



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29590 of 2012

Ravi

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its
Chief Secretary to Government,
Fort St. George,
Chennai-600 009.

2. The Inspector of Police,
Ammamet Police Station,
Thiruvarur District.

3. The Designated Court,
Thiruchirapalli,
Tirchy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the First respondent to consider the representation of the petitioner dated 19.10.2012 by constituting a Review Committee to Review the case in C.C.No.43 of 1995 on the file of the Designated Court, Thiruchirapally by in accordance with law.

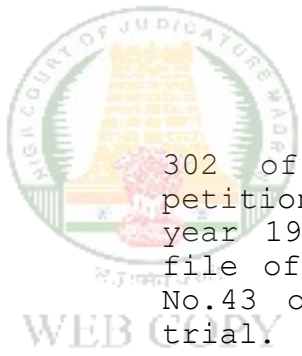
For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mr.C.Selvaraj
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondent to consider representation of the petitioner dated 19.10.2012 by constituting a Review Committee to Review the case in C.C.No.43 of 1995 on the file of the Designated Court, Thiruchirapally.

2. The petitioner states that he was falsely implicated into offence under Section 3(3) of TADA Act read with 120 B and



302 of I.P.C. and 4 of Explosives Substances Act. The petitioner plead innocence of the allegations in the case of the year 1994 in Crime No.429 of 1994. The case is pending on the file of the Designated Court, Thrichirappalli, in Criminal Case No.43 of 1995. The petitioner was enlarged on bail and faced trial.

3. The learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that the trial has already been completed and the matter is posted for judgment.

4. The petitioner states that the TADA Act was dead during 1995 and the Hon'ble Supreme Court of India directed to constitute a Review Committee under the Chairmanship of the 1st respondent. However, no Review Committee was constituted as directed by the Hon'ble Supreme Court of India and under those circumstances, the petitioner approached this Court with a prayer to direct the 1st respondent to consider the representation submitted by the writ petitioner on 19.10.2012 for constitution of a Review Committee to review the case in Criminal Case No.43 of 1995.

5. Question arises, whether the Review Committee was constituted and the case of the petitioner was reviewed by the competent committee pursuant to the directions of the Hon'ble Supreme Court of India or not. The Apex Court of India in the case of Kartar Singh Vs State of Punjab reported in 1994 SSC(3) 569, laid down that, in order to ensure higher level of scrutiny and applicability of TADA Act, there must be a Screening Committee or a Review Committee. Accordingly, the Central Government has to constitute a Review Committee, so also the State Government at the State level by the respective States consisting of Chief Secretary, Home Secretary, Law Secretary, Director General of Police, (Law and Order) and other officials as the respective Government may think it fit to review the action of the enforcing authorities under the Act and screen the case registered under the provisions of the Act and decide the further course of action in every matter and so on.

6. It is an admitted fact that there is no provision under the TADA Act for constitution of Review Committee or to review the case filed under the provisions of the TADA Act. In the absence of any provisions under the TADA Act, the Hon'ble Supreme Court directed the Central Government and respective State Governments to constitute a Review Committee for the purpose of reviewing the cases registered under the provisions of the TADA Act for the limited purposes, to ascertain the genuinity and correctness of the cases.



7. The learned counsel for the petitioner drew the attention of this Court with reference to the observations made by the Hon'ble Supreme Court of India that on many occasions, the Hon'ble Supreme Court of India come across cases, wherein the prosecution unjustifiably invokes the provisions of the TADA Act with an oblique motive of depriving the accused persons from getting bail and in some occasions when the courts are inclined to grant bail in cases registered under ordinary criminal law, the investigating officers in order to circumvent the authority of the courts invoke the provisions of the TADA Act.

8. In view of the fact that the competent authorities prosecuted unjustifiably by invoking the provisions of the TADA Act, the Hon'ble Supreme Court directed the Central Government and the respective State Government to constitute a Review Committee to screen the case registered under the provisions of the TADA Act.

