.C.No.10731 of 2010 in respect of them. He further submitted that the petitioners are also standing in the same footing and as such he prayed for allowing this quash petition.

4. The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under Sections 406, 420, I.P.C. and Section 7 r/w 3 of Essential Commodities Act, 1955 r/w Clause 3 of Fertilizer (Movement Control) Order 1973 and clause 25 of Fertilizer Control Order, 1985. Therefore all the points raised by the petitioners have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

5. It is seen that the accused A1 to A3 in the very same case had already approached this Court to quash the proceedings in C.C.No.10731 of 2010, which was allowed in respect of them, as against which the respondent has filed special leave petitions before the Hon'ble Supreme Court in SLP.Nos.10465 & 10466 of 2014, which were dismissed by order dated 07.07.2017 as such the petitioners who are also standing in the same footing shall be extended the same benefit.

6. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.10731 of 2010 on the file of XI Metropolitan Magistrate, Saidapet, Chennai as against the petitioners is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

pds/lok

To

1.The Deputy Superintendent of Police,
Organized Crime Unit II,
C.B.C.I.D., Chennai - 3.

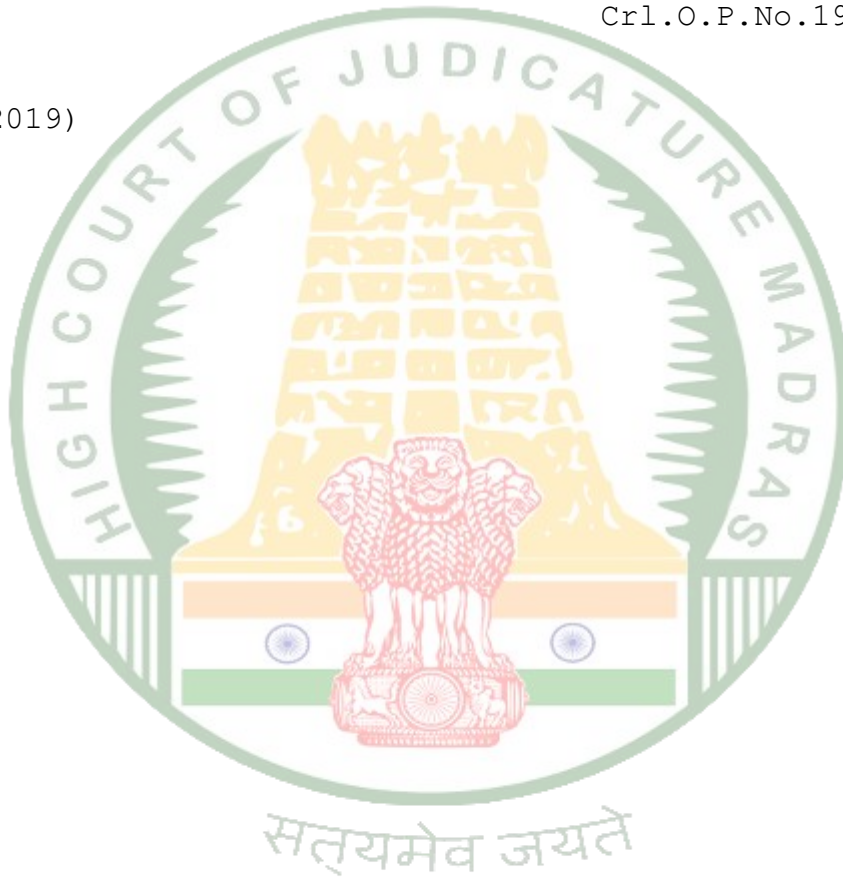
2.XI Metropolitan Magistrate,
Saidapet, Chennai.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.K.V.Sridharan, Advocate, S.R.No. 24825

Crl.O.P.No.19101 of 2017

RK(CO)
GN(03/05/2019)



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