

IN THE COURT OF THE 1 ADDITIONAL SESSIONS JUDGE,  
CHENNAI

Present: Thiru. T.Chandrasekaran, M.L.,  
1 Additional Judge

Tuesday, the 28<sup>th</sup> day of September, 2021

Crl.M.P.No.16830/2021

in

C.C.No.3/1992

(Crime No.9/S/91, SCB/CBI/SPE/Madras)

Dr. Prateep V. Philip, I.P.S,  
Director General of Police, (Training),  
Police Training College,  
Ashok Nagar, Chennai – 600 083.  
Residing at  
No.412, Modern Layout,  
Waves of Mercy Avenue,  
Uthandi, Chennai – 6000 119

... Petitioner

/Vs/

Deputy Superintendent of Police,  
CBI, SIT, Madras  
(Crime No.9/S/91, SCB/CBI/SPE/Madras)

... Respondent

This petition coming up for final hearing on 27.09.2021 before me in the presence of Mr.Sanjay Pinto, Mr.Akhil R.Bhansali, Ms.Vidya Pinto, Ms.Vandhiyathevan Veera & Mr.Sree Vishwanthani.M, Counsels for the petitioner and of Tr. V.Surendra Mohan, Public Prosecutor, CBI SCB, Chennai, Counsel for the respondent having made an endorsement in the petition itself, and upon hearing the arguments of both sides and upon perusing the documents on record and stood over the matter for consideration till this day, this court delivered the following:

## ORDER

1. This petition has been filed by the petitioner under section 452 of Cr.P.C to order for delivery of the Petitioner's Cap and Name badge marked as M.O.38 and M.O.39 in C.C.No.3/1992 to the petitioner.

### 2 The averments set out in the petition in short read as follows :-

The petitioner is a highly decorated Indian Police Service officer of the 1987 Batch, ID No.1987 1053, a recipient of the Prime Minister's Medal for Meritorious Service in 2003 and the President's Medal for Distinguished Service in 2012. The petitioner currently serving as the Director General of Police – Training will reach superannuation in less than two weeks.

The petitioner has an impeccable service record with many innovative contributions to the police force. He is the pioneer and founder of the Friends of Police concept in India, which won him the coveted Queen's Award in 2002. An author of many books and a motivational speaker, the petitioner also has a Doctorate in Management and was the recipient of the British Gurukul Chevening Scholarship award for Excellence and Leadership.

The petitioner in his illustrious 34-year career in the IPS, has held several sensitive posts – as SP of 4 districts, SP of Narcotics Intelligence Bureau, DIG – Intelligence, DIG – Tirunelveli, IG -Social Justice, ADGP – Economic Offences Wing and Crime and DGP-CB CID.

The petitioner was in the line of fire as a young ASP of Kancheepuram and was severely injured during the assassination of former Prime Minister Shri Rajiv Gandhi at Sriperumpadur on 21<sup>st</sup> May 1991 and still carries steel plates in his body from the blast.

The Cap and Name Badge of the petitioner were part of the material objects marked during the trial in the Rajiv Gandhi Assassination case in Cr.No.9/S/91, SCB/CBI/SPE/Madras. The petitioner's Cap was marked as M.O.38 and Name Badge was marked as M.O.39.

The court concluded the trial and pronounced judgment on 28.01.1998.

The convicted persons and the respondent in the case have exhausted all their appeals and all the material evidence and objects available with the Special Investigation Team are no longer required to be preserved.

The petitioner who faced a near death experience in the line of duty, wishes to take back his blood-stained cap and name badge which are his personal belongings and are of immense sentimental value, a reminder of the call of duty during his formative years in the service of nation and quite literally symbolise his blood, sweat and tears over 34 years of his professional career.

It is the petitioner's wish to wear his Cap and Name Badge on his last day of service. The respondent can have no objection to the petitioner's legitimate and emotional plea which is in the nature of a dedicated and patriotic police officer's last professional wish.

The Hon'ble Supreme Court of India in **Sunderbai Ambalal Desai Vs State of Gujaraj 2002 10 SCC 283** has reiterated the decision of the Hon'ble Apex Court in **Smt. Basawa Kom Dyanmangouda Patil Vs. State of Mysore & Anr. 1977 4 SCC 358** observing that *"the object and scheme of the various provisions of the Code appear to be that where the property which has been the subject matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the*

*Police for anytime longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases."*

The petitioner is ready to swear to an affidavit and execute any bond to the satisfaction of the Court. Hence the petition.

3. The respondent has made an endorsement in the petition itself. In the endorsement it is written as follows: - "Petitioner may be directed to return the said objects after the date of his retirement. In such aspect, I have no objection to return the same".

4. There is no oral evidence on either side and there is no document filed by either side.

5. The point for consideration is: -

Whether the petitioner is entitled for delivery of the material objects M.O.38 and M.O.39?

#### **6. POINT:-**

Before going into the factual matrix of the case, it is imperative to see section 452 of Cr.P.C which reads as follows: -

#### **452. Order for disposal of property at conclusion of trial. -**

(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be

entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

7. As such the person claiming to be entitled to the possession and the conclusion of inquiry or trial in Criminal Court is sine quo non for invoking Sec.452 of Cr.P.C. In the present case on hand, at the time of occurrence, the M.O.38 and M.O.39 were undoubtedly belonging to him.

