



Crl.R.C.No.1383 of 2022
and
Crl.O.P.No.4075 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :12.07.2023

Pronounced on :24.07.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.1383 of 2022

and

Crl.O.P.No.4075 of 2022

and

Crl.M.P.Nos.2004, 2005, 15338 and 15339 of 2022

Crl.R.C.No.1383 of 2022:-

V.Pugazhendhi

.. Petitioner/Accused 6

/versus/

1.State Rep by
Assistant Commissioner of Police,
IUCAW, Vepery,
Chennai 600 007.

..1st Respondent/Complainant

2.Mr.K.Sankara Subbu
Deputy Secretary,
Tamil Nadu Public Service
Commissioner, TNPSC Road,
VOC Nagar, Chennai 600 003.

..2nd Respondent/Defacto



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Crl.R.C.No.1383 of 2022
and
Crl.O.P.No.4075 of 2022

Complainant

(R2 suo motu impleaded as per order dated 02.11.2022 in Crl.O.P.No.4075 of 2022 and Crl.R.C.No.1383 of 2022 and Crl.M.P.Nos.2004 and 2005, 15338 and 15339 of 2022)

Prayer: Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records in C.C.No.2 of 2021 on the file of the learned Special Court for the cases under Prevention of Corruption Act at Chennai and set aside the order in Crl.M.P.No.668 of 2021, dated 20.07.2021.

For Petitioner :Mr.N.R.Elango, Senior Counsel for
Mr.S.Agilesh Kumar

For Respondents :Mr.S.Udaya Kumar
Govt.Advocate (Crl.Side) for R1
Mr.Abrar Md.Abdullah
Standing Counsel for R2

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Paul Raj .. Petitioner/Accused-4

/versus/

1.Assistant Commissioner of Police,IUCAW,
Investigative Units for Crime against Women,
Vepery, Chennai-07. .. 1st Respondent/Complainant

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2.Mr.Shankara Subbu
O/o Deputy Secretary of Tamil nadu Public
Service Commission, VOC Nagar,
Chennai, Tamil Nadu 600 003,
Chennai 600 003.

.. 2nd Respondent/Defacto
complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to C.C.No.2 of 2021 pending on the file of the Special Court for the Prevention of Corruption Act at Chennai and to quash the proceedings against the petitioner.

For Petitioner :Mr.N.R.Elango, Senior Counsel for
M/s Nathan and Asso.

For Respondents : Mr.S.Udaya Kumar
Govt.Advocate (Crl.Side) for R1

Mr.Abrar Md.Abdullah
Standing Counsel for R2

COMMON ORDER

The Tamil Nadu Public Service Commission (in short “TNPSC”) for the vacancy arose in the post of Group-I cadre, during the year 2015 issued



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Notification inviting applications from eligible aspirants. Candidates who cleared the Preliminary Examination, wrote their Main Exams from 29/07/2016 to 31/07/2016. To arrange for the evaluation of the answer scripts of General Knowledge papers-I, II and III, the Deputy Secretary, TNPSC appointed the following three staff in the rank of Section Officers; (1)Varalakshmi, Section Officer for Paper-I, (ii)Sivashankar, Section Officer for Paper-II and (3) Pugazhendhi, Section Officer for Paper-III.

2. A candidate by name Ramkumar cleared the Preliminary Examination, wrote the Main Exams held during the last week of July 2016. He to get the post by illegal means, posing himself as Murugan, Deputy Secretary to the Government called Section Officer Sivashankar over his mobile phone and induced him to arrange for substitution of Ramkumar answer script with better answer script, so that he will be getting good score and get selected. After establishing contact with Sivashankar, in continuation of this design, Ramkumar and his friends Karunanithi and



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Paul Raj developed acquaintance with Pugazhendhi and Kasiramkumar friends of Sivashankar, who are all staff of TNPSC.

