

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 09.04.2021
CORAM
THE HONOURABLE Mr.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.6361 of 2021

Ashok Sachdev,
S/o.Late Chuni Lal Sachdev

.. Petitioner

Vs.

1. Ramesh Pallavaram Kothandaraman
 2. S.Ravindranathan
 3. Maria Ramesh,
W/o.Ramesh Pallavaram Kothandaraman
 4. Call Express Construction (India) Pvt. Ltd.,
A Company Registered Under Companies Act, 1956
No.20, Poes Road First Street,
Teynampet, Chennai-600 018.
 5. Praveen Kumar Ramesh,
S/o. Ramesh Pallavaram Kothandaraman
 6. Calls Australia Pty. Ltd.,
Level 19, 15 William Street,
Mel Bourne, Australia 3000
 7. The Inspector of Police,
Team - IV, EDF-II,
Central Crime Branch,
Vepery, Chennai-600 007.
- .. Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the return order passed by the Learned CCB and CBCID Special Court, Metropolitan Magistrate Court, Egmore dated 02.03.2021 and direct the Learned CCB and CBCID Special Court, Metropolitan Magistrate Court, Egmore, to issue the certified copies as prayed for in Copy Application No.1808/2021 in Crime No.253 of 2019 on such terms and conditions, as may be deemed fit and necessary in the facts and circumstances of the case.

For Petitioner : Mr.Maninder Singh, S.C. For
for M/s.D.Divakaran

For Respondent : Mr.M.Mohamed Riyaz, APP for R7

O R D E R

The petition has been filed challenging the return order passed by the court below by not granting the certified copies as prayed for in the Copy Application filed by the petitioner in Copy Application No.1808/2021 in Crime No.253 of 2019.

2. The petitioner, who is the defacto complainant had lodged a complaint to the 7th respondent and the case in Crime No.253 of 2019 came to be registered for the offence under Sections 406, 420 r/w.120(b) of IPC. Thereafter, on completion of investigation, a closure report has been filed in RCS No.358 of 2020 on 17.12.2020. From the closure report, it is seen that the case has been closed as 'further action dropped'. Thereafter, the petitioner had appeared before the lower Court and filed a Copy Application No.1808 of 2021 sought for issuance of certified copies specifically mentioning the details of 16 documents relied upon by the 7th respondent Police in Final Report dated 17.12.2021. The lower Court had returned the copy application on 02.03.2021 with an endorsement 'From perusal, above are Xerox copies. Hence not granted'. Left with no other option, the present petition has been filed before this Court.

3. The learned senior counsel appearing for the petitioner brought to the notice of this Court Section 26 of the Criminal Rules of Practice, 2019, which reads as under:

26. Cognizance of the Offence: (1) where a police report is filed by the investigating agency in the Court which is empowered to take cognizance of the offence that

(a) no offence appears to have been committed ;

(b) the offender is not known, or

© no offence appears to have been committed by the person or by any of the persons named in the First Information Report,

the Court shall issue notice, in Judicial Form No.16, to the person on whose complaint, investigation is conducted or to any other aggrieved person deemed necessary by the Court to appear before the Court. Such notice shall be served in the manner prescribed for the service summons in the Code.

(2) On appearance of the complainant or the aggrieved person, as the case may be, a copy of the report of the Investigating Agency shall be furnished to him free of cost and he shall be permitted to obtain

certified copies of the statements and other documents submitted therewith to arrive at such an opinion.

(3) If the complainant/aggrieved person appears, the Court shall, after hearing him,-

(i) accept the report and close the case ; or

(ii) order for further investigating ; or

(iii) take cognizance of the offence

(4) If the complainant/aggrieved person either fails to appear or notice could not be served by the available means, the court may proceed to pass orders on the report filed by the police in Judicial Form No.15.

(5) Cases of which a Magistrate has taken cognizance shall, in the absence of a specific order of the Chief Metropolitan Magistrate/Chief Judicial Magistrate to the contrary, be heard by the same Court.

4. In this case, for the purpose of filing the protest petition and making his arguments, the above documents were sought for by the petitioner. In view of Section 26 of the Criminal Rules of Practice, the lower Court ought not to have returned the copy application filed by the petitioner on the ground that they are only Xerox copies. This Court finds that the negative report has been filed by the respondent police based on the documents. Those documents are now sought for by the petitioner.

5. In view of the same, the lower Court ought to have furnished all the documents which have been sought for. Hence, this Criminal Original Petition is allowed and the order of the lower Court returning the copy application No.1808 of 2021 in Crime No.253 of 2019 dated 02.03.2021 filed by the petitioner is hereby set aside and the lower Court is directed to furnish the documents as sought for in C.A.No.1808 of 2021 in Crime No.253 of 2019 filed by the petitioner.

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Assistant Registrar(CS VIII)
//True Copy//

Sub Assistant Registrar

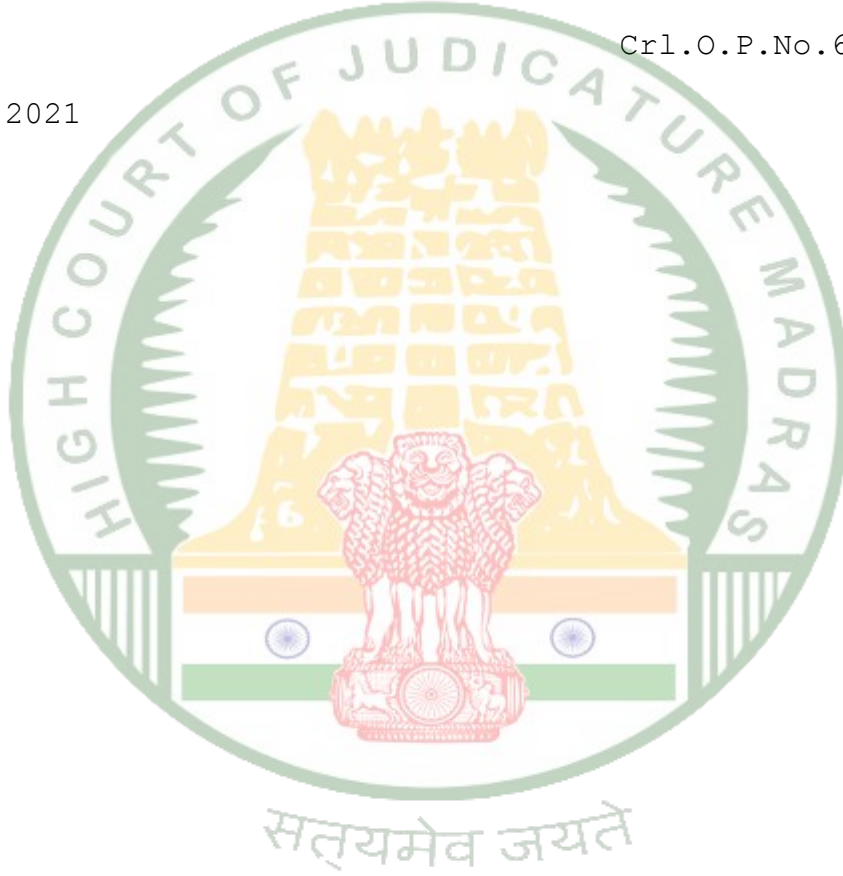
To

1. The CCB and CBCID Special Court,
Metropolitan Magistrate Court,
Egmore, Chennai.
2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.B.Divakaran, Advocate, S.R.No.22705.

PM(CO)
CSR 15.04.2021

Cr1.O.P.No.6361 of 2021



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