

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.33606 of 2019

State Represented by  
The Inspector of Police,  
Special Investigation Cell, Vigilance  
and Anti-Corruption,  
Chennai - 600 028. .. Petitioner/Complainant

Vs.

D.C. Ruskin ...Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to set aside the order in Crl.M.P.No.918/2018 in C.C.No.33/2011 passed by the learned Special Court for the cases under Prevention of Corruption Act, Chennai by its order dated 16.04.2019.

For Petitioner : Mr. C. Iyyapparaj  
Additional Public Prosecutor.

For Respondent : Mr.S. Karthikeyan  
for Mr.Balaji Sankara Moorthy

O R D E R

This petition is being filed by the petitioner to set aside the order in Crl.M.P.No.918/2018 in C.C.No.33/2011 passed by the learned Special Court for the cases under Prevention of Corruption Act, Chennai, dated 16.04.2019.

2.The facts of the case is that the respondent/A1 was a Inspector of Police and he was implicated for the offence U/s 7 13(2) and 13(1) (d) of the Prevention of Corruption Act in C.C.No.12 of 2008 on the file of Special Court for the cases under Prevention of Corruption Act at Chennai. Hence, he filed a Crl.M.P.No.916 of 2018 in C.C.No.33 of 2011, seeking for a copy of the visitors Register for the period between 11.11.2008 to

30.12.2008 maintained at the office of Directorate of Vigilance and Anti Corruption, Chennai. The case was registered in the year 2010, after a lapse of 8 years, the respondent filed a petition u/s 91 of Cr.P.C seeking for a copy of the visitors Register. The petitioner herein also filed a counter stating that the said Register was washed away in the floods during November 2015. The Trial Court allowed the said M.P. Vide order dated 16.04.2019, with a direction to the petitioner either to produce the said document or it will be presumed that the said documents are favourable to the respondent herein. As against the said order, the present petition is being filed.

3.Mr.C. Iyyappa Raj, learned Additional Public Prosecutor, appearing for the petitioner would submit that the case was registered in the year 2010 and the respondent filed a petition in the year 2018, after a lapse of 8 years, the records are not required and relevant for the respondent to prosecute the case.

4.The learned counsel appearing for the respondent would submit that he filed Crl.M.P.No.916 of 2018 and also filed a separate petition U/s 91 of Cr.P.C and the same was allowed by the Trial Court and the Trial Court directed the petitioner herein to produce the documents as sought for by the respondent and the Trial Court also made that if the documents are not produced, adverse inference shall be drawn against the petitioner.

5. Considering the facts and circumstances of the case and on a perusal of the order passed by the Trial Court, it is clear that the the said documents are not produced then the documents are favourable to the respondent.

6.In view of the above and the documents are lost in flood, forcing the petitioner to produce the document is not reasonable. Hence, this Court is inclined to issue a direction to the Trial Court to dispose of the case on merits and in accordance with law as early as possible.

In the light of the above facts, this Crl.O.P. is disposed of, accordingly.

Sd/-  
Assistant Registrar(CS-)

// True Copy//

Sub Assistant Registrar

smn

To

1. The Special Court for the cases under  
Prevention of Corruption Act, Chennai.

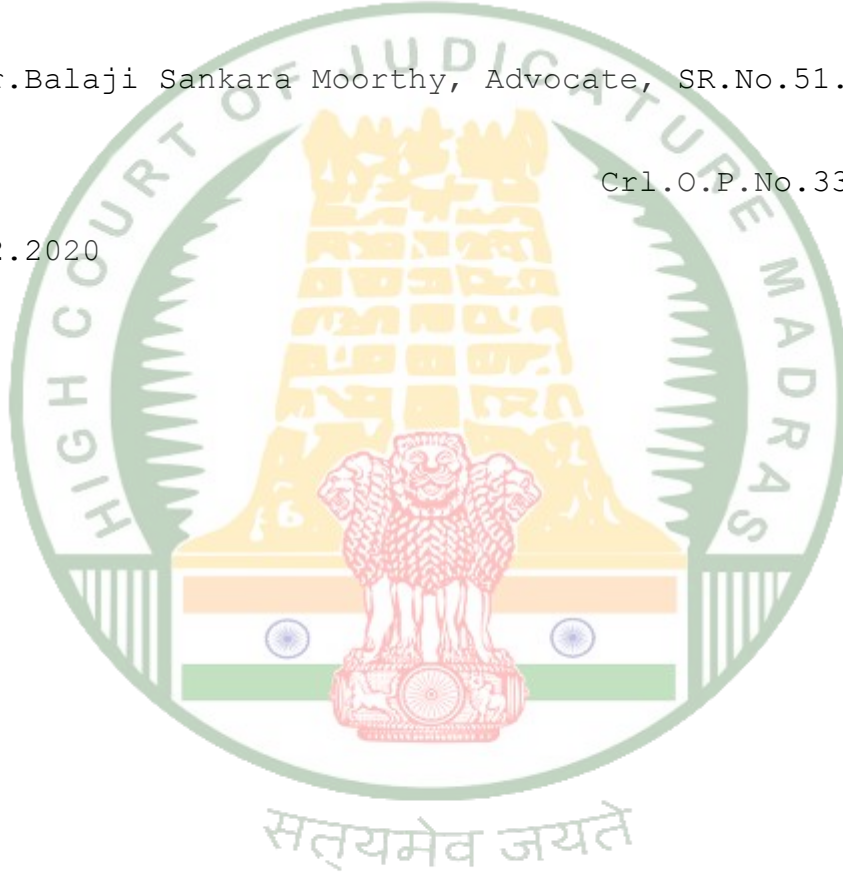
2.The Inspector of Police,  
Special Investigation Cell,  
Vigilance and Anti-Corruption,  
Chennai - 600 028.

3.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.Balaji Sankara Moorthy, Advocate, SR.No.51.

SSV(CO)  
CSR: 14.02.2020

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