

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 31.8.2012
CORAM
THE HONOURABLE MR. JUSTICE T.SUDANTHIRAM
Crl.R.C.No.64 of 2012 and
M.P.Nos.1 and 2 of 2012

R.Murugan ... revision Petitioner/single Accused

Vs.

State by
Inspector of Police,
CBI/SCB/Chennai
(in R.C.No.5/s/2010).
(R C.5/S/2010/CBI/SCB/CHENNAI). ... Respondent/Complainant

Revision is filed to call for the records in Crl.M.P.No.388 of 2011 dated 27.12.2011 against S.C.No.184 of 2011 on the file of the learned Additional District Judge Thiruvallur, Additional District and Sessions Court (F.T.C. No.III) and setaside the same.

For petitioner : Mr.V.Padmanabhan Senior counsel for Mr.L.Baskaran

For Respondent : Mr.N.Chandrasekaran

Special Public Prosecutor
for CBI cases

O R D E R

The petitioner herein is the accused in S.C.No.184 of 2011 on the file of the learned Additional District and Sessions Court (F.T.C. No.III), Tiruvallur. The petitioner filed a petition under Section 209 and 193 Cr.P.C stating that a final report should have been filed before the concerned jurisdictional Magistrate i.e., Judicial Magistrate Tirutanni and thereafter, only the case should have been committed to the Sessions Court, Tiruvallur. The CBI filed final report erroneously before the Chief Judicial Magistrate, Chengalpattu and the Chief Judicial Magistrate, Chengalpattu had committed the case to the Sessions Court of different district i.e., Tiruvallur. The Chief Judicial Magistrate, Chengalpattu had no power to commit the case to a court in Tiruvallur district directly. The learned Additional District Judge, Fast Track Court-III, Tiruvallur dismissed the petition on the ground that the procedural irregularities did not cause any prejudice to the accused. Challenging the said order, the petitioner had preferred the revision before this Court.

2. Learned senior counsel Mr.V.Padmanabhan appearing on behalf of the petitioner submitted that the occurrence took place within the limit of Kanagammal Chathiram Police Station which comes under the jurisdiction of Judicial Magistrate, Tirutanni and as such, the final report ought to have been filed by the C.B.I before the said Magistrate and thereafter only the case should have been committed to the Court of Sessions at Tirutanni. Erroneously, the final report was filed before the Chief Judicial Magistrate, Chengalpattu and the Chief Judicial Magistrate, Chengalpattu, who had no authority to commit any case to Court of Sessions of different district, had directly committed the case to the Court of Sessions, Thiruvallur, instead of forwarding the final report to the concerned Magistrate. This illegal proceedings has caused prejudice to the accused. Learned senior counsel

pointed out Sections 193, 209 and 15 of Cr.P.C in support of his argument.

3. Per contra, learned Special Public Prosecutor for CBI cases submitted that there was a notification viz., Notification No.157/1976 dated 09.09.1976 of the Hon'ble High Court appointing the Chief Judicial Magistrate of the District as Additional Chief Judicial Magistrate of another district. As per the said notification, the Chief Judicial Magistrate, Chengalpattu was also an Additional Chief Judicial Magistrate for South Arcot and North Arcot Districts and they were given powers of the first class Magistrate to try the cases filed by Special Police Establishment. The Chengalpattu District was subsequently, bifurcated as Kancheepuram District and Tiruvallur District but, no specific notification was issued by the High Court and as such, the Chief Judicial Magistrate, Chengalpattu was having jurisdiction as Additional Chief Judicial Magistrate for South Arcot and North Arcot Districts and also including Tiruvallur District which has been bifurcated from Chengalpattu District. Only in the said circumstances, the final report was filed by the CBI before the Chief Judicial Magistrate, Chengalpattu and only after following all the procedures for committing the case to Sessions, committed the case to the Court of Sessions which had jurisdiction to try the case.

