

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.OP No.21308 of 2012

P.Thangasuruli

... Petitioner

Vs

State by Inspector of Police,
Vigilance and Anti Corruption,
Kanchipuram

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Special Case No.8 of 2012, pending on the file of the learned Chief Judicial Magistrate-cum-Special Judge, Chengalpattu and quash the same.

For Petitioner

:Mr.Ranganathan

For Respondent

:Mr.P.Govindarajan, Addl.P.P.

ORDER

This Criminal Original Petition has been filed under section 482 of the Code of Criminal Procedure, 1973, praying to call for records relating to Special Case No.8 of 2012, pending on the file of the Chief Judicial Magistrate-cum-Special Court, Chengalpattu and quash the same.

2. It is averred in the petition that during the relevant period, the petitioner has served as Revenue Officer in Kanchipuram Municipality. The respondent has registered a case against the petitioner in Special Case No.8 of 2012, wherein the petitioner has been arrayed as the first accused. The specific case of the respondent is that the petitioner demanded a sum of Rs.6000/- from the defacto complainant so as to comply with his request made on the basis of applications dated 3.3.2009 and 4.3.2009. The further case of the respondent is that on 15.9.2009, a trap has been conducted, wherein the money in question has been seized from one John Bosco, the Revenue Assistant of Kanchipuram Municipality. Further it is averred in the petition that the petitioner has never demanded the alleged bribe of Rs.6000/- from the defacto complainant and on the date of trap, he has not come to office, since he applied for leave. Under the said circumstances, the respondent, without any basis, has falsely implicated the petitioner as accused No.1, in Special Case No.8 of 2012 and therefore, the present petition has been filed for getting the relief sought for therein.

3. On the side of the respondent, counter is filed, wherein it

has been contended inter alia to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

4. The only point that comes up for consideration in the present criminal original petition is as to whether sufficient prima facie materials are available against the petitioner/accused No.1, so as to proceed further.

5. The learned counsel appearing for the petitioner has reiterated all the averments made in the petition and further he added to the effect that the petitioner has never demanded a sum of Rs.6000/- from the defacto complainant and on the date of alleged trap, he applied for leave and to that effect the Commissioner, Kanchipuram Municipality, by name Pappamayalagu has given a statement, but the respondent, without considering the absence of the petitioner on the alleged date of trap, has erroneously implicated the petitioner as accused No.1. Under the said circumstances, the present petition has been filed for getting the relief sought for therein.

6. The learned Additional Public Prosecutor has contended that the defacto complainant has given the complaint on 15.6.2009, wherein it has been clinchingly stated to the effect that three applications have been given on 3.3.2009 and 4.3.2009, in Kanchipuram Municipality Office and subsequently, he contacted the petitioner to change tax and he asked the defacto complainant to come after 15 days and after 15 days, he met him and on that date, he demanded Rs.6000/- by way of bribe, since the defacto complainant is not willing to pay the amount demanded by the petitioner, the complaint in question has been given. On the same day, a trap has been conducted in the presence of two Government officials and during the course of trial, one John Bosco has met the official witnesses and asked them to handover bribe amount to him, as directed by the petitioner and accordingly, the same has been handed over to him and subsequently proper trap has been conducted and further, the said John Bosco has received the bribe amount, as directed by the petitioner and since in the complaint it has been specifically stated about the demand of bribe alleged to have been made by the petitioner, the respondent has correctly arrayed the petitioner as accused No.1 and therefore, the present petition deserves to be dismissed.

7. As pointed out earlier, during the relevant period, the petitioner has served as Revenue Officer in Kanchipuram Municipality. It is seen from the records that the defacto complainant, by name, T.Selvaraji, his wife and his brother have given three applications dated 3.3.2009 and 4.3.2009 so as to change tax in their names.

8. The defacto complainant has given the complaint in question on 15.6.2009, wherein it has been clearly stated that after 15 days from the dates of applications, he met the petitioner and the petitioner has asked him to give Rs.6000/- by way of bribe and

since he is not willing to give the same, has given the complaint in question and subsequently trap has been conducted in the presence of two Government officials and one John Bosco has received the amount, as directed by the petitioner.

9. The specific contention put forth on the side of the petitioner is that on 15.6.2009, the petitioner has not attended the office, since he applied for leave. In fact, one Pappamayalagu, Commissioner of Municipality, has given a statement to the effect that on 15.6.2009, the petitioner has applied for leave and the same has been granted.

