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Crl.OP.No.31555 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.31555 of 2022

and

Crl.M.P.Nos.1911 & 19322 of 2022

A.Raja

... Petitioner

Vs.

The Inspector of Police,
Central Crime Branch, Team 17-A,
Egmore, Chennai - 600 008

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set -aside the charges framed against the petitioner directing the learned Metropolitan Magistrate (Land Grabbing No.1) at Allikulam, Chennai to consider the discharge petition under Section 239 of Cr.P.C dated 08.08.2022.

For Petitioner : Mr. J.Kingsly Solomon

For Respondent : Mr.S.Santhosh

Government Advocate (Crl. Side)



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ORDER

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2. The learned Counsel for the petitioner submitted that on the appearance of the petitioner, only part of the statements were supplied to the petitioner under Section 207 of Cr.P.C. The documents in S. No. 13 to 32 were not furnished. In this regard, the petitioner filed two applications on 08.08.2022 (one is under section 207 of Cr.P.C for furnishing copies of documents in S.No.13 to 32 and other petition is under Section 239 of Cr.P.C for discharge), for which, the learned Judicial Magistrate passed orders on 08.08.2022 as follows:

Heard, in the interest of Justice, it is duty of the Court to ensure whether the copies of all document was served or not, since the counsel raised complaint as S.No.13 to 32 not furnished, this petition is allowed. Here by directed to furnish the said copies immediately



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3. Though the order was passed for issuance of copies in S.No.13 to 32, learned Judicial Magistrate proceeded to dismiss the discharge petition as infructuous for the reason that the charges are framed, since after framing of charges discharge petition cannot be maintained and that the Court has become *Functus Officio*.

4. On going through the submissions of the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and also considering the fact that though specific orders were passed by the learned Metropolitan Magistrate on the petition filed by the petitioner for issuance of copies in S.No.13 to 32, framing of charges without considering the discharge application filed under Section 239 of Cr.P.C is grossly inappropriate and illegal. The charges should be framed only after giving sufficient time given to the accused for going through the documents.

5. In that view of the matter, charges framed as against the petitioner on 08.08.2022 are set aside and the learned Metropolitan Magistrate (Land Grabbing No.1) at Allikulam, Chennai is directed to number the discharge



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petition under Section 239 of Cr.P.C and dispose the same in accordance with law.

6. With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

21.12.2022

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

Sma

To.

1. The Metropolitan Magistrate (Land Grabbing No.1),
Allikulam, Chennai
2. The Inspector of Police,
Central Crime Branch, Team 17-A,
Egmore, Chennai - 600 008
3. The Public Prosecutor,
High Court of Madras.

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G.CHANDRASEKHARAN,J.

Sma

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