3. For substitution, Sivashankar, who was in-charge of evaluating Paper II, for himself and two others namely, Pugazhendhi (in-charge of Paper III) and Kasiramkumar demanded Rs.75 lakhs from Ramkumar. To secure the job by illegal means, Ramkumar initially paid Rs.5,00,000/- and 10 sovereigns of gold jewels to Sivashankar through his friend Karunanithi. Further, Ramkumar requested his friend Ravishankar and his wife Sangeetha to transfer Rs.4,40,000/- in the account of Sivashankar and his wife. Accordingly, the money was transferred in the following manner: Rs.2,00,000/- from the Joint Account of Ravi Shankar and his wife Sangeetha in to the account of Sivashankar and his wife maintained at Indian Overseas Bank. Rs.1,00,000/- and Rs.1,40,000/- from the account of Ravi Shankar to account of Sivashankar maintained in State Bank of India, Velacherry Branch and in the account maintained in HDFC Bank



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respectively. Though Rs.9,40,000/- and 10 sovereign jewels received, Sivashankar and his associates at TNPSC were not able to secure job for Ramkumar manipulating the answer script.

4. Felt betrayed, Ramkumar with an intention to take revenge, got a blank answer booklet of Group-I exam by giving bribe of Rs.50,000/- to Perumal, Assistant Section Officer TNPSC, wrote answers with the help of his friend Karunanithi in the answer booklet and gave it to Satyam TV to telecast it in news bulletin, as if answer scripts are leaked out and malpractice prevail in TNPSC Group-I selection. Trusting, the version of Ramkumar, Satyam TV, on 18/07/2017 at 3:00 pm displayed the fake answer booklet and telecasted the news which showed TNPSC answer booklet in bad light lowering its esteem in the eyes of the public as if examinations are not conducted fairly by TNPSC and selections are done for extraneous conservation.



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5. After collecting the copy of the answer booklet from Satyam TV, the Deputy Secretary of TNPSC Mr.Sankarsubbu gave a complaint to the Commissioner of Police on 15/08/2017. Based on the complaint, case was registered in Crime No.273 of 2017, dated 15/8/2017 by CCB-1. Chennai.

6. After investigation, the Assistant Commissioner has filed a Final Report against Ramkumar (A1); Kumaresan (A2); Karunanidhi (A3), Paulraj (A4); Shivasankar (A5); Pugazhendhi (A6); Kasiramkumar (A7) and Perumal (A8). The Final Report has been taken on file by the Special Court for PC Act cases at Chennai in C.C.No:02/2021.

7. V.Pugazhendhi, 6th accused filed discharge petition in Crl.M.P. No.668/2021 under Section 239 of Cr.P.C. before the Special Court for Vigilance and Anti Corruption Act Cases, Chennai, after receiving the copy of the Final Report along with the documents relied by the prosecution. The



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said petition was dismissed by the trial Court on 20/07/2022. Being aggrieved by the order of dismissal, the Revision Petition No:1383 of 2022 to call for the records and set aside the order of dismissal made in Crl.M.P.No:668 of 21 by the trial Court is filed by the 6th accused(Pugazhendhi).

8. The 4th accused (Paulraj) had filed Crl.O.P.No.4075/2022 under Section 482 of Cr.P.C to quash the proceedings in C.C.No:02 of 2021 pending against him.

9. Mr.N.R.Ilango, Senior Counsel appearing for petitioners submitted that, as per the complaint given by Sankarasubbu, the Deputy Secretary TNPSC, the news telecasted in Satyam TV News Channel on 18/07/2017 regarding the Group-I Service Main Examination, 2016 is a false news. The said news telecasted at the instigation of A1-Ramkumar, an unsuccessful candidate in the said exam. The petitioner, Pugalhendi was in-charge of



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arranging evaluation of Paper II. The fake answer scripts/ booklet telecasted in Satyam TV was never under his custody/control/dominion. Even according to prosecution witnesses, the blank answer scripts were stolen by Perumal, ASO (A-8) from the TNPSC office and handed over to Ramkumar (A-1) for an illegal gratification of Rs.50,000/-. Neither the complaint nor the material collected during the course of investigation indicates that this petitioner (A-6) had received any money from A-1 or promised to do any favour to A-1 illegally. Except alleging that he used to converse over phone with other accused Sivashankar (A-5), no other material evidence placed by the prosecution to effectively charge the petitioner. Telephone conversation with colleagues against whom some incriminating material collected cannot be a reason to array petitioner as an accused, particularly, when the transcripts of the conversation suppressed and not produced before the Court by the Investigating Officer.



