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Crl. O.P.No.4013 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

MR.JUSTICE N.SESHASAYEE

Criminal Original Petition No.4013 of 2024
and Crl.M.P. No.3013 of 2024

Padmanabhan Kishore

... Petitioner

Vs.

CBI represented by
Additional Superintendent of Police
SPE: CBI: ACB: Chennai

... Respondent

PRAYER: Criminal Original Petitioner filed under Section 482 of Cr.P.C. to set aside the docket order dated 27.11.2023 in Crl.M.P. No.SR. No.8027 of 2023 in C.C. No.3 of 2013 and consequently direct the respondent to furnish the petitioner with all documents/materials/records/electronic records pertaining to the Charge Memorandum No.221/03/2019-AVD.II(B) dated 31.05.2019.

For Petitioner : Mr.Sharath Chandran
for Mr.S.Ashok Kumar

For Respondents : Mr.K.Srinivasan
Spl. Public Prosecutor (CBI)



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ORDER

This criminal original petition is preferred challenging an order rejecting petitioner's application filed for production of certain documents in Crl.M.P. No.SR. No.8027 of 2023 in C.C. No.3 of 2013 by the respondent. Curiously enough, the petition is stated to have been filed under Section 295 Cr.P.C. r/w Section 165 of the Indian Evidence Act, 1872. The petition lists as many as 22 documents which the petitioner requires the respondent to produce. The trial court, however, did not even take up the petition on its record and returned the same and this is now under challenge.

2. Conceding that the petition has been filed under a wrong provision, Mr.Sharath Chandran, learned counsel appearing for the petitioner submitted that the petitioner herein is arraigned as A2, that he was the Director of a certain company which faced certain issues vis-a-vis its income tax liability, that to sort it out, A2 has allegedly paid bribe to A1, the Additional Commissioner of Income Tax through A3. He also submitted that there was a fourth character, namely Banu Sekar, who was the Chartered Accountant and the Auditor of the



company, (in which the revision petitioner was a Director) from whose house, the respondent has seized a sum of Rs.10,00,000/-. Indeed, Banu Sekar was even arrested and his statement under Section 164(2) Cr.P.C. was recorded but he was not cited as an accused in the final report. Soon Departmental enquiry commenced against the investigating officer, who laid the final report and the departmental enquiry has been complete. He added letting Banu Sekar out by the investigating officer of the CBI itself demonstrates the shabbiness of the investigation. Indeed, the list of documents now the petitioner seeks are essential to further fortify the defence of the revision petitioner that the investigation is aimed to frame the petitioner. The petitioner however, limits his request only to document No.7 and 11 to 22 of the list.

3. In response, the learned prosecutor for the CBI submitted that the document No.11 in the list of documents, the enquiry report in the departmental enquiry instituted against the investigating officer who laid the final report has been now made available in the public domain but it is yet to be shared with the accused.

4. There are two parts: The trial of the case has not yet commenced and the petitioner has moved the trial court with an application under Section 239



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Cr.P.C. for his discharge. Now unless there is anything which is far too credible enough in any of these documents, which may straight away enable the petitioner to seek discharge subject to the law on the subject, this court considers that the demand for the production of various documents is bit too premature.

5. To a pointed question as to how the various documents which the petitioner now seeks may help his strategy, the learned counsel for the petitioner would submit that the petitioner as an accused is entitled to access every material which may benefit his defence. I would have been appreciable if the trial court has taken the petition on record rather than returning it without assigning any reasons.

6. This petition is accordingly disposed of and the petitioner is required to file a fresh petition instead of representing the earlier petition, and the learned trial Judge is required to entertain the same and may wait for appropriate time to pass such appropriate orders as to the necessity and desirability of providing the petitioner access to the information in those documents. No costs. Consequently, connected criminal miscellaneous petition is closed.



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Asr

Index : Yes / No

Neutral Citation : Yes/No

To

1.The IX Additional Special Court for CBI Cases
Chennai.

2.The Additional Superintendent of Police
SPE : CBI : ACB : Chennai.

N.SESHASAYEE, J.

Asr



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