8. As far as the conclusion of trial is concerned it is learnt from the meticulous perusal of records that

a) the case in C.C.No.3/1992 was tried by this Court and all the 26 accused persons were convicted and awarded capital punishment vide judgment dated 28.01.1998; the convicted persons went on appeal to the Hon'ble Supreme Court of India against the order of this Court; the Hon'ble Supreme Court of India vide its order dated

11.05.1999 confirmed the guilt of 25 accused persons, awarding death sentence to 4 accused persons, life sentence to 3 accused persons and various sentences of imprisonment to other accused and one accused was acquitted.

b) the Review Petitions were filed on 13.07.1999 before the Hon'ble Supreme Court of India by A.1 Nalini, A.2 Santhan, A.3 Sriharan @ Murugan and A.18 Perarivalan @ Arivu against the order of the Hon'ble Supreme Court of India; the CBI had also filed Review Petition on 17.08.1999; all the review petitions were heard and disposed of by the Hon'ble Supreme Court of India on 08.10.1999.

c) during the course of further investigation conducted by the Multi-Disciplinary Monitoring Agency of Central Bureau of Investigation, the split up case in C.C.No.11/1992 was pursued; on receipt of confirmation received from the Government of Sri Lanka, on the death of the proclaimed offenders Shri V.Prabhakaran, Chief of the LTTE, Shri. Pottu Omman, Chief of Intelligence Wing of LTTE and Ms. Akila @ Akila Akka, Dy.Chief of Women's Intelligence Wing of LTTE, petition has been filed before this Court; charges against the proclaimed offenders have been abated on 30.08.2010 and as such the case attained finality.

9. However the fact remains that the further investigation on the pointers arising out of the Action Taken Report on the final report of the Hon'ble Jain Commissioner of Inquiry (JCI) is being conducted by the Multi-Disciplinary Monitoring Agency (MDMA) of Central Bureau of Investigation (CBI) and the progress of the same has been submitted before this Court by the MDMA from time to time vide order dated 17.06.1999 in CrI.M.P.No.1/1999.

10. It needs to be appreciated that further investigation is poised at a crucial stage with execution reports of Letters Rogatory sent to Sri Lanka, United Kingdom and Thailand by this Court are pending for execution of certain points qua suspects / prospective accused in the instant case. It is from the receipt of the transfer of documentary and oral evidence from these countries, the prosecuting agency would be able to decide about the complicity of such other person(s).

11. It is for these reasons that there is a reasonable likelihood that the exhibits sought by the petitioner would be required for such further proceedings in accordance with law and therefore the integrity of these exhibits becomes a matter of importance in the interest of justice. There is every likelihood that the material objects would be required for further proceedings pursuant to filing of a supplementary final report as envisaged by Section 173(8) of the Code of Criminal Procedure.

12. This is not to deny the M.O.38 and M.O.39 to the petitioner which are of immense sentimental value, a reminder of the call of duty during his formative years in the service of nation and quite literally symbolize his blood, sweat and tears over 34 years of his professional career as accentuated by his counsel. It is the petitioner's wish to wear his Cap and Name Badge on his last day of service. As canvassed on the side of the petitioner that the respondent may not have objection to the petitioner's legitimate and emotional plea which is in the nature of a dedicated and patriotic police officer's last professional wish, the counsel for respondent endorsed that the petitioner may be directed to return the said objects after the date of his retirement and in such aspect, he has got no objection to return the same.

13. The counsel for petitioner also placed his reliance upon the decision rendered by the Hon'ble Apex Court namely

- (1) The judgment of the Hon'ble Supreme Court of India rendered in Surenderbai Ambalal Desai Vs State of Gujarat reported in 2002 10 SCC 283
- (2) The judgment of the Hon'ble Supreme Court of India rendered in Smt. Basawa Kom Dyanmangonda Patil Vs State of Mysore & Anr. reported in 1977 4 SCC 358
- (3) The judgment of the Hon'ble Supreme Court of India rendered in N.Madhavan Vs State of Kerala reported in 1979 AIR 1829, 1980 SCR (1) 228
- (4) The judgment of the Hon'ble Madras High Court rendered in Sundaram Finance Ltd Vs State of Tamil Nadu on 9<sup>th</sup> July 2010
- (5) The judgment of the Hon'ble Madras High Court rendered in V.Gopi Vs The District Collector, Vellore (W.P.11252 of 2019 dated 22/04/2019)
- (6) The judgment of the Hon'ble Delhi High Court of India rendered in D.N.Upadhyay Vs CBI dated 20/03/2017.

In the result, the petition is allowed by ordering the return of the Petitioner's Cap and Name badge marked as M.O.38 and M.O.39 in C.C.No.3/1992 for his interim custody on execution of own bond for Rs.1,00,000/- (Rupees One Lakh Only) and on condition that the M.O.38 and M.O.39 should be handed over to the court on or before 28-10-2021 after the purpose gets served.



This court salutes the commendable and impeccable service of the petitioner as responsible police officer and wish him long peaceful retirement life with all enthusiasm to serve the society as earlier. All is well.

Dictated to the stenographer, directly computerized by her, corrected and pronounced by me in the open court, this 28<sup>th</sup> day of September 2021

Sd/- (T.CHANDRASEKARAN)  
I Additional Sessions Judge

C.RL

/ True Copy /

  
I Additional Sessions Judge  
City Civil Court, Chennai  
28/9/21

Copy : Order  
in

Crl.M.P.No.16830/2021

in

C.C.No.3/1992

(Crime No.9/S/91,  
SCB/CBI/SPE/Madras)

Date : 28.09.2021

I Additional Sessions Court,  
City Civil Court, Chennai