9. In this context, the learned Additional Government Pleader furnished a copy of the minutes of the Review Meeting on TADA for the quarter ending 30.06.2012, 30.09.2012, 31.12.2012, 31.03.2013 held at 5:00PM on 26.06.2013 in the chamber of Chief Secretary to Government of Tamil Nadu. The meeting was chaired by the Chief Secretary to Government. The Principal Secretary, Home Prohibition and Excise Department, The Secretary to Government, Law Department, Director General Police (Law and Order), Additional Director General of Police and Inspector General of Police, Intelligence (Internal Security), 'Q' Branch CID, were present in the Review Meeting conducted on 26.06.2013. The minutes of the Review Committee reveals that the representation of the accused/ petitioner was discussed in the meeting elaborately and the Committee made an observations as follows:

"a) On 25.05.1994, S.I. And party of Ammapettai PS, on patrol duty intercepted a white Ambassador car No.TML 996. One of the occupants viz., Ravi @ Auto Ravi ran away in dark. When police took Rajan (Driver) and Kannan (LTTE cadre) to the Police station, they exploded hand grenades and managed to escape under cover of darkness. Due to explosion, one Inspector, one SI, a constable and 4 members of public sustained injuries and one of the public succumbed to the injuries later.

b) In this connection, a case in Ammapettai PS Cr No. 429/94 u/s.120(B), 302, 307, 114 IPC, 3 and 5 of Explosive Substances Act, 1908, Sec.25 (1-A) of Arms Act, 1959, Sec 3 r/w 6 of Indian Wireless Telegraphic Act, 1933, Sec. 3, 4, 5 of TADA Act, 1987 was registered.

c) The above case, reported on 25.5.1994, was charged on 16.11.1994 vide CC NO.43/95 on the file of



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Designated Court, Tiruchy.

d) There are 19 accused in total. Out of the 19 accused, accused Kannan (LTTE cadre) and V.P.Natesan have expired. The remaining 17 accused are attending the court.

e) Out of 199 witnesses cited in the Charge Sheet, 146 witnesses have been examined, 225 exhibits produced and 87 material objects marked on behalf of the prosecution. The examination of accused under Section 313 Cr.P.C was completed on 29.12.2003 and those of witnesses, on 19.9.2005. Both side arguments were completed on 25.1.2006. Thereafter, the case was posted for judgment on 24.2.2006. Subsequently, owing to the transfer of Judges, the judgment was delayed. After the joining of the present presiding judge, the case was posted for fresh argument on 17.7.2012. Subsequently, the case got adjourned several times owing to the requests made by the defense and it was posted for fresh argument on 1.11.2012 finally. The prosecution completed their argument on that date.

f) Now, the petitioner filed the above Writ Petition No. 29590/2012 for directing the first respondent (The Chief Secretary to Government) to consider his representation dated 19.10.2012 by constituting a Review Committee to review the case in CC No.43 of 1995 on the file of the Designated Court, Tiruchy. An interim stay has been granted by the Hon'ble High Court against the proceedings before the Designated Court, Tiruchy.

g) In this case, it is found that the provisions of TADA Act have been invoked properly."

10. Based on the above facts, the Committee decided to reject the claim of the accused Ravi @ Auto Ravi/writ petitioner, on the ground that the provisions of the TADA Act have been invoked in his case properly and the case before the Designated Court, Tiruchy has to proceed further.

11. The learned counsel for the petitioner strenuously contended that the Fundamental Principles of Criminal Jurisprudence requires fairness in the Criminal prosecution. The Constitution of Review Committee has to ensure that the prosecution initiated are screened by the high level committee to avoid unjustifiable actions by the Subordinate officials.

12. Thus, the accused himself must be heard by the Review Committee. In the present case, the Review Committee has not given such an opportunity to the writ petitioner and therefore, a direction is to be issued for Constitution of a Review Committee by considering the representation of the writ petitioner.



13. It is contented that an opportunity of hearing must be provided to the petitioner. In the present case, the Review Committee convened a Review meeting on 26.06.2013 and the representations submitted by the writ petitioner/accused was considered and the Committee elaborately considered the objections and formed an opinion that the case under the TADA Act was filed properly and therefore, it must be proceeded before the Designated Court at Thiruchirapalli.

14. This Court has to consider, whether the Review Committee was constituted in accordance with the directives of the Hon'ble Supreme Court of India and whether the petitioner is entitled to represent his case in person or through his counsel before the Review Committee. As rightly pointed out by the writ petitioner, the Fundamental Principles requires fairness in criminal prosecution. Every accused is entitled for an opportunity of defending his case. The settled principles in this regard is not in dispute. However, the scope of review by the Review Committee constituted pursuant to the directions of the Hon'ble Supreme Court of India is to be considered by this Court.