4. Learned Special Public Prosecutor for CBI cases further submitted that the Chief Judicial Magistrate has also exercised the power of the first class Magistrate and as per Section 193 Cr.P.C, the sessions court shall take cognizance of any offence after the case had been committed to it by a Magistrate. Section 193 Cr.P.C is not so specific that cases should be committed to the Court of Sessions only by the jurisdictional Magistrate but, by a Magistrate under the Code of Criminal Procedure. As such, though the case was committed to Court of Sessions, Tiruvallur by Chief Judicial Magistrate, Chengalpattu, there is no illegality in the committal proceedings. Even otherwise, as per Section 462 of Cr.P.C, even if there had been error unless it has occasioned to a failure of justice, it does not affect the proceedings.

5. This Court considered the submissions and perused the records.

6. There is no dispute in this case that the place of occurrence, falls within the jurisdiction of the Judicial Magistrate, Tirutanni. Originally, the investigation in this case was conducted by Kanagammal Chathiram police station. Subsequently, the investigation was transferred to CBI. Of course, after completing the investigation, the CBI ought to have filed a final report before the concerned Magistrate i.e. Judicial Magistrate, Tirutanni, since the offences against the accused are the offences to be tried by the Court of Sessions, committal proceedings were required. As per the notification of this Hon'ble High Court in Notification No.157/1976 dated 09.09.1976, powers are given to Chief Judicial Magistrate, Chengalpattu to try the cases filed by the Special Police Establishment, falling within the jurisdiction of Chengalpattu district, South Arcot and North Arcot districts. The said notification did not prevent the CBI from filing final report before the concerned Magistrate i.e., Judicial Magistrate, Tirutanni. But CBI had chosen to file a final report before the Chief Judicial Magistrate, Chengalpattu. The learned Chief Judicial Magistrate, Chengalpattu should have forwarded this final report to the concerned Judicial Magistrate i.e. Judicial Magistrate, Tirutanni. But he had inadvertently kept it on his file and after following procedures, committed the case to the Court of Sessions at Tiruvallur.

7. Now, it is to be seen whether the committal of the case to the Court of Sessions at Tiruvallur by the Chief Judicial Magistrate, Chengalpattu is contra to the provisions under Code of Criminal Procedure and whether it affects any right of the accused and whether it causes any prejudice to the accused/petitioner herein.

8. Section 193 of the Code of Criminal Procedure, 1973 is as follows:

"193. Cognizance of offences by Courts of Session- Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of

any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code."

As per Section 193 of Cr.P.C, the condition precedent to the Court of Sessions to take cognizable offence is that the case should have been committed by a Magistrate under this Code. The Chief Judicial Magistrate, Chengalpattu is a Magistrate under this Code and further as per Section 12 of Cr.P.C, the Judicial Magistrate first class only is appointed as Chief Judicial Magistrate in every district by the High Court. It is to be noted that instead of Judicial Magistrate, Tirutanni, the Chief Judicial Magistrate had committed the case to the Court of Sessions at Tiruvallur. The petitioner had no grievance with regard to the procedures adopted before committing to the Court of Sessions such as giving copies of the final report to the petitioner as prescribed under Section 207 Cr.P.C. Furthermore, the place of occurrence comes within the jurisdiction of the Court of Sessions, Tiruvallur after bifurcation of Chengalput District. As such, the Additional Sessions Court, Fast Track Court No.III, Tiruvallur has got jurisdiction to try the offence against the accused. Absolutely, no prejudice is also caused to the accused. Hence, this revision petition is dismissed. Consequently, connected miscellaneous petitions are closed.

31.08.2012

Index:Yes

Internet:Yes

kua

To

1. Additional District Judge Thiruvallur,
Additional District and Sessions Court (F.T.C. No.III)

2. Inspector of Police,
CBI/SCB/Chennai
(in R.C.No.5/s/2010).
(R C.5/S/2010/CBI/SCB/CHENNAI)

3. The Special Public Prosecutor for CBI cases,
High Court, Madras.

T.SUDANTHIRAM,J

kua

Crl.R.C.No. 64 of 2012

31.08.2012