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10. The news bulletin in Satyam TV telecasted on 18/07/2017. The Deputy Secretary of TNPSC had lodged the complaint not immediately, but after a delay of 15 days. The delay in filing FIR is not explained. The statement of witnesses and the documents collected during the investigation does not contain any incriminating material, even to frame charges. In fact, witnesses like, LW-4, LW-5, LW-6 and LW-7 had clearly stated that there is no possibility of any malpractice in the examination conducted by TNPSC. They are not aware of any money transaction between Ramkumar and others. They do not know the subject matter of the conversation between Pugazhendhi (A-6) the petitioner(Crl.R.C.No.1383 of 2022) and A-5 Sivashankar. While so, when there is no material in the documents filed along with the final report, the petitioner need not undergo the ordeal of trial to prove his innocence. Therefore, the learned Senior Counsel prays for discharge, following the Dictum laid down by Hon'ble Supreme Court in ***State of Haryana and ors v. Bhajan Lal and Ors. reported in [AIR 1992 SC 604]***



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11. It is also contended by the learned Senior Counsel for the petitioners that they are in charge of the unused answer booklets. They are not evaluators, they are not in-charge or custody of the answer booklets. There is no possibility of swapping answer scripts. Even according to the prosecution, the answer booklet, which was displayed in Satyam TV, is not the original answer script, which Ramkumar wrote during the examination. It was alleged to have been written by A-3 (Karunanithi) on the request of A-1(Ramkumar) in the blank booklet stolen from the custody of TNPSC in connivance with Perumal (A-8).

12. On behalf of the petitioner in Crl.O.P.No.4075 of 2022 filed by Paul Raj,(A- 4), it was contended that, the booklet which is the subject matter of the news bulletin of Satyam TV, was not under his custody or had any role or dominion over the answer booklet. For being a friend of A-2 (Kumaresan), the petitioner(A-4) is arrayed as an accused. There is no material to show that this petitioner had any proximity with A-1 or his



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associates. There is no material evidence collected by the Investigating Officer to infer that this petitioner conspired with the other accused to commit the offence alleged. There is no material to show, this petitioner demanded or received any cash or kind from A-1 or his associates in connection with swapping the answer script or had a role in the alleged money transaction. As there is no material to implicate this petitioner as an accused in the final report whispered, the same has to be quashed.

13. The counter filed in Crl.R.C.No.1383/2022 by the respondent states that, the investigation had disclosed that Ramkumar (A1) attempted to change his original answer booklet with the manipulated answer sheet with the active connivance of Paulraj (A4 in Crl.O.P.No.4075 of 2022), Kasiram Kumar (A7), Sivashankar (A5) and Pugazhendhi (A6), the petitioner in Crl.R.C.No.1383 of 2022. Sivashankar (A5) had received illegal gratification of Rs.9,00,000/- and 10 sovereigns of gold jewels from Ramkumar(A1). When Ramkumar (A1) insisted Sivasankar (A5) to return



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the money received as illegal gratification, Sivasankar refused to return the money and jewels. Aggrieved over that, Ram Kumar had approached Perumal (A8) and received illegally unused answer booklet from him by greasing his palms with Rs.50,000/- with the help of Karunanithi(A3) who wrote some answers in the booklet received from Perumal (A8). The writings in the booklet telecasted in Sathyam TV news bulletin is compared with the writings of A3 and found to be one and the same. The confession statement of Pugazhendhi (A6) attempting his active role in the crime along with the other accused coupled with the call details of the mobile phone with the other accused was sufficient to arrive at a *prima facie* conclusion that he is one of the party to the conspiracy of the crime as stated above.

14. The counter has been filed in Crl.O.P.No.4075 of 2022. The confession statement of Kumaresan (A2), Paulraj (A4), Ramkumar (A1), and Kasiram kumar (A7) which were incriminating are relied and sought for dismissal. The extracts of the confession statements of the above



