



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P. (MD)No.23167 of 2015

WEB COPY

Srikanth

...Petitioner/Respondent/
Accused No.3

Vs.

The State rep. by,
The Inspector of Police,
Srivaikungam police station,
Thoothukudi District.
(Crime No.321 of 2013)

...Respondent/Petitioner/
Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Srivaikundam, Thoothukudi District in Cr.M.P.No.12615 of 2015 vide his order dated 16.11.2015 and set aside the same.

For Petitioner	: Mr.R.Anand
For Respondent	: Mr.A.Robinson, Government Advocate(Crl. Side).

O R D E R

The petitioner is figuring as accused No.3 in Crime No.321 of 2013 on the file of Srivaikundam police station for the offences under Sections 147, 148, 364, 302 and 201 of I.P.C.

2. The respondent took up an application for sending the petitioner to Narco Analysis test. The learned trial Magistrate even without getting consent of the petitioner herein by the impugned order dated 16.11.2015 allowed the said petition. Challenging the same, this criminal original petition came to be filed.

3. Heard the learned counsel on either side.

4. The issue is no longer *res integra*. The Hon'ble Supreme Court in the decision reported in (2010) 7 SCC 263 (Selvi and others Vs. State of Karnataka) held that subjecting of an accused to narcoanalysis test without his consent would be a clear breach of his fundamental right guaranteed under Article 21 of the Constitution of India.

5. Since the impugned order passed by the learned Magistrate is in conflict with the law laid down by the Hon'ble Supreme Court it has to be necessarily set aside.



Accordingly, the order impugned in this criminal original petition stands set aside. The criminal original petition stands allowed.

Sd/-

Assistant Registrar (crl.side)

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Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate,
Srivaikundam, Thoothukudi District.
2. The Inspector of Police,
Srivaikungam police station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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KB(11.06.2020) 2P 4C