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Crl.A.No.1182 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.1182 of 2023

A.Mohammed Faruk

.. Appellant

Vs

1. The Designated Authority,
The Additional Secretary (CTCR Division),
Ministry of Home Affairs & Designated
Authority [Unlawful Activities (Prevention),
Act, 1967], North Block, New Delhi 110 001.

2. The Inspector/Chief Investigating Officer,
National Investigation Agency, Ministry
of Home Affairs, Government of India,
No.10, Millers Road, Purasaiwalkam,
Chennai 600 010.
(Crime No.RC 42/2022/NIA/DLI)

.. Respondents

Prayer: Appeal filed under Section 21(1) of the National Investigation



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Agency Act, 2008, to set aside the order passed by the Hon'ble Special Court under the National Investigation Agency Act, 2008 (Sessions Court for Exclusive Trial of Bomb Blast Cases), Chennai at Poonamallee, Chennai in Crl.M.P.No.808 of 2023 dated 02.09.2023.

For the Appellant : Mr.C.R.Malarvannan

For the Respondents : Mr.AR.L.Sundaresan
Addl. Solicitor General of India
assisted by Mr.R.Karthikeyan
Spl. Public Prosecutor

JUDGMENT

(Judgment of the Court was made by S.M.SUBRAMANIAM, J.)

Under assail is the judgment dated 02.09.2023 in Crl.M.P.No. 808 of 2023 in Order No.11011/84/2022/NIA. The Designated Authority and Additional Secretary, Ministry of Home Affairs, passed an order in proceedings dated 06.04.2023 under the provisions of the Unlawful Activities (Prevention) Act, 1967 and thereby sealed the property purchased by the appellant.



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2. Popular Front of India was declared as an unlawful association by the Government of India and pursuant to the notification issued, the Designated Authority passed the order which was under challenge before the Special Court under the National Investigation Agency Act, 2008.

3. The learned counsel for the appellant would mainly contend that the appellant is an innocent person. He has no link or connection with any of the terrorism related activities. He purchased a portion of the said property vide sale deed dated 07.05.2021 and the other portion of the property was admittedly purchased by the appellant on 22.12.2022 after declaring the Popular Front of India as an unlawful association by the Government of India on 28.09.2022.

4. Admittedly, the second portion of the property was purchased by the appellant after the declaration was made by the Government of India that Popular Front of India is an unlawful association.



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5. The trial Court, while considering the said issue, made the following finding:-

"6. On 09.02.2023, the 2nd Respondent has attached the property of the Appellant under Section 25 of UAPA, 1967 on the grounds that in the Appellant's property, the PFI has conducted Physical Efficiency (PE) classes, being camp to the cadres and new recruits of PFI for radicalizing then by delivering provocative lectures, and trained the as hit squads to attack, assault, maim and murder prominent persons belongs to a particular religious ground with intention to threaten the unity, integrity, security and sovereignty of India, with intention to strike terror at PFI Office 1st and 2nd Floor, Ragmathullah Complex, Mohamadiyapuram, Near Yaanai Theppam Bus Stop Begumpur, Dindigul District, Tamil Nadu 624002. The 2nd Respondent in its order stated that in furtherance conspiracy PFI conducted regular meetings and PE classes at the appellant's property. Since the (PE) classes of PFI were conducted in the Appellant's property the act falls within meaning the definition Section 2(g)(ii) of UAPA, 1967, i.e., "proceeds of terrorism". Accordingly Point No.2 is answered."

6. The learned counsel for the appellant would submit that the order of approval issued by the Director General, National Investigation Agency,



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would reveal that the appellant is no way connected with terrorism related activities and he is an innocent person and that the appellant ignorantly purchased the property.

7. We are unable to consider the said contention in view of the fact that the second portion of the property was purchased by the appellant after a lapse of three months from the date of declaration made by the Government of India on 28.09.2022. When the sealed property was purchased by the appellant admittedly on 22.12.2022, we are unable to form an opinion that the appellant has innocently purchased and the subject property has been used for providing training to the members of the Popular Front of India. However, these allegations are to be adjudicated during full-fledge trial. The appellant has to prove his innocence or otherwise through documents and evidences before the trial Court.

8. At the present stage, the High Court cannot form an opinion that the appellant is an innocent person warranting exoneration. Such an



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appreciation of evidence at the present stage may result in miscarriage of justice or would cause prejudice to either of the parties.

9. Since the respondents are able to establish a prima facie case for initiation of action under the Unlawful Activities (Prevention) Act, 1967, we do not find any infirmity in respect of the findings made by the trial Court.

10. Accordingly, the order impugned stands confirmed. The criminal appeal stands dismissed. The appellant is at liberty to defend his case before the trial Court during the course of trial. However, the trial Court shall proceed uninfluenced by the observations made by this Court, if any, relating to the facts.

(S.M.S., J.) (V.S.G., J.)
21.08.2024

Index : Yes/No
NC : Yes/No
sra

To



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No.10, Millers Road, Purasaiwalkam,
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3. The Special Court under the National
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(Sessions Court for Exclusive Trial of
Bomb Blast Cases) Chennai at Poonamallee,
Chennai.
4. The Public Prosecutor,
Madras High Court, Chennai.



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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

(sra)

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