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persons:-

(i) The confession statement of Paulraj(A4):-

“நான் இதனை ராம்குமாரிடம் கூறியபோது ராம்குமாரும் உடனே சம்மதித்து என்னிடம் ரூ.2 இலட்சத்தை முன் தொகையாக பால்ராஜிடம் கொடுக்குமாறு கொடுத்தனுப்பினார். நானும், பணத்தை பால்ராஜிடம் கொடுத்தவுடன் பால்ராஜ் என் முன்னாலே TNPSC – யில் பணிபுரியும் ஒருவருடன் போனில் பேசிவிட்டு தேர்வாணையத்தில் பணி புரியும் காசிராம்குமார் மற்றும் சிவசங்கரின் போன் நம்பரை என்னிடம் கொடுத்து அனுப்பினார். நான் அதனை கொண்டு வந்து ராம்குமாரிடம் கொடுத்துவிட்டேன். ராம்குமார் காசிராம்குமாரை தொடர்பு கொண்டு பேசியபோது அவர் இதுபற்றி சிவசங்கருக்குதான் தெரியும் என்றும் சிவசங்கரிடம் தான் ஏற்கனவே பேசிவிட்டதாகவும் அதனால் சிவசங்கரை உடனே தொடர்பு கொள்ளுமாறு கூறினார்.”

நானும் உடனே என் கையில் காசு இல்லாததால் இந்தமுறை கண்டிப்பாக செய்து தருகிறேன் என்று கூறி ரூபாய் 5 லட்சம் உடனே தருமாறு கேட்டேன். ஆனால் ராம்குமார் தன்னிடம் ரூ.2 லட்சம் மட்டும் இருப்பதாக கூறி குமரேசன் மூலமாக என் வீட்டிற்கு கொடுத்து அனுப்பினார். நான் அதனை பெற்றுக்கொண்டு ராம்குமாருக்கு நம்பிக்கை ஏற்படுத்துவதற்காக தேர்வாணையத்தில் பணிபுரியும் காசிராம்குமார் என்பவரை தொடர்பு கொள்ள சொன்னேன். பின்பு நான் காசிராம்குமாரை சந்தித்து ராம்குமாருக்கு தேர்வில் வெற்றி பெறுவதற்கு உதவுமாறு கூறினேன். சில நாட்கள் கழித்து நான்



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காசிராம்குமாரை சந்தித்து இது பற்றி கேட்ட போது தான் ஏற்கனவே ராம்குமாருக்கு TNPSC Group-I evaluation பிரிவில் வேலை செய்யும் SO-வின் போன் நம்பரை கொடுத்துவிட்டதாக என்னிடம் தெரிவித்தார்”,

(ii) The confession statement of A1(Ramkumar):-

நான் என்னிடம் தற்போது 2 லட்சம் மட்டும் இருப்பதாக கூறி குமரேசன் அண்ணன் மூலமாக கொடுத்து அனுப்பினேன். பால்ராஜ் அதனை பெற்றுக் கொண்டு TNPSC-யில் பணிபுரியும் காசிராம்குமார் நம்பரை குமரேசன் அண்ணனிடம் கொடுத்து அனுப்பினார். பின்னர் நான் காசிராம்குமாரை தொடர்பு கொண்டு பால்ராஜ் கூறியவாறே தலைமை செயலகத்தில் பணிபுரியும் முருகன் னுரு பேசுவதாக அறிமுகப்படுத்தி கொண்டு பேசினேன். அதற்கு அவர் பால்ராஜ் தன்னிடம் ஏற்கனவே பேசிவிட்டதாகவும் இதுகறித்து விடைத்தாள்கள் திருத்தும் பணியில் இருக்கும் சிவசங்கர் SO-விடம் கூறியிருக்கிறேன் என்றும்,என்னை சிவசங்கரை தொடர்பு கொள்ளுமாறு கூறினார்.

(iii)Confession statement of Tr.Kasiramkumar (A7):-

குரூப் 1 மெயின் தேர்வு நடைபெற்று முடிந்த பிறகு எனக்கு ஏற்கனவே தெரிந்த பால்ராஜ் என்பவர் என்னை நேரில் சந்தித்து தனக்கு வேண்டிய ஒருவருக்கு குரூப் 1 மெயின் தேர்வில் விடைத்தாள்களை திருத்தும் பணியில் உதவி செய்ய கேட்டபோது நான் தான் TNPSC மதிப்பீட்டுத்துறையில் சிவசங்கர் பிரிவு அலுவலரின் போன் நம்பரை கொடுத்து அவரிடம் நேரடியாக பேசிக்கொள்ள



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சொன்னேன். அப்போது பால்ராஜ் என்னிடம் TNPSC விடைத்தாள்
திருத்தும் பணியில் ஈடுபடும் அனைத்துப் பிரிவுகளின் பிரிவு அலுவலர்
மற்றும் அவர்கள் பெயர் விபரங்களை என்னிடமிருந்து கேட்டபோது
நான் சொன்னேன்.

