

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Original Petition No.27501 of 2019
and
Crl.M.P.No.14679 of 2019

Kaja Mohideen

... Petitioner/A-4

Vs.

State represented by

The Assistant Commissioner of Police,
Ambattur Range, Ambattur,
Chennai, Crime No.746 of 2014.

... Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records and set aside the order in Crl.M.P.No.629 of 2019 in S.C.No.1 of 2015 dated 11.07.2019 on the file of the learned Principal Sessions Judge, Tiruvallur.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

O R D E R

This petition has been filed against the order dated 11.07.2019 made in Crl.M.P.No.629 of 2019 in S.C.No.1 of 2015 on the file of the learned Principal Sessions Judge, Tiruvallur.

2.According to the petitioner, the petitioner and 16 others have shown as accused in S.C.No.1 of 2015. During the pendency of the case, three of the accused persons namely Nazeer Jallaludhin (A5), Jagabursadhiq(A10) and Athaullah (A14) had turned as approver. Subsequently, the respondent/complainant herein filed a petition in Crl.M.P.No.629 of 2019 under Section 44 of the Unlawful Activities (Prevention) Act 1967 before the learned Principal Sessions Judge, Tiruvallur. After considering the entire materials, the learned Judge held that the identity of the

documents in S.No.1 to 13 in the Additional List of Documents can be furnished to the accused persons after the chief examination of L.Ws.104, 105 and 106 and the same have not been duly furnished to them under Section 207 of Cr.P.C and posted the case for framing charges. Challenging the same the present revision.

3. The learned counsel for the petitioner would submit that during the course of trial in S.C.No.1 of 2015, three of the accused namely Nazeer Jallaludhin (A5), Jagabursadhiq(A10) and Athaullah (A14) had turned as approver and their statements were recorded under Section 164 Cr.P.C. Subsequently, A8 and A9 filed discharge petition came to be dismissed. Now, the petitioner seeks the copy of the statement of witnesses and other documents. Though the respondent police raised an objection under Section 44 of the Unlawful Activities (Prevention) Act 1967, as per the Act they can keep the statements till the cross examination in chief. After considering the entire materials, the learned Judge held that the identity of the documents in S.No.1 to 13 in the Additional List of Documents can be furnished to the accused persons after the chief examination of L.Ws.104, 105 and 106 and the same was not been duly furnished to them under Section 207 of Cr.P.C and posted the case for framing charge which would be unjust and unfair as the accused persons would not be in a position to defend their case.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and also perused the materials available on record.

5. It is seen from the records that during the trial three accused namely Nazeer Jallaludhin (A5), Jagabursadhiq (A10) and Athaullah (A14) had turned as approvers and cited as prosecution witnesses Lws.104, 105 and 106 and their statements were recorded under Section 164 Cr.P.C. It is not a case of the prosecution that the witnesses cited as L.Ws.104, 105 and 106 are already known to the accused and also their names were revealed by the prosecution at the time of filing petition. Therefore, the petitioner is entitled to the copy of the witnesses. Further, in this case, investigation has already been completed and charges were framed.

6. Under these circumstances, the petitioner is entitled for the copy of the statement recorded under Section 164 Cr.P.C. Hence, the order passed by the learned Principal District and Sessions Judge, Tiruvallur is set aside and the Sessions Judge is directed to serve the copies of the statement of approver to the petitioner and also directed to commence the trial and dispose of the case within a period of six months from today and to file a compliance report before this Court. The petitioner is directed to co-operate for early disposal of the case.

7. With the above direction, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

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Sub Assistant Registrar

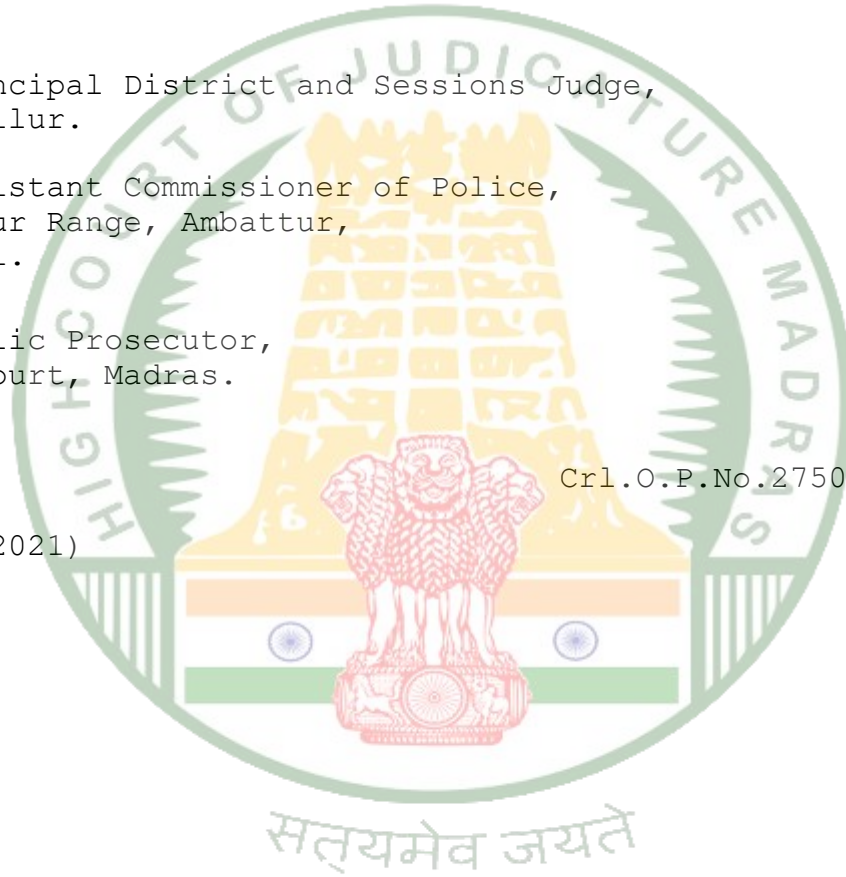
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To

- 1.The Principal District and Sessions Judge,
Tiruvallur.
- 2.The Assistant Commissioner of Police,
Ambattur Range, Ambattur,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

BS (CO)
CB(02/03/2021)

Cr1.O.P.No.27501 of 2019



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