



Crl.OP.No.7350 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.OP(MD)No.7350 of 2024

S.Shanmugasundaram

...Petitioner

Vs.

The State,
Rep by the Deputy Superintendent of Police
Vigilance, (DVAC)
Tirunelveli
Respondents

...

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the docket order Un-Reg.Cr.MP in 12 Reg No.1543/2024 dated 26.02.2024 and consequently direct the Principal Session Court, Thootukudi to furnish the certified copies of the documents as sought by the petitioner in case in Special Case No.2 of 2019 on the file of Principal Sessions Judge, Thoothukudi.

For Petitioners : M/s.K.Jeyamohan

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

ORDER

The petitioner herein has made a third party application seeking copies related to the Special SC.No.2 of 2019 on the file of Thootukudi Principal District Court case which ended in acquittal. The application



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been rejected stating that the reason found in the affidavit seeking certified copy of the documents, not satisfactory. Being aggrieved, the present petition is filed seeking direction to set aside the said order and direct the court below to furnish the certified copies sought for.

2. Learned counsel appearing for the petitioner submitted that the case tried by the court below is disproportionate asset of a public servant, ended in acquittal. The prosecution agency Thootukudi has not sought into any appeal for acquittal. As a public and interested person, he wants to prefer an appeal against un-meritorious acquittal and hence, sought for the copies connected with the case which is necessary to prefer appeal. The reason for seeking certified copy is explicitly mentioned in the affidavit accompanied with the petition. However, the court below declined to entertain the application.

3. Learned Government Advocate (Crl.Side) submitted that in the affidavit accompanied by the third party application, no satisfactory reason is stated for seeking copies of document and therefore, the court below has rightly rejected the application.



4. The point for consideration is whether the third party can be furnished with certain copies of the documents in the custody of the court. If the purpose for which copy required is not satisfactory, it is appropriate to refer 210, 211 and 212 of the Criminal Rules of Practice, 2019, which reads as below:-

“210. Application for copies by third parties:-
Application for the grant of copies of judgment or order or any proceeding or document in the custody of a Court by a third party to the proceeding shall be allowed only by order of the Court obtained on a petition supported by an affidavit setting forth the purpose for which the copy is required.

211. Return of defective application:- *Any application not complying with the requirements of these rules shall be returned for being re-presented after rectifying the defects within a period not exceeding seven days.*

212. Urgent application for copies:- *Application for urgent copies shall be by a separate urgent application setting forth the grounds of urgency. “*

5. The Rule provides a right to third party to get certified copies of the judgment or order of any proceeding or document in the custody of



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the court. However, the said right is subject to file a supporting affidavit setting forth the purpose for which the copy is required.

6. In this case, the petitioner herein has stated that the State Legislative Member, Thootukudi, who was prosecuted for offence under Sections 13(2), 13(1) (e) of Prevention of Corruption Act, 1988 and 109 of IPC, was acquitted and the petitioner, being voter in the Thootukudi Assembly Constituency, he has right to know about the details of the judgment and he has to examine the judgment, he needs the documents listed in his petition.

7. While the reason being stated in the affidavit, the court below has recorded that it is not satisfied with the reason assigned. The court cannot be oblivious of the fact that the politician prosecuted by specialised agencies got the advantage of acquittal. The discretion to file appeal against acquittal mostly depends upon whether the said politician is part of the real dispensation or not. If the Investigating Agency, in his wisdom, decides not to prefer the appeal against acquitted person, like the petitioner, who has interest in the case, which primarily involves misconduct of a public servant who happened to be an elected member



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in the democratic process, in which, the petitioner as a voter, have a say,

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cannot be deprived of the advantage of perusing the records and arrive at a conclusion that his representative has been falsely prosecuted or his representative has gained un-meritoriously acquittal. Both cannot be set upon to decide whether his interest to get the copies of the judgment and other records is not bonafide or not satisfactory. Therefore, the petition is allowed. The petitioner is directed to file a fresh third party petition with an affidavit. On such application, the court below is directed to furnish the copies which the petitioner is entitled to as per Rule 210 of the Criminal Rules of Practice, 2019, within a period of 15 days from the date of receipt of a copy application. The necessary fee for the copies to be paid by the petitioner.

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Index : Yes/No
Speaking/Non speaking order
Neutral Citation
gv



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Dr.G.JAYACHANDRAN,J.

Gv

To

1. The State,
Rep by the Deputy Superintendent of Police
Vigilance, (DVAC)
Tirunelveli
2. The Public Prosecutor,
High Court of Madras,
Chennai.

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