



Crl.R.C.(MD).Nos.899 and 902 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 18.12.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). Nos.899 and 902 of 2021

and

Crl.M.P.(MD). Nos.10705 & 10772 of 2021

Crl.R.C.(MD).No.899 of 2021

Jayesh panchmatia @ Tikku Bhai ... Petitioner/Petitioner/Accused No.2

Vs.

The State through
Inspector of Police,
CBI/ACB/CHENNAI

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records pertaining to the Order dated 06.10.2021 made in Cr.M.P.No.1101 of 2016 in C.C.No.6 of 2014 on the file of the Learned Chief Judicial Magistrate's Court at Madurai and set aside the same and allow the discharge petition.

For Petitioner : Mr.A.K.Jayaraj

For Respondent : Mr.C.Muthu Saravanan,
Special Public Prosecutor for CBI



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Crl.R.C.(MD).No.902 of 2021

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Jayesh panchmatia @ Tikku Bhai

... Petitioner/Petitioner/Accused No.2

Vs.

The State through
Inspector of Police,
CBI/ACB/CHENNAI

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for records pertaining to the Order dated 06.10.2021 made in Cr.M.P.No.1100 of 2016 in C.C.No.5 of 2014 on the file of the Learned Chief Judicial Magistrate's Court at Madurai and set aside the same and allow the discharge petition.

For Petitioner : Mr.A.K.Jayaraj

For Respondent : Mr.C.Muthu Saravanan,
Special Public Prosecutor for CBI

COMMON ORDER

These Criminal Revision Cases have been filed against the impugned orders made in Cr.M.P.Nos.1101 and 1100 of 2016 in C.C.Nos.5 & 6 of 2014, on the file of the Learned Chief Judicial Magistrate's Court at Madurai dated 06.10.2021.



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2. The prosecution case is that the petitioner along with A1 conspired and devised plan to smuggle betel nuts from various countries. Accordingly, A2 and the petitioner imported Betel nuts from Indonesia during 2006-2009 in various laden containers using forged documents and seals, one time lock in the guise of Raw Cashew nuts. The value of the betel nuts of 3472 metric tons amounts to Rs.12,64,63,076.82/-. The customs duty has to be paid for the goods imported. For importing betel nuts the customs duty is 100% of the cost and further 4% duty has to be paid. Rather cashew nuts can be imported without any customs duty. The transshipment of the above 3472 metric tones of betel nuts which were imported and received at Tuticorin Port were diverted to the premises of M/s.Bay Wood Exim as per the instruction of A1, where the betel nuts were unloaded from the lorries by breaking the one time lock and stored in the premises of M/s.Bay Wood Exim as if they were transported from Tuticorin Port to A2's concern M/s.Vallubh Das Supari Wala, Nagpur and various concerns at North India like Delhi, Nandan and Nagpur. Accordingly, this petitioner has imported betel nuts in the guise of Raw Cashew nuts. Therefore, the respondent police registered a case for the alleged offences under Sections 120(B) r/w 420, 472 & 473 of IPC and filed a final report. The same was taken on file in C.C.Nos.5 & 6 of 2014, on the file of the Chief Judicial Magistrate, Madurai.



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3. Thereafter, the petitioner filed discharge petitions in Cr.M.P.Nos.1101 & 1100 of 2016. In these discharge petitions, he raised number of points and the same was specifically addressed by the prosecuting agency also. Thereafter, the learned trial judge dismissed the said petitions. Challenging the same, the petitioner filed these petitions.

4. The learned counsel for the petitioner has made detailed submission on both factual and legal aspects. He would contend that on the material produced by the prosecution along with the final report clearly demonstrated that no offence was made out against the petitioner. He would further contend that to prosecute the petitioner under the various IPC offences and for the violation of the provisions of the Customs Act, no material was available on record. He also pleaded that he has not made any false declaration and hence, he was not liable to be prosecuted for the violation of Section 132 of the Customs Act. Similarly, he made number of other submissions.

5. At this stage, when this Court expressed its unwillingness to make a detailed discussion on the above submission, which amounts to conducting



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mini trial, the learned counsel sought permission of this Court to raise all the points before the Court below apart from the other points raised before the Court below in the discharge petition.

6. Accordingly, the Criminal Revision Cases are disposed of with the following directions:

- 6.1. The petitioner herein is directed to appear before the trial Court on 11.07.2024 and on the same day, the learned Chief Judicial Magistrate, Madurai, is directed to frame the charges.
- 6.2. The petitioner is hereby permitted to raise all the points raised in these revision cases and the discharge petition during the course of trial. The learned trial judge is hereby directed to consider the same without influenced by the dismissal order passed in the discharge petition and these revision cases.
- 6.3. The CC is of the year of 2014 and hence, the learned trial Judge is directed to dispose of the C.C.No.6 of 2014, within a period of nine months from the date of receipt of copy of this order.
- 6.4. The petitioner is aged about 54 years and also suffering from various ailments. Therefore, the appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:
 - 6.4.1. The date of initial questioning to answer the charges;
 - 6.4.2. The date of questioning under Section 313 Cr.P.C;
 - 6.4.3. On the date of Judgement.



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- 6.5. The petitioner is directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates.
- 6.6. The petitioner shall not dispute the identity of the witnesses.
- 6.7. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification.
- 6.8. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India in ***State of Uttar Pradesh Vs. Shambunath Singh***, reported in **2001 (4) SCC 667**.

Consequently, connected miscellaneous petitions are closed.

18.12.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. The Chief Judicial Magistrate,
Madurai.
2. The Inspector of Police,
CBI/ACB/Chennai.
3. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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