

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.14894 of 2020
and CrI.M.P.No.5672 of 2020

Vengadesan
S/o.Kasi @ Veerasamy,
Perumbakkam Road,
M.G.R.Nagar,
Tiruvannamalai. Petitioner/Accused No.1

.Vs.

State represented by
The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai.
(Crime No.882 of 2017) Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the entire records pursuant to the Spl.SC.No.84 of 2019 on the file of the Principal District and Sessions Court, Tiruvannamalai and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Chinnaraj

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor.

ORDER

This petition has been filed to quash the proceedings in Spl.S.C.No.84 of 2019 on the file of the Principal District and Sessions Judge, Tiruvannamalai.

2.The learned counsel for the petitioner would submit that totally there are six accused in this case, in which, the petitioner is arrayed as A1 and he has been charged for the offences under sections 379 and 430 IPC and section 21(1) of Mines and Minerals (Development & Regulation) Act 1957. He further submitted that the investigation officer as well as complainant are one among the same. Therefore, the entire proceedings is vitiated as per dictum laid down by the Hon'ble

Supreme Court of India in Mohanlal Vs. State of Punjab reported in 2018 SCC Online Supreme Court 974.

3.Per contra, the learned Additional Public Prosecutor submitted that the dictum laid down by the Hon'ble Supreme Court of India in the case of Mohanlal Vs. State of Punjab, now has been over-ruled by the Constitution Bench judgement dated 31.08.2020 in Mukesh Singh Vs. State (Narcotic Branch of Delhi).

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

5.Therefore, the ground taken by the counsel for the petitioner that when informant as well as investigation officer are same, trial cannot be proceeded, cannot be considered after the judgement of the Hon'ble Supreme Court of India. The petitioner is the first accused in Spl.S.C.No.84 of 2019 on the file of the learned Principal District and Sessions Judge, Tiruvannamalai.

6. The only ground raised by the petitioner is that the informant as well as investigation officer are one and the same and cited the judgement of the Hon'ble Supreme Court of India reported in Mohanlal Vs. State of Punjab reported in 2018 SCC Online Supreme Court 974. The said dictum has been over-ruled by the Constitution Bench Judgement of the Hon'ble Supreme Court dated 31.08.2020 in case of Mukesh Singh Vs. State (Narcotic Branch of Delhi) and relevant portion is as follows:-

"I. That the observations of this Court in the cases of Bhagwan Singh v. State of Rajasthan (1976) 1 SCC 15; Megha Singh v. State of Haryana (1996) 11 SCC 709; and State by Inspector of Police, NIB, Tamil Nadu v. Rajangam (2010) 15 SCC 369 and the acquittal of the accused by this Court on the ground that as the informant and the investigator was the same, it has vitiated the trial and the accused is entitled to acquittal are to be treated to be confined to their own facts. It cannot be said that in the aforesaid decisions, this Court laid down any general proposition of law that in each and every case where the informant is the investigator there is a bias caused to the accused and the entire prosecution case is to be disbelieved and the accused is entitled to acquittal; II. In a case where the informant himself is the investigator, by that itself cannot be said that the investigation is vitiated on the ground of bias or the like factor. The question of bias or prejudice would depend upon the facts and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the

investigation would not suffer the vice of unfairness or bias and therefore on the sole ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case to case basis. A contrary decision of this Court in the case of Mohan Lal v. State of Punjab (2018) 17 SCC 627 and any other decision taking a contrary view that the informant cannot be the investigator and in such a case the accused is entitled to acquittal are not good law and they are specifically overruled."

7. Accordingly, the ground raised by the petitioner cannot be considered now and hence, this petition is dismissed. Consequently, connected miscellaneous petition is closed. Further, the trial court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. The personal appearance of the petitioner is dispensed with, before the Principal District and Sessions Court, Tiruvannamalai.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge,
The Principal District and Sessions Court,
Tiruvannamalai.
2. The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai.
3. The Public Prosecutor,
High Court, Madras.

WEB COPY

Crl.O.P.No.14894 of 2020
and Crl.M.P.No.5672 of 2020

nrjk (co)
rr ii (03/11/2020)