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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.15086 of 2021

P.Palraj.

... Petitioner

Versus

The State by
Sub-Inspector of Police
Central Crime Branch
EDF-II, Team - III
Chennai.
(Crime No.41 of 2019).

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 05.08.2021 passed in Crime No.41/2019 on the file of the Respondent Police, in pursuant to the Notice vide Dis.No.364/2021 in R.C.S.Reg.No.67/2021 issued by the Learned Metropolitan Magistrate, the Special Court for CCB & CBCID Cases, Egmore, Chennai and further direct the Learned Metropolitan Magistrate, the Special Court for CCB & CBCID Cases, Egmore, Chennai to permit the petitioner to file his protest petition in the above said case.

For Petitioner : Mr.S. Gokulakannan.

For Respondent: Mr.A.Damodharan,
Addl. Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to set aside the order dated 05.08.2021 passed by the Special Judge, Special Court of CCB & CBCID Metropolitan Magistrate, Egmore, Chennai, in Crime No.41 of 2019.

2. The learned counsel for the petitioner would submit that on the complaint of the petitioner, a case in Crime No.41 of 2019 for the offences under Sections 406, 420, 506(i) r/w. 34 of IPC was registered. Thereafter, the petitioner was not informed about the out come of the investigation. He would further



submit that on 25.06.2021, the petitioner received an intimation letter from S.Logeshwaran, Sub-Inspector of Police, EDF-II Team-III, Central Crime Branch, Vepery, Chennai - 600007 informing that the case is likely to be closed and they would inform about the filing of closure report before the Magistrate and also the date of filing. Thereafter, the petitioner has not aware as to what happen. Finally, the petitioner received a notice in Dis.No.364 of 2021 in R.C.S.No.67 of 2021 dated 21.07.2021. From the notice it is seen that "Further Action Dropped" in Crime No.41 of 2019, and if the petitioner had any dispute, he has to appear before the Metropolitan Magistrate CCB & CBCID, Egmore, Chennai. However, the date mentioned in the notice is not clear and hence, he was not able to find out what is the exact date. Admittedly, the petitioner is residing in Tirunelveli. Now, the petitioner after making arrangements before the lower Court to file a protest petition came to know that on 05.08.2021 the case has been closed since there was no representation and opportunity had been denied to the petitioner and the case has been technically closed on the ground of no representation.

3. The learned Additional Public Prosecutor submitted that even before the filing of the closure report before the lower Court, RCS notice dated 22.06.2021, was served to the petitioner, which was received by the petitioner on 25.06.2021. Later, further action dropped report was filed before the lower court and the lower court also sent notice to the petitioner. The petitioner received the same in the month of July 2021, and knowing that the same was posted for hearing in the month of August 2021, now making a claim that the date was not properly found and blaming others, only for the purpose of getting time.

4. Considering the submissions and on perusal of the RCS notice served to the petitioner by the lower Court, it is clear that the date is not properly mentioned. Further the order was passed by the Lower court on 05.08.2021 stating that no representation for the petitioner. Admittedly, the petitioner is an aged senior citizen, who is residing in Tirunelveli. The lower Court had mechanically accepted the closure report filed by the respondent police, since no protest petition has been filed by the petitioner.

5. In view of the same, the lower Court is directed to give an opportunity to the petitioner to file his protest petition, prior to which, the closure report and all other relevant documents to be furnished to the petitioner. So that the petitioner can file a detailed representation against the closure report. As the petitioner is aware about the proceedings, he can appear before the lower court along with the copy of this order, thereafter, the lower Court is directed to



hear the petitioner and pass appropriate orders, on merits and in accordance with law.

6. With the above directions, this Criminal Original Petition is disposed of.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrp/mdl
To

The Sub-Inspector of Police,
Central Crime Branch,
EDF-II, Team - III,
Chennai.

+1cc to Mr.P.Rajkumar, Pandian, Advocate Sr.49721

CRL.O.P.No.15086 of 2021

ssd[col]
srg 26/10/2021