

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No. 33608 of 2019

State represented by
The Inspector of Police,
Special Investigation Cell, Vigilance and Anti-Corruption,
Chennai-600 028
V&AC Cr. No.43/2009)

... Petitioner/Complainant

Vs.

S.A.Arokiyadoss
s/o.S.Anthonysamy,
Inspector of Police(Traffic)
Egmore, Chennai

.. Respondent/Accused

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to to set aside the order in CrI.M.P.No.2389 of 2017 in C.C.No.19 of 2011 passed by the Special Court for the cases under Prevention of Corruption Act, Chennai by its order dated 15.04.2019.

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

For Respondent : Mr.S.A.Arokiadoss
(Party in person)

सत्यमेव जयते
O R D E R

This petition has been filed by the petitioner to set aside the order in CrI.M.P.No.2389 of 2017 in C.C.No.19 of 2011 passed by the Special Court for the cases under Prevention of Corruption Act, Chennai by its order dated 15.04.2019.

2.The facts of the case is that the respondent Mr.S.A.Arokiadoss is an accused as he has committed an offence under Section 13(2) r/w 13(1) (d) of Provision of Corruption Act. After filing of charge sheet in C.C.No.19 of 2011 and after seven years, the respondent/accused filed a petition under

Section 91 Cr.P.C for production of 3 documents. The trial Court under the impugned order directed the petitioner to produce the 2nd document i.e., General Diary pertaining to the period from 12.10.2009 to 16.10.2009. Challenging the same, the present petition is filed.

3.Mr.C.Iyyapparaj learned Additional Public Prosecutor submitted that though the petitioner sought three documents. The trial Court directed the petitioner to produce the General Diary for the period from 12.10.2009 to 16.10.2009, which is not possible. The petitioner already filed a counter before the trial Court clearly stating that the said document was lost in the flood in 2015 and the petitioner did not possess this document at present. After 7 years, of filing the charge sheet, the petitioner intentionally has filed the petition only to drag the proceedings.

4.considering the case of this nature, when the document is not available forcing the petitioner to produce such document is not permissible and it is not workable. It is the admitted case of the petitioner that the documents are not with the petitioner. In order to resolve the issue in between the parties, the Trial Court can consider the issue for non-production of the said documents at the time of arguments and pass appropriate orders on merits and in accordance with law.

5.With the above direction, the this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To.

1.The Inspector of Police(Traffic)
Egmore, Chennai

2.The Special Court for the Cases Under Prevention of Corruption Act, Chennai.

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

4.The Public Prosecutor
High Court of Madras

Cr1.O.P.No. 33608 of 2019

pvs (co)
nr 21/02/2020



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