



Crl.R.C.No.258 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.258 of 2023

J.Stephen @ Moonu Thalai Stephen

... Petitioner

Vs.

The State Rep. by
the Inspector of Police,
N-4, Fishing Harbour Police Station,
Chennai - 600 006.
Crime No.105 of 2022

... Respondent

Prayer: The Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code to call for the records and papers relating to Cr.M.P.No.6285 of 2022 on the file of the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, and set aside the order dated 19.12.2022.

For Petitioner : Mr.S.Apunu

For Respondent : Mr.V.Meganathan
Government Advocate (Crl. Side)



Crl.R.C.No.258 of 2023

ORDER

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This Criminal Revision Case has been filed to set aside the order dated 19.12.2022 passed in Crl.M.P.No.6285 of 2022 by the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai,

2. The respondent police registered a case in Crime No.105/2022 against the petitioner for the offence punishable under Sections 8(c) r/w 22(c) and 29(1) of NDPS Act and he was remanded to judicial Custody on 11.06.2022. After expiring 180 days, the petitioner filed a petition under Section 167(2) of Cr.P.C. in Crl.M.P.No.6285 of 2022 before the learned Special Judge to grant statutory bail and it was dismissed, vide order dated 19.12.2022. Challenging the above order, this Criminal Revision Case has been filed.

3. The learned counsel for the petitioner submitted that, the petitioner was remanded to judicial custody on 11.06.2022. He further submitted that, even after expiring of 180 days, the respondent police has not filed charge sheet and hence, the petitioner filed a petition seeking statutory bail and the same was dismissed by the learned Special Judge stating that, the petition was filed on 09.12.2022 i.e. on expiry of 181 days, however, before this date,



Crl.R.C.No.258 of 2023

the prosecution filed a charge sheet on 01.12.2022 and hence the petition is not maintainable.

4. The learned counsel for the petitioner further submitted that, on verification of e-courts proceedings, it came to know that no such final report has been filed till date, however, the prosecution mislead the Court by giving false statement that the final report was filed on 01.12.2022. Therefore, the petitioner is entitled for statutory bail and hence, the impugned order may be set aside and the petitioner may be granted bail.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that, in the above case, final report was filed on 1.12.2022.

6. It is to be noted that, the factum of filing final report on 1.12.2022 by the investigating officer is disputed by the learned counsel for the petitioner. Hence, this Court vide order dated 15.02.2023, directed the Registry to get the report from the concerned Court, as to when the final report was filed in Crime No.105/2022. Pursuant to the above order, a Report was received from the learned Principal Special Judge, Principal



Crl.R.C.No.258 of 2023

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Special Court under EC & NDPS Act, Chennai dated 24.02.2023, wherein, it is stated as follows.

" I submit that, in Crime No.105/2022, N4 Fishing Harbour Police Station filed charge sheet through Assistant Commissioner of Police, Royapuram Circle, Chennai on 01.12.2022 and which one numbered as C.C.No.42/2023 on 11.01.2023. First hearing posted on 31.01.2023. On 31.01.2023 A1 to A3 produced and posted on 14.02.2023. On 14.02.2023, A1 to A3 produced and posted to 28.02.2023 for engaging counsel."

7. Inview of the above said report given by the learned Principal Sessions Judge, Principal Special Court under EC & NDPS Act, Chennai, this Court accepted that final report was filed on 01.12.2022. Therefore, this Court is of the view that, since the petitioner filed a petition seeking statutory bail on 09.12.2022, i.e. after filing of final report, he is not entitled for statutory bail. As such, I find no merit in the Criminal Revision Case and the impugned order passed by the learned Special Judge does not warrant any interference by this Court.



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Crl.R.C.No.258 of 2023

8. Accordingly, this Criminal Revision Case is dismissed.

27.02.2023

mst

To

1. The Principal Special Judge,
Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police,
N-4, Fishing Harbour Police Station, Chennai - 600 006.
3. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.258 of 2023

V.SIVAGNANAM, J.

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Crl.R.C.No.258 of 2023

27.02.2023