



Crl.R.CNo.949 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl. R.C. No. 949 of 2021
and
Crl.M.P.No. 12843 of 2021

S. Manikandan

. . . Petitioner

Versus

State,
Represented by
The Inspector of Police,
Sarvanampatti Police Station,
Coimbatore.

. . . Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Crl.P.C. to set aside the order passed in Crl.M.P.No.4107 of 2021 in S.C.No.37 of 2021 by the 1st Additional Sessions Judge, Coimbatore.

For petitioner	: Mr.E.K.Kumaresan
For respondent	: Mr.S.Sugendran, Government Advocate (crl.side)

ORDER

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WEB COPY This Criminal Revision Petition has been filed against the dismissal of the petition filed under Section 207 of Cr.P.C. Seeking to furnish the copies of the documents mentioned in the petition.

2. The Brief facts of the case is as follows:

The petitioner is the sole accused facing trial in S.C.No.37 of 2021 on the file of 1st Additional Sessions Judge, Coimbatore for the offence under Section 302 of I.P.C. On 27.09.2021, the case was posted for examining the prosecution witnesses. On that day, L.W.1 to L.W.5 were present. The petitioner had filed an application under Section 309 of Cr.P.C and thereafter, the case was posted to 30.09.2021. On 30.09.2021, the petitioner had filed Crl.M.P.No.4107 of 2021 under Section 207 of Cr.P.C seeking to furnish the copies of the documents mentioned in the petition. It is the case of the petitioner that the copy of the report of Viscera, Serology, statement of confession recorded under Section 164 Cr.P.C, biological report, requisition by the Investigating Officer for the Post mortem and other requisition of the Investigating Officer for sending materials for expert opinion were not furnished to him and thereby, he was unable to proceed with the trial. It was submitted by

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the petitioner that as per Section 209 of Cr.P.C., the Committal Court shall commit the case after complying with the provisions of Section 207 or 208 Cr.P.C as the case may be and as such the Committal proceedings by the learned Judicial Magistrate without supplying the copies of the documents stated supra is not valid.

3. The respondent had submitted that already the essential documents have been furnished to the accused and the copy of the medical records, Forensic lab Report, Viscera Report and Biological report and the other documents sought by the petitioner were kept ready whereas the petitioner was not receiving the same on the pretext that the application was pending. It was further submitted that the Trial had not been commenced and the copies of the documents were very much available and the respondent was ready to furnish the same and no procedural irregularity had occurred in furnishing the copies to the accused. Further, it was submitted that by non furnishing the copies at the time of Committal, no prejudice had happened to the accused and that the petition had been filed only to protract the trial and the application for adjournment was filed only on 27.09.2021, when the witnesses were available and subsequently, the application under Section 207 of Cr.P.C was filed on the

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next hearing on 30.09.2021.

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4.The Trial court finding that the refusal to receive the documents with the prayer to set aside the committal order under Section 397 of Cr.P.C and the request made by the petitioner to remit the case back to the Committal Court was not proper and finding that base line to consider is that no prejudice would be caused to the accused, had dismissed the application, against which the revision has been filed.

5. The learned counsel for the petitioner would submit that the documents sought for by the petitioner are essential documents and non furnishing of the same has caused prejudice to the petitioner.

6. Per contra, Mr.S.Sugendran, learned Government Advocate (crl.side), appearing for the respondent would submit that it is not a case where petitioner was denied the copies and the respondent was always ready and willing to furnish the copies to the petitioner. The petitioner, who had not filed the petition till the commencement of the Trial, only after the case was taken for trial and after the appearance of the witnesses for examination, had filed the petition to

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protract the proceedings. He would further submit that the Trial Court following the dictum laid by the Hon'ble Supreme Court in ***Central Bureau of Investigation vs R.S.Pai, (2002) 5 SCC 82***, holding that furnishing of documents is directory and that the word “shall” used in subsection (5) for requiring the police officer to forward to the Magistrate “all the documents” is not mandatory, had dismissed the petition. He would further submit that even now the prosecution is ready to furnish the copies to the petitioner.

7. Heard both sides and perused the materials available on record.

8.The petitioner has filed the petition under section 207 of Cr.P.C. seeking for furnishing of copies. The petition has been filed only at the stage when the witnesses L.W.1 to L.W.5 were present. Though the prosecution has expressed its willingness to furnish the copies, the petitioner had sought time on the ground stating that the committal order is illegal and thereby, the matter has to be remitted back to the committal court for issuance of copies.

9. Law is well settled. In ***Central Bureau of Investigation vs R.S.Pai,***



(2002) 5 SCC 82, referred by the trial Court, the Hon'ble Apex Court was categorical to hold that the word “shall” used in Section 173(5) Cr.P.C. is not mandatory but directory. The prosecution is not precluded from filing the document during inquiry or trial.

10.A similar view has been taken by the Apex Court in a later decision in *Narender Kumar vs CBI reported in (2015) 3 SCC 417*. Now, it is further submitted by the prosecution that the case stands posted to 10.01.2022. Further, it is submitted by the respondent that they are ready to hand over all the documents sought for by the petitioner. However, the petitioner has wilfully and purposely refused to receive the same only with the oblique motive of delaying the trial. This Court finds no error or infirmity in the order passed by

the trial court. Further, this Court finds that the petition has been filed only for the purpose of delaying the trial. Hence, the criminal revision petition stands dismissed.



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vri/shk

Copy to

1. The learned 1st Additional Sessions Judge,
Coimbatore.
2. The Inspector of Police,
Sarvanampatti Police Station,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.
4. The Record Keeper, Criminal Section,
High Court, Madras.

A.D.JAGADISH CHANDIRA, J

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