

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Crl.O.P.No.18738 of 2014
and M.P.No.1 of 2015

Varadappan

... Petitioner/Accused

Vs.

State rep. by
The Deputy Superintendent of Police
Vigilance and Anti-Corruption
Dharmapuri, Dharmapuri District.
Crime No.7/AC/2004

... Respondent/Complainant

Prayer:- Petition filed under Section 482 Cr.P.C. to call for records in Spl.C.C.No.13 of 2008 on the file of the learned Chief Judicial Magistrate, Dharmapuri and to quash the same.

For Petitioner : Mr.K.L.Sekar
For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

O R D E R

This petition is filed to quash the proceedings under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act.

2.Learned counsel for the petitioner submits that an F.I.R. was registered in the year 2004. After investigation, charge sheet has been filed in the year 2006 and the same was taken on the file of the learned Chief Judicial Magistrate, Krishnagiri and then it was transferred to the learned Chief Judicial Magistrate, Dharmapuri and taken on file as Spl.C.C.No.13 of 2008. It is further submitted that the respondent has not taken any effective steps for examination of the witnesses. So the case was adjourned to several hearings for examination of the witnesses and now only the witnesses were examined as P.W.1 to P.W.4. Therefore, the delay in examining the witnesses is the main ground for quashing the F.I.R. The second limb of argument is that P.W.2/Kathirvel, who is the shadow witness, is a stock

witness of the respondent and that the F.I.R. may be quashed on that ground also. Therefore, he prayed for quashing the F.I.R.

3. Resisting the same, learned Government Advocate (Crl.side) submits that the petitioner is the Village Administrative Officer and during that time, he demanded illegal gratification from the defacto complainant for issuance of chitta, adangal, FMB and other related certificates for getting electricity service connection to his well. Therefore, trap proceedings was initiated and tainted money was recovered and phenolphthalein test was conducted, which ended in positive. After due investigation, charge sheet was filed and the case was taken on file as C.C.No.2 of 2006 before the learned Chief Judicial Magistrate, Krishnagiri and subsequently, it was transferred to the learned Chief Judicial Magistrate, Dharmapuri, which was re-numbered as Spl.C.C.No.13 of 2008. It is further submitted that P.W.1 to P.W.4 were examined and the defacto complainant was examined as P.W.3. So the delay in producing the witnesses is not a ground for quashing the F.I.R. The trial Court would be decided that whether P.W.2/Kathirvel is the stock witness only after considering oral and documentary evidence. Hence, a direction may be given to the trial Court to dispose of the case within two months and prayed for dismissal of the petition.

4. At this juncture, learned counsel for the petitioner submitted that after filing this petition only, the defacto complainant was examined as P.W.3. Further, he has relied upon the decision reported in 2002 CrI.L.J.NOC.24 (Madras) (Munirathnam v. State) and submits that in a criminal proceedings, inordinate delay in disposal, the charge sheet can be quashed.

5. Considered the rival submissions made on both sides and perused the materials available on record.

6. Admittedly, the petitioner herein is the Village Administrative Officer in Gujjarahalli from 16.09.2004 to 28.09.2004. The defacto complainant, who was examined as P.W.3 approached the petitioner to issue chitta, adangal, FMB and other related records for getting electricity service connection to his well. At that time, it is alleged that the petitioner demanded illegal gratification of Rs.1,600/-. So the defacto complainant has preferred a complaint and on that basis, case has been registered. Then the trap proceedings was initiated and after due investigation, charge sheet was filed and the same was taken on file as C.C.No.2 of 2006 by the learned Chief Judicial Magistrate, Krishnagiri and subsequently, it was transferred to the learned Chief Judicial Magistrate, Dharmapuri and re-numbered as Spl.C.C.No.13 of 2008.

7. According to the learned counsel for the petitioner, the charge sheet has to be quashed on the ground that the delay in producing the witnesses before the Court and P.W.2 is the stock witness of the respondent.

8. On going through the decision relied upon by the learned counsel for the petitioner in 2002 CrL.L.J.NOC.24 (Madras) (Munirathnam v. State), I am of the view, it is not applicable to the facts of the present case. Because in the decision, it was specifically mentioned that the Magistrate is directed to proceed to next stage in the trial and the proceedings was not quashed.

9. During arguments, it is admitted by both sides that the defacto complainant was examined as P.W.3. P.W.1 is the sanctioning authority, P.W.2 is the shadow witness and P.W.4 is the Tahsildar. Further, learned Government Advocate (CrL.side) undertakes to give co-operation to dispose of the case within two months from the date of receipt of a copy of this order.

10. Considering the aforesaid circumstances of the case, I am of the view, the trial Court has examined the witnesses P.W.1 to P.W.4. Therefore, the delay in producing the witnesses is not a main ground for quashing the F.I.R. Further, whether P.W.2/Kathirvel is the stock witness to be decided by the trial Court only after considering the oral and documentary evidence. Therefore, this ground can not be taken as a ground for quashing the F.I.R.

11. As stated supra, P.W.1 to P.W.4 were examined and now the trial is in progress. Further the reasons assigned by the petitioner for quashing the F.I.R. are not merit acceptance. So I do not find any merits in this petition and this petition deserves to be dismissed and it is hereby dismissed.

12. In the result, the Criminal Original Petition is dismissed. On considering that the petitioner, who is the Village Administrative Officer, is facing criminal proceedings from the year 2008 onwards (i.e) past seven years, the trial Court is directed to dispose of the case in Spl.C.C.No.13 of 2008 within a period of two months from the date of receipt of a copy of this order. The respondent is directed to produce the witnesses whenever the trial Court directs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kj

To

1.The Deputy Superintendent of Police
Vigilance and Anti-Corruption
Dharmapuri, Dharmapuri District.

2.The Chief Judicial Magistrate, Dharmapuri.

3.The Public Prosecutor
High Court, Chennai.

1 cc to Mr. A.Ilaya Perumal, Advocate, SR.No.14492

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