



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C(MD)No.658 of 2020

WEB COPY

Papathi

... Petitioner

Vs

1.The Inspector of Police,
Vigilance and Anticorruption,
Tiruchirappalli.
Cr.No.17/2002.

2.K.N.Nehru

3.N.Shantha

K.N.RAMAJAYAM(DIED)

4.R.Latha

5.K.N.Ravichandran

6.R.Shankari

7.K.N.Manivannan

8.M.Ramya

... Respondents

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the Judgment dated 26.08.2020 passed in Cr.M.P.No.531 of 2020 in Spl.C.C.No.4 of 2004 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli.

For Petitioner

: Mr.M.Siddharthan

For R1

: Mr.A.Robinson

Government Advocate (Crl.side)

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the first respondent.

2.The petition mentioned document was seized by the first respondent in connection with Special C.C.No.4 of 2004 on the file of the Chief Judicial Magistrate, Trichy. The accused in the said case were discharged. The order of discharge was also confirmed by

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this Court. Questioning the same, it appears that the investigation officer had filed SLP (Crl.) Nos.3138-3142/2010 and SLP (Crl.) No.9614/2013 before the Hon'ble Supreme Court. SLPs are still pending. The petitioner states that the documents have to be returned to her. The Court below has declined to favourably consider the said prayer citing the pendency of SLPs pending before the Hon'ble Supreme Court. The order dated 26.08.2020 passed by the Court below is under challenge in this revision case.

3.The learned Government Advocate (Crl.side) submitted that the impugned order deserves to be confirmed.

4.I am unable to sustain the said objection raised by the learned Government Advocate (Crl.side). The case was registered way back in the year 2002. The petitioner's document bearing No.440/1986, dated 26.02.1986, was seized. As on date, the criminal prosecution stands terminated. Only if the Hon'ble Supreme Court sets aside the discharge order, the case will spring back to life. Already several years have gone by. The petitioner cannot be made to wait indefinitely.

5.I am therefore of the view that the document in question has to be returned to the petitioner. But then, to balance the interest of justice, the same has to be made subject to the outcome of the SLPs now pending before the Hon'ble Supreme Court. Therefore, the petitioner has to be put on terms. If the petitioner undertakes not to alienate the property in question, then, there should not be any issue. If the petitioner is planning to sell the property or deal with the property in any manner, the document must contain a recital that the transaction would be subject to the result of the aforesaid SLPs pending before the Hon'ble Supreme Court. To this effect, the petitioner has to file an affidavit before the learned trial Court. It is further directed that the after receiving such an affidavit from the petitioner, the learned trial Court will also intimate the jurisdictional registering authority in order to ensure its compliance.

6.Subject to this, the order impugned in this revision case is set aside. This criminal revision case is allowed on these terms.

Sd/-

Assistant Registrar (AE)

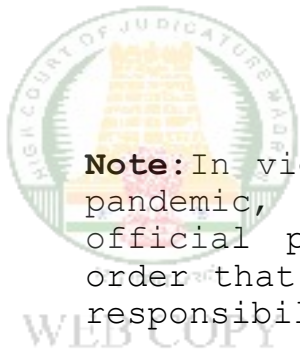
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/ /2020

Sub Assistant Registrar(CS)

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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 Chief Judicial Magistrate, Tiruchirappalli.

2.The Inspector of Police,
Vigilance and Anticorruption,
Tiruchirappalli.

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

+1 CC to M/s.R.BASKARAN, Advocate (SR-25396[F] dated 14/12/2020)

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11.12.2020

(KUN) CO
AP(28/12/2020) 3P 5C