

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/11/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

Crl.R.C.NO.1909 OF 2004

and

Crl.M.P.No.11492 of 2004

Thirumoorthy .. Petitioner

-Vs-

State rep. by Inspector
of Police, NIB CID,
Coimbatore. .. Respondent

Criminal Revision under Section 397 r/w Section 401 of Cr.P.C. as
stated therein.

For Petitioner : Mr.C.Deivasigamani

For Respondents: Mr.V.Arul,

Govt. Advocate Crl.Side.

:ORDER

The above Criminal Revision Case is filed against the order dated
2.11.2004 made in Crl.M.P.No.834 of 2004 by the Court of Additional Sessions
Judge and Special Court under Essential Commodities Act Cases, Coimbatore
thereby dismissing the application filed by the petitioner under Section 311
of Cr.P.C. seeking to adduce further evidence.

2. The case of the petitioner is that he is the accused in C.C.No.7 9
of 2004; that he has filed an application in Crl.M.P.No.834 of 2004 under
Section 311 of the Cr.P.C. seeking to adduce further evidence; that the said
application having come to be dismissed, he has come forward to file this
Revision.

3. Today, when the above Criminal Revision Case came up for admission
in the presence of the learned counsel for the petitioner and the learned
Government Advocate on the Criminal side, who is present before the Court
taking notice on behalf of the respondent, what comes to be known is that

seeking one more opportunity in view of the fact that the petitioner was only then able to secure certain vital documents, which would prove his case in a better manner, the petitioner has filed the said application before the trial Court and the trial Court on reason that at the fag end of the trial the petitioner has come forward with such a plea has dismissed the said application.

5. Whatever be the time that the petitioner might have approached the trial Court, but it is the law that at any stage during trial the parties could resort to file the application under Section 311 of the Cr.P.C. and therefore, this Court is of the view particularly, in view of the fact that the petitioner is facing a very serious charge under the relevant provisions of the NDPS Act and therefore, it is only desirable to permit the petitioner to exhaust his remedies for proper consideration by the trial Court and hence the trial Court should have permitted the petitioner to adduce additional evidence instead of dismissing the said application and hence the following order: In result, (i) the above Criminal Revision Case succeeds and the same is allowed; (ii) the order dated 2.11.2004 made in Crl.M.P.No.834 of 2004 by the Court of Additional Sessions Judge and Special Court under Essential Commodities Act Cases, Coimbatore is set aside; (iii) the petition filed under Section 311 of the Cr.P.C. by the petitioner dated 27.10.2003 stands allowed; (iv) the trial Court is directed to permit the petitioner to adduce additional evidence as prayed for in the said petition; (v) consequently, Crl.M.P.No.11492 of 2004 is closed.

Index:Yes/No

Internet:Yes/No

gr.

To The Additional District and Sessions Judge and Special Court under Essential Commodities Act Cases, at Coimbatore.

□