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CRL OP No. 15890 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06-07-2026

PRONOUNCED ON : 23-07-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 15890 of 2024

and

CRL MP Nos. 9689 & 9690 of 2024

S.Ragothaman
S/o.K.Selvaraj, Junior Assistant,
E-2 Section, Municipal Corporation Office,
Cuddalore.

..Petitioner

Vs

1. State of Tamil Nadu,
Rep. By The Inspector of Police,
Vigilance and Anti Corruption,
Cuddalore - 607 001.
Crime No.06 of 2023

2. G.Bharani
S/o.Govindasamy,
D-3, Tamil Nadu Housing Board,
Kundu Salai, Semmandalam,
Cuddalore - 607 001.

..Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Spl.C.C.No.13 of 2023 on the file of Hon'ble Chief Judicial Magistrate cum Special Judge for PC Act Cases, Cuddalore and Quash the same.



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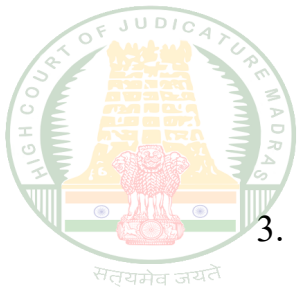
For Petitioner:
For Respondents:

Mr.S.Manuraj
Mr.R.Ganesh Kumar
Counsel for Government of Tamil Nadu
(Criminal Side) for R1
No appearance for R2

ORDER

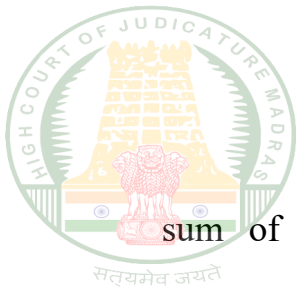
This Criminal Original Petition has been filed challenging the entire proceedings in Spl.C.C.No.13 of 2023 on the file of the Chief Judicial Magistrate-cum-Special Judge for Prevention of Corruption Act Cases, Cuddalore.

2. The case of the prosecution is that the defacto complainant intended to develop his vacant land situated at No.28, Meenakshi Sundaram Nagar, Manjakuppam and approached the concerned department of Cuddalore City Municipal Corporation for obtaining the building plan approval for the construction of a house. He was advised by certain persons to approach M/s.Pangajam Planners, Pudupalayam, Cuddalore, in order to secure prescribed approval for the construction of house. Accordingly, the defacto complainant approached the said planners and submitted online applications for building plan approval on 04.03.2023 and on 08.04.2023, he paid a sum of Rs.19,050/- as Government fee and he was issued receipt. In addition to that, he also paid a sum of Rs.10,000/- to the said planner as service charge.



3. The planner is arrayed as A2 and the petitioner is arrayed as A1. It is the further case of the prosecution is that, on 12.04.2023, when the defacto complainant contacted the second accused with regards to his application status and he was advised to meet the first accused who is currently working in the Cuddalore City Municipal Corporation. Accordingly, on the same day, the defacto complainant met with the first accused at about 11.30 a.m. in his office. In turn, the first accused demanded a sum of Rs.20,000/- as illegal gratification for building approval, stating that the amount was intended for himself and others. On the next day, i.e, on 13.04.2023, the defacto complainant again met with the second accused, who reiterated the demand allegedly made by the first accused. Consequently, on 17.04.2023, the defacto complainant lodged a complaint and a case was registered on 18.04.2023.

4. After the registration of the FIR, the second respondent, along with shadow witness, met the first accused on 18.04.2023. However, the first accused did not receive the tainted money and instructed the defacto complainant to hand over the said amount to the second accused. Accordingly, on the same day, the defacto complainant, along with the first respondent police and the shadow witness, went to the office of the second accused, where the defacto complainant and the shadow witness met the second accused and gave a



sum of Rs.20,000/- as bribe. Upon receiving the amount, the defacto complainant gave signal to the respondent police and they went inside and the accused was caught red-handed. Thereafter, the first respondent conducted phenolphthalein test, which was tested as positive. Consequently, the second accused was arrested and thereafter, the first accused was also arrested. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance by the Trial Court.

5. A perusal of the records and also the submissions made on either side reveals that the sanction to prosecute the first accused, who is being a public servant, was accorded on 11.10.2023. The sanction was granted to prosecute the accused only for the offence punishable under Section 7A of the Prevention of Corruption Act, 1988. However, a perusal of the FIR reveals that, initially the case was registered in Crime No.6 of 2023 for the offences punishable under Sections 7, 12 of the Prevention of Corruption Act, 1988 only and not under Section 7A of the Prevention of Corruption Act. It is seen that only subsequent to the sanction order dated 11.10.2023, the offences were altered under Section 7A of the Prevention of Corruption Act on 16.11.2023 by way of alteration report. It results in failure of justice as per Section 19(1)(c) of the Prevention of Corruption Act, 1988. It shows a *mala fide* intention of the



first respondent and the Sanctioning Authority colluded in a manner i.e., prejudicial, unjust and unfair to the petitioner. The sanction order itself suffers from non-application of mind.

6. It is relevant to extract the provision under Section 19(1) (c) of the Prevention of Corruption Act, which reads as follows :

*“Section 19. Previous sanction necessary for prosecution –
(1) No Court shall take cognizance of an offence punishable under Sections 7, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction.*

Section 19(1)(c) - in the case of any other person, of the authority competent to remove his from his office.”