10. The specific statement given by one of the official witnesses, by name, R.Pandiyan, is that as per the direction given by the respondent, he and others have gone to the office of the petitioner and one John Bosco has enquired them and they told that in connection with change of tax, they wanted to meet the petitioner, but the said John Bosco has told them that the petitioner has directed him to receive the bribe amount and accordingly, the same has been handed over to him and subsequently, trap process has been conducted.

11. As adverted to earlier, even in the complaint it has been specifically stated about the alleged demand of bribe by the petitioner from the defacto complainant. Further, the official witness Pandian has categorically stated in his statement that the said John Bosco has demanded money as directed by the petitioner.

12. It is true that the Commissioner, Kanchipuram Municipality, viz., Pappamayalagu, has given a statement to the effect that on the date of alleged trap, the petitioner has not attended his office. Even though on the date of alleged trap the petitioner has not attended his office, since the Court is having ample materials for the purpose of coming to a conclusion that the petitioner has made specific demand of bribe from the defacto complainant and since the witness, by name, Pandian, has categorically stated to the effect that the said John Bosco has demanded bribe, as directed by the petitioner, this Court is of the considered view that sufficient materials are available against the petitioner so as to proceed further. Since sufficient materials are available against the petitioner so as to proceed further, it is needless to say that the relief sought for in the petition cannot be granted and therefore, the present petition deserves to be dismissed.

In fine, the criminal original petition is dismissed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate-cum-
Special Judge, Chengalpattu

2.Inspector of Police,
Vigilance and Anti Corruption,
Kanchipuram

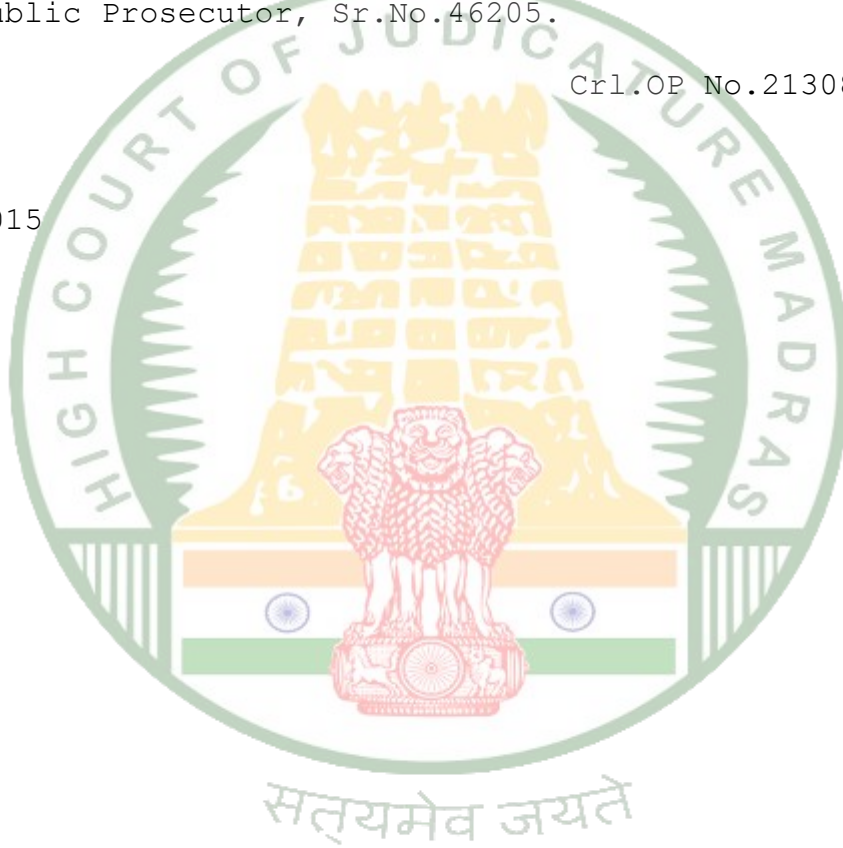
3 The Public Prosecutor,
High Court, Madras.

1 cc to Mr.V.V.Sairam , Advocate Sr.No.45847

1 cc to Public Prosecutor, Sr.No.46205.

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