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Crl.R.C.No.1334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.07.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.R.C.No.1334 of 2023

and

Crl.M.P.No.11008 of 2023

K.Balakrishnan.

.. Petitioner

Vs.

The Superintendent of Police,  
Western Range,  
Vigilance and Anti Corruption,  
293, M.K.N.Road,  
Alandur,  
Chennai  
(Crime No.6/AAC/2018)

..Respondent

**PRAYER :** Criminal Revision Case has been filed under section 397 and Section 401 of Criminal Procedure Code to call for the records relating to the order dated 20.07.2023 made in C.M.P.No.4525 of 2023 in Spl.C.C.No.2 of 2022 on the file of the learned Chief Judicial Magistrate, Namakkal and set aside the same by allowing this Criminal Revision Case.



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For Petitioner : M/s.N.Manoharan  
For Respondent : Mr.S.Udayakumar  
Government Advocate (Crl.Side)

### **ORDER**

This Criminal Revision Case is filed by the accused being aggrieved by the dismissal of the petition seeking copy of the documents under Section 207 Cr.P.C.

2. The learned counsel for the revision petitioner, referring about the recent amendment of Criminal Rules of Practice in consonance with the direction of the Hon'ble Supreme Court in Suo Motu Writ (Crl) No.1 of 2017, submitted that under Section 207 of Cr.P.C., the accused is entitled to get a copy of the documents relied or not relied by the prosecution. Whereas, the respondent police, which has referred about the call detail particulars collected during the course of investigation, refused to give the copy of the documents. Though it is admitted the possession of the documents namely the call details, they refused to give the call details on the ground that it is not a document relied or produced before the Court.



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3. However, from the submissions made by the learned counsel for the revision petitioner, this Court learns that 8 witnesses have referred in their 161 statements about the call details. Though the prosecution has not relied upon the documents and produced it before the Court, it is very relevant and necessary for fair trial and necessary for the accused to know about the content of the call details to defend him.

4. The learned counsel for the revision petitioner submitted that for fair trial, copy of the documents collected in the course of investigation bound to be given to the accused. In this case, the accused is deprived of the opportunity to look at the documents and the trial Court has erroneously dismissed the petition stating that this is not the stage for the Court to conclude that those documents sought in the petition required for the Court to decide the matter finally.

5. As far as the documents collected during the course of investigation, they fall under two categories. One category of documents are those relied by the prosecution and another category of documents



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are those not relied by the prosecution. As far as this High Court is concerned, Section 207 of Cr.P.C., r/w. Rules of the Criminal Rules of Practice 25 and 26-A makes it clear that the prosecution has to furnish the list of documents relied and not relied along with the final report. The accused is entitled to inspect the documents not relied by the prosecution.

6. Copy of all the documents relied by the prosecution should be given to the accused subject to Section 173(5) of Cr.P.C. In this case, as rightly pointed out by the trial Court that the copy of the documents sought is not the one produced before the Court. It is in possession of the prosecution agency. Since the prosecution is in possession of the said document, the trial Court is not in a position to permit the petitioner/accused even to inspect the documents as contemplated under the Rules 26-A of Rules of Practice.

7. However, the remedy for the petitioner not shut. It is always available in the form of Section 91 of Cr.P.C. If any application is filed by the accused before the trial Court under Section 91 of Cr.P.C, that



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should be entertained and direction to the prosecution for production of the documents be passed by the Court.

8. With these clarifications, this Criminal Revision Case is disposed of preserving the right of the petitioner conferred under Section 91 of Cr.P.C. Consequently, the connected Criminal Miscellaneous Petition is closed.

**28.07.2023**

Internet : Yes/No

Index: Yes/No

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To

1.The Chief Judicial Magistrate, Namakkal.

2.The Superintendent of Police,  
Western Range,  
Vigilance and Anti Corruption,  
293, M.K.N.Road,  
Alandur,  
Chennai

3.The Public Prosecutor,  
High Court of Madras,  
Chennai.



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**Dr.G.JAYACHANDRAN, J.**

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