7. Therefore, no sanction was accorded under Section 197 of Code of Criminal Procedure to prosecute the petitioner for the offences committed while he was discharging his official duties. At this juncture, it is relevant to extract the provision under Section 7A of the Prevention of Corruption Act, 1988.

“7-A. Taking undue advantage to influence public servant by corrupt or illegal means or by exercise of personal influence.- Whoever accepts or obtains or attempts to obtain from another person for himself or for any other person any undue advantage as a motive or reward to induce a public servant, by corrupt or illegal means or by exercise of his



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personal influence to perform or to cause performance of a public duty improperly or dishonestly or to forbear or to cause to forbear such public duty by such public servant or by another public servant, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.”

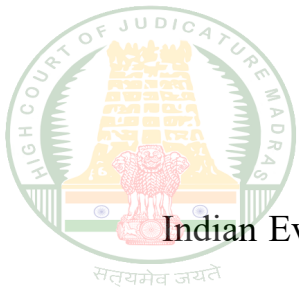
8. Thus, it is clear that there ought to be inducement of a public servant, in lieu of an undue advantage obtained as motive or reward. It can be attracted against a private person and not a public servant. In the case on hand, there has been no instance of any inducement nor the public servant has been induced by the petitioner as disclosed in the records. Further, the statement recorded under Section 161 of Cr.P.C from Town Planning Surveyor, Town Planning Officer and Municipal Commissioner, who were being in charge of the concerned public duty to be discharged, do not divulge any involvement, interference or inducement by the petitioner in the processing of the defacto complainant's application for building plan approval.

9. Even according to the case of the prosecution, the petitioner was working as a Junior Assistant in the Cuddalore City Municipal Corporation, therefore he has no connection with the town planning authorities for giving building approval. That apart, the application submitted by the defacto



complainant for building plan was approved as early as on 08.04.2023. Due to some software issue, the approval was not communicated to the defacto complainant. Admittedly, the petitioner met the defacto complainant only on 12.04.2023. Therefore, by the time when the petitioner allegedly met the defacto complainant, the application had already been approved and there was no necessity for the petitioner to influence with the processing of the application. It is seen that, after the software issue was resolved, the approval granted in favour of the defacto complainant was communicated on 19.04.2023, i.e., the day immediately following the arrest of the petitioner. The prosecution also failed to prove the demand or acceptance of illegal gratification of Rs.20,000/- by the petitioner from the second respondent. The proof of demand of bribe by the public servant and the subsequent acceptance thereof was *sine qua non* for establishing an offence under the Prevention of Corruption Act, 1988.

10. Even according to the prosecution, the recovery was only from the second accused. Hence the essential ingredients of the offence against the petitioner have not been established by the prosecution. Except the confession statement of the second accused, no one has spoken about the connection between the petitioner and the second accused. It is well settled that the statement of the co-accused is inadmissible in evidence as per Section 25 of the



Indian Evidence Act and in the absence of such statement, there is no evidence in material to establish the case as against the petitioner. Further, the trap proceedings stand vitiated on account of the manner in which they were conducted.

11. According to the prosecution, when the petitioner declined to receive the tainted currency and directed the defacto complainant to hand over the amount to the second accused, the trap laying officer ought to have proceeded in accordance with the prescribed procedure. However, the first respondent interfered with the trap proceedings, thereby vitiating the entire trap. Once the petitioner declined to receive the tainted currency and directed the defacto complainant to hand over the amount to the second accused, the trap proceedings, insofar as the petitioner was concerned, ought to have concluded at that stage itself. Therefore, neither the acceptance nor the recovery of illegal gratification was made by the petitioner which are *sine qua non* for application of presumption under Section 20 of the Prevention of Corruption Act for establishing the charges under the provisions of the said Act.

12. Therefore, the entire proceedings do not satisfy the conditions to be fulfilled to attract the charge under Section 7A of the Prevention of Corruption



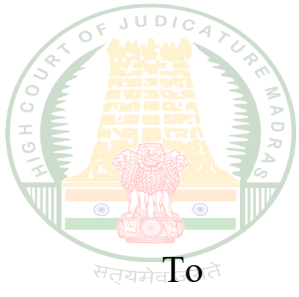
Act. The charge itself is insufficient as it does not disclose any public servant supposedly induced by the accused. Further, the plan approval was granted as early as on 08.04.2023, much prior to the alleged demand by the petitioner on 12.04.2023. Therefore, there is no scope for the petitioner to exercise any personal influence over any public servant in connection with the grant of approval to constitute the offence under Section 7A of the Prevention of Corruption Act, 1988.

13. In view of the above, the proceedings against the petitioner cannot be sustained as against the petitioner and is liable to be quashed. Accordingly, the proceedings in Spl.C.C.No.13 of 2023 on the file of the Chief Judicial Magistrate cum Special Judge for PC Act, Cuddalore is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

23-07-2026

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

LPP



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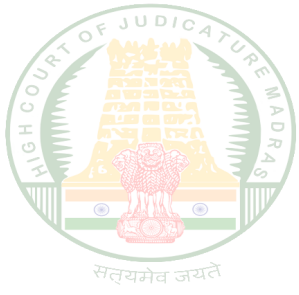
To

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1.The Chief Judicial Magistrate-cum-Special Judge for PC Act Cases,
Cuddalore.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Cuddalore - 607 001.

3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN J.

LPP

**Pre-delivery order in
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and
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