15. Conspiracy is mostly hatched in secrecy. Only an incised investigation will unravel the secrecy buried underneath. Many times charge of conspiracy proved only through circumstantial evidence. The answer script displayed in the News Bulletin of Sathyam TV on 18.07.2017 has triggered the investigation. Initially, the matter, which was thought as leakage of answer script had finally after investigation has culminated in exposing serious racket in TNPSC. It is no more a simple case of answer booklet leakage. Staff working in TNPSC along with the accused persons, have overheard the conversation between the accused persons and the same is spoken by them in their statements. Though this may be a weak piece of evidence, the telephone call details collected will prove the least that the accused persons were in continuous contact with each other during the



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relevant point of time. Once that fact is proved, the conversation overheard by these witnesses may become a relevant fact. Only during the trial the admissibility of those piece of evidence can be tested. The undisputed facts in this case the answer booklet, which should have been in the custody of TNPSC, had found its way to the Sathyam TV office and the same been telecasted in media. A3 who is not a candidate for Group-I main Exam of the year 2016. He is the friend of A1, which is spoken by both A1 and A3. As per the handwriting expert opinion, the writings in the answer scripts that of A3. A1 has confessed that he has transferred money through bank as well as paid in cash directly to A5 and his wife. These transactions form part of the account maintained in their respective bank. Apart from confession statement of the accused persons, several witnesses to the prosecution had stated the purpose of which the money been transferred.

16. The learned Standing Counsel appearing for the 2nd respondent, apart from the portion of the statement extracted above in vernacular



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language, which form part of the counter also read relevant portion of the statement of Arivumani to speak about the conduct of the petitioner/accused. Statement of Ravishankar and his wife Sangeetha, who had transferred around Rs.4,40,000/- to the account of A1(Ramkumar), the voice sample test report, confession statements of the accused persons, submitted that the evidence collected in the course of investigation provides for material to frame charges for offences of cheating, impersonation and fabrication of records.

17. The judgments cited by the petitioners, which are peculiar to the facts involved in those cases not be applicable to the case in hand, since the prosecution has collected material to *prima facie* shows A5 to A8 being employed in TNPSC, they were known to each other and they were frequently in contact with each other. Money has been received by A5 from A1 through bank and directly, It is alleged that the same was distributed among A5,A6 and A7. A8(Perumal) independently stolen the booklet and



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sold it to A1(Ramkumar) for Rs.50,000/-. Only if there is no material to proceed against the person or material collected even proved may not lead to conviction then, petition for quash can be entertained. If there are some material and if proved will end in conviction, then petition for quash can not be entertained. The material collected in the course of investigation sufficient to convict if proved, petition to discharge or quash the complaint will not arise. Therefore, the Criminal Revision Case and the Criminal Original Petition are not entertained.

18. Accordingly, **the Criminal Revision Case and the Criminal Original Petition are dismissed.** Consequently, connected Miscellaneous Petitions are closed.

24.07.2023

Index:yes/no
speaking order/non speaking order
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and
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To:

- 1.The Special Judge, Special Court for Cases under Prevention of Corruption Act, Chennai.
- 2.Assistant Commissioner of Police,IUCAW, Investigative Units for Crime against Women,Vepery, Chennai-07.
- 3.Mr.Shankara Subbu,O/o Deputy Secretary of Tamil nadu Public Service Commission, VOC Nagar,Chennai, Tamil Nadu 600 003, Chennai 600 003.
- 4.The Public Prosecutor, High Court, Madras.



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and
Crl.O.P.No.4075 of 2022

DR.G.JAYACHANDRAN,J.

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Delivery common order made in
Crl.R.C.No.1383 of 2022 and
Crl.O.P.No.4075 of 2022 and
Crl.M.P.Nos.2004, 2005, 15338 and 15339 of 2022

24.07.2023