15. Admittedly, there is no provisions under the TADA Act for constituting a Review Committee or regular hearing of the case or objections or representations filed by the accused persons. The Hon'ble Supreme Court of India found that in many cases prosecutions are done unjustifiably by invoking the provisions of the TADA Act. Under those circumstances, the Apex Court of India directed the Central Government and respective State Governments to constitute higher level committee to screen the cases registered under the provisions of the TADA Act and decide the further course of action.

16. Thus, the powers of Review Committee is to be exercised with reference to the directions issued by the Hon'ble Supreme Court of India and it is not as Statutory committee constituted under the provisions of the Act. The Hon'ble Supreme Court of India in clear terms held that " to review the action of enforcing authorities under the Act and screen the cases registered under the provisions of the Act and decide the further course of action in every matter and so on."

17. The very purpose of such direction is to ensure that the administrative actions / prosecution done by the authorities are based on certain materials and warranting an action under the TADA Act. Thus, it is an administrative review, directed to be conducted by the high level Review Committee and such a Committee need not conduct any personal enquiry in respect of the representation/objections submitted by the accused person. It is not a Review Committee constituted for the purpose of hearing of the accused person for the purpose of providing



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redressal. Contrarily, this Review Committee is constituted to screen the administrative actions while enforcing the provisions of the Act by the authorities and such screening is to be made based on the records available, facts and circumstances made available through the case files, and considering the objections by the accused if any.

18. Thus, the powers of the Review Committee is undoubtedly limited. The Review Committee need not conduct an enquiry by hearing all the parties and made a finding for the purpose of granting exoneration or otherwise. The powers of the Review Committee is to ensure, whether the prosecution initiated is in consonance with the provisions of the Act and the particular facts and circumstances of the case, warrant a prosecution under the provisions of the TADA Act or not. Thus, the powers of the Review Committee is to be exercised with reference to the context, in which, the Hon'ble Supreme Court of India referred.

19. Therefore, the Review Committee on scrutinizing the files, forms an opinion that the case was unjustifiably filed by the prosecuting agency, then they can revert back the cases before the regular Court. If there is justification in prosecuting a person under the TADA Act, then the Review Committee shall allow the case to go on before the Designated Court constituted under the TADA Act. This being the nature of the administrative review to be conducted by the Review Committee constituted pursuant to the directions of the Hon'ble Supreme Court of India, question of conducting an enquiry by providing personal hearing may not be required and such personal hearing of the accused will further complicate the issue, which was not intended by the Hon'ble Supreme Court of India as the language employed in the order of the Supreme Court is unambiguous that "to review the action of the enforcing authorities under the Act and screen the cases registered under the provisions of the Act and decide the further course of action in every matter and so on". Thus, it is sufficient if the actions initiated under the TADA Act are screened by high level Review Committee, appropriate decision is taken and in this regard, the representation by the petitioner in raising objections were considered by the Review Committee and that itself is an opportunity provided to the petitioner and such an opportunity would met the ends of justice and any further opportunity is not contemplated by the Hon'ble Supreme Court in its judgment and therefore, the procedures as contemplated in the present case, considering the representations submitted by the petitioner/accused is in consonance with the directives of the Hon'ble Supreme Court of India in the case of Kartar Singh Vs State of Punjab (cited supra) and there is no infirmity and perversity as such.



20. The petitioner/accused is provided with several opportunities, while conducting the trial before the Designated Court. All such opportunities provided under the law is made available to the accused persons and therefore, the contention of the petitioner that the case of the petitioner is to be reviewed in every three months is not contemplated nor directed by the Hon'ble Supreme Court of India.

21. This apart, in the present case, the trial was concluded long back and under these circumstances, no further adjudication needs to be considered and consequently, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jeni/Nti

To

1. The Chief Secretary to Government,
The State of Tamil Nadu,
Fort St. George,
Chennai-600 009.
2. The Inspector of Police,
Ammamet Police Station,
Thiruvavarur District.
3. The Designated Court,
Thiruchirapalli,
Tiruchy District.

W.P.No.29590 of 2012

AJS(CO)
RGA(13/12/2021)