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CrI O.P. No.3434 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.3434 of 2024

Allen Dominic James S/o. Donald James

...Petitioner

Vs.

The State represented by
The Intelligence Officer,
Chennai Zonal Unit.

NCB F. No.48/1/8/2023-NCB/MDS

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
to call for the records pertaining to C.M.P. No.3101 of 2023 passed by
the Additional District Judge / Presiding Officer, Special Court for
Essential Commodities Act Cases, Coimbatore and to set aside the order
dated 05.01.2024 by allowing this petition.

For Petitioner
For Respondent

: Mr. K. Balasubramaniam
: Mr. N.P. Kumar
Special Public Prosecutor for
NCB Cases.



was illegally detained by the persons claiming themselves to be NCB officials and he was also assaulted indiscriminately and as a result of which, the petitioner lost few of his tooth and it also affected his hearing capacity. Therefore, the petitioner wanted him to be examined by a registered Medical Practitioner and to give a report. The petitioner wanted to undertake this exercise in order to prove that he was illegally detained and subjected to torture.

5. The Court below dismissed the application mainly on the ground that the application was filed after a lapse of 2 months from the date of remand and therefore, the Court below found that no useful purpose will be served in ordering for the examination by a registered Medical practitioner. Aggrieved by the same, the present petition has been filed before this Court.

6. The respondent has filed a detailed counter in this case giving the entire facts of the case. The respondent has also taken a stand that the allegations made by the petitioner are false and the petitioner has tried to create a story in order to evade from the clutches of law. That apart, in



the instant case, commercial quantity is involved and therefore there is an embargo under Section 37 of NDPS Act. In order to overcome the same, the present petition has been filed and therefore, the respondent has sought for the dismissal of the petition.

7. In the considered view of this Court, the present application that was filed by the petitioner after a lapse of 2 months from remand, should be considered as substantial delay in filing the application under Section 54 of Cr.P.C. If really, the petitioner had sustained injury after he was taken into judicial custody, it has to be informed to the Magistrate who remanded the petitioner into judicial custody or the petitioner should have atleast moved an application at the earliest point of time for being examined by a registered Medical Practitioner. The fact that two months time has lapsed, by the time, the present application has been filed, substantially waters down the very claim that has been made in the application.

8. If really the petitioner had suffered injury and he was also given treatment in the Jail Hospital, the records must be available in the Jail



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Hospital and the petitioner can always call for those records at the relevant point of time. The petitioner at Para 9 of the present petition has claimed that he is suffering from intolerable pain in jaw and left ear and his hearing capacity has been considerably reduced. For this, the petitioner also seems to be taking continuous medication in the Prison Hospital. If the petitioner continues to face such difficulties, it will be left open to the petitioner to seek for better treatment in the Prison Hospital.

9. Except giving this clarity, this Court does not find any ground to interfere with the order passed by the Court below.

10. With the above discussion, this Criminal Original Petition is disposed of.

20.02.2024

Index : Yes / No
Internet : Yes / No
mjs

N.ANAND VENKATESH, J.,
mjs



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To

1. The Additional District Judge / Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore.
2. The Intelligence Officer,
Chennai Zonal Unit,.
3. The Public Prosecutor,
High Court of Madras,
Madras.

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