

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.OP.No.33351 of 2019

and

Crl.MP.Nos.18406 and 18407 of 2019

S.Rooban

... Petitioner/Accused A3

Vs.

The State rep.by

The Inspector of Police,
Peelamedu Police Station,
Coimbatore District.

... Respondent/Complainant

(Crime No.1235 of 2018)

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records relating to charge sheet in C.C.No.89 of 2018 pending on the file of the Additional District and Session Court and Special Court for E.C.Act, Coimbatore and the same may be quashed.

For Petitioner : Mr.A.Mohamed Mushtak

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records relating to charge sheet in C.C.No.89 of 2018 pending on the file of the Additional District and Session Court and Special Court for E.C.Act, Coimbatore.

2. The petitioner is the accused No.3 who is facing trial for the alleged offence under Section 8(C) and Section 20(b) (ii) (B) of Narcotic Drugs and Psychotropic Substance Act, 1989. As per the prosecution case, on 24.07.2018 at about 15.30 hours, the defacto complainant on information went to GRD College Bus Stop at Avinashi Road along with police party and found that one Mohammed Akil, Sridhar and Rooban (petitioner herein) were standing there and on seeing the police party, all the three accused persons trying to run away and the police able to arrest the accused Nos.1 and 2 (Mohammed Akil, Sridhar). However, the accused No.3 (petitioner herein) escaped from the scene of occurrence, the respondent has seized 1 ¼ Kg Ganja from the accused No.2 and also a sum of Rs.2,550/- under a mahazar and thereafter, he produced the accused Nos.1 and 2 before the Judicial

Magistrate and remanded to judicial custody. After investigation, he filed charge sheet under Sections 8(c) and Section 20(b) (ii) (B) of Narcotic Drugs and Psychotropic Substance Act, 1985. The Special Court for E.C.Act Cases, Coimbatore has taken the case on file in C.C.No.89 of 2018 and issued summons to the accused persons.

3. After receipt of summons, the accused No.2 has filed Crl.OP.No.1099 of 2019 to quash the proceedings against him and this Court has allowed the said petition to quash the proceedings against him by the order dated 28.01.2019. Thereafter, the accused No.1 also filed the similar type of petition in Crl.OP.6398 of 2019 and this Court has allowed the said petition and quash the proceedings against him by the order dated 18.03.2019. Now, the accused No.3 has filed the present petition to quash the proceedings against him .

4. The learned counsel for the petitioner has submitted that no incriminating materials recovered from the petitioner. He further submitted that based on the confession said to have given by A2, the petitioner has been falsely implicated in the present case. He further submitted that the defacto complainant himself investigated the matter and filed a charge sheet and the entire investigation has been vitiated as per the Judgment of Hon'ble Supreme Court in Mohanalal Vs. State of Punjab reported in SCC Online Supreme Court 929 and hence, he requests to quash the proceedings against petitioner herein.

5. Considering the facts that already, this Court has quashed the proceedings against the accused Nos.1 and 2 and also the fact that in view of the judgment of Hon'ble Supreme Court in Mohanalal Vs. State of Punjab (cited supra), the investigation is vitiated on the ground that the informant and the investigator is the same police Officer, this Court is inclined to allow this petition.

6. In the result, this petition is allowed. The proceedings in C.C.No.89 of 2018, on the file of the learned District and Sessions Court, Coimbatore is hereby quashed against the petitioner herein. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
Peelamedu Police Station,
Coimbatore District.
2. The Additional District and Session Court
and Special Court for E.C.Act,
Coimbatore.
3. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.Mohamed Mushtak, Advocate SR.No.103060

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SR(CO)
GMY(29/01/2020)



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