



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.12550 of 2020

The Superintendent of Central Excise (Legal),
O/o. the Commissioner of Customs,
Custom House,
Tuticorin-628 004.

... Petitioner

Vs

The Inspector of Police,
CBI, ACB,
Chennai.

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records of the order dated 26.11.2019 passed by the learned II Additional Special Judge for CBI Cases, Madurai in the Unnumbered Copy Application of 2019 filed by the petitioner in C.C.No.1 of 2016 and set aside the same and direct the Special Court to furnish the certified copies of the documents claimed by the petitioner.

For Petitioner	:	Mr.C.Arul Vadivel @ Sekar
For Respondent	:	Mr.A.Robinson
		Government Advocate (Crl.side)

ORDER

Heard the learned Standing Counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondents.

2.The petitioner is the customs department. The petitioner has taken disciplinary action against one of their employees namely A.Sampath Kumar who is facing prosecution in C.C.No.1 of 2016 on the file of the Special Judge for CBI Cases, Madurai. The employer/disciplinary authority requires copies of the two documents filed in the said criminal case for the purpose of conducting the disciplinary proceedings against Thiru.A.Sampath Kumar. The said documents are as follows:-

- (I) One hand written sheet seized during the search
- (II) Examination report dated 12.10.2015

3.The petitioner filed copy application before the jurisdictional Special Court and asked for copies. The said copy application was not even numbered. The request made by the petitioner was rejected on the ground that the case against the delinquent can be proved based on preponderance of probability and that, these copies are not required. Questioning the stand taken by



the learned Special Court, this Criminal Original Petition has been filed.

4.The learned Standing Counsel appearing for the petitioner drew my attention to Rule 210 of the Criminal Rules of Practice, 2019. The said Rule reads as under:-

"210. Application for copies by third parties:-

Application for the grant of copies of judgment or order or any proceeding or document in the custody of a Court by a third party to the proceeding shall be allowed only by order of the Court obtained on a petition supported by an affidavit setting forth the purpose of which the copy is required."

5.As rightly pointed out by the learned Standing Counsel for the petitioner, the petitioner has fulfilled all the requirements set out in the aforesaid Rule. The petitioner as a third party is very much entitled to move the Court concerned for obtaining the copies of the documents filed in the criminal case. The stand taken by the Court below is patently unsustainable. It is the right of the petitioner to ask for the aforesaid copies. It is not for the Court to give a gratuitous advice that the disciplinary authority can sustain the case against the delinquent official based on the preponderance of probability. The petitioner asked for the copies of the document that are lying in Court custody. The Judge concerned will have to decide as to whether the petitioner is entitled to get the copies or not. Without answering the same, the learned Special Judge has misdirected himself.

6.In this view of the matter, the order passed by the Court below is set aside. The learned Special Judge has also gone into the difference between the nature of criminal proceedings and the departmental proceedings. These observations are absolutely unwarranted. The Court below is directed to furnish the copies of the documents sought for within a period of two weeks from the date of receipt of a copy of this order.

7.This Criminal Original Petition is allowed. No costs.

Sd/-

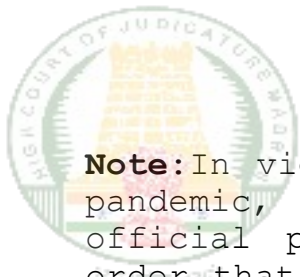
Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The II Additional Special Judge for CBI cases,Madurai.

2.The Inspector of Police,
CBI, ACB,
Chennai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.ARUL VADIVEL,Advocate (SR-23455[F] dated 01/12/2020)

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01.12.2020

SE (CO)
AP (07/12/2020) 3P 5C