

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P No.8700 of 2015

& M.P.No.1 of 2015

K.Kuppan

.. Petitioner

Vs

State rep.by the Inspector of Police,
Vigilance and Anti Corruption
Chennai

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Special C.C.No.2 of 2015 on the file of Chief Judicial Magistrate, Chengalpattu cum Special Judge and to quash the same.

For Petitioner :Ms.R.Anitha
for M/S.S.Ramasamy Law Associates

For Respondent :Mr.P.Govindarajan
Additional Public Prosecutor

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 C.C.No.2 of 2015, pending on the file of Chief Judicial Magistrate cum Special Judge and quash the same.

2. It is averred in the petition that the petitioner has been arrayed as sole accused in Special Calendar Case No.2 of 2015 pending on the file of the Court below. Further, it is stated in the petition that during the relevant period, the petitioner served as a Surveyor. On the basis of the requisition alleged to have been given by one Mumtaj, the petitioner has done his duty and submitted all the records to the concerned Tahsildar. Further, it is stated in the petition that on 6.11.2013, a trap has been conducted, wherein it is stated that he demanded and received Rs.4,000/- from the defacto complainant by name Mohamed Altaf and even on 6.11.2013, no papers are pending on the part of the petitioner with regard to requisition made by Mumtaj and therefore, the petitioner has been falsely implicated and the Court below, without considering the role alleged

to have been played by the petitioner, has erroneously taken the final report filed by the respondent in Special C.C.No.2 of 2015 and therefore, present petition has been filed for getting the relief sought for therein.

3. On the side of the respondent, counter has been filed, wherein it has been contended to the effect that on the basis of complaint alleged to have been given by one Mohamed Altaf, a trap has been conducted in the presence of one Elango and during the course of trap, as demanded by the petitioner earlier, he demanded Rs.4,000/- from the defacto complainant and accordingly the defacto complainant has handed over Rs.4,000/- to the petitioner and subsequently, necessary process has been done and therefore, present petition deserves to be dismissed.

4. The learned counsel appearing for the petitioner has repeatedly contended that one Mumtaj has given an application for getting the documents mentioned therein on 22.7.2013 and on receipt of the same, the petitioner has done his duty and further the Deputy Tahsildar has put his signature on 4.8.2013. Since the entire requisition of Mumtaj has been complied with prior to the date of trap, the alleged trap is nothing but farce and the Court below, without considering the contentions put forth on the side of the petitioner, has erroneously taken the final report in Special Calendar Case No.2 of 2015 and therefore, the entire proceedings of Special C.C.No. 2 of 2015 are liable to be quashed.

5. The learned Additional Public Prosecutor has contended that in the instant case, the defacto complainant has given a complaint on 5.11.2013, wherein it has been clearly stated that prior to trap, as per instruction given by his senior mother, he approached the petitioner and the petitioner initially demanded Rs.5,000/- for submitting all records to the Tahsildar office and subsequently quantum of amount has been reduced to Rs.4,000/- and therefore, it cannot be stated that there is no nexus in between the petitioner and the complaint dated 5.11.2013 and on the basis of allegations made in the complaint, a trap has been conducted on 6.11.2013 in the presence of one witness by name Elango and accordingly, the defacto complainant has handed over Rs.4,000/- to the petitioner and thereafter the subsequent process has been done and therefore, prima facie evidence is available so as to proceed further against the petitioner and under the said circumstances, relief sought for in the present petition cannot be granted.

6. The only point that has to be decided in the present Criminal Original Petition is as to whether prima facie materials are available so as to proceed against the petitioner further in Special Calendar Case No.2 of 2015?

7. The entire argument put forth on the side of the petitioner is based upon certain particulars given under Right to Information Act, wherein it has been simply stated that the Deputy Tahsildar has put his signature on 4.9.2013. No materials are available for the purpose of showing that the documents mentioned in the requisition made by Mumtaj have been granted to her. If really, her request has been complied with, prior to alleged complaint dated 5.11.2013 or prior to trap, i.e, on 6.11.2013, the defacto complainant would not have given the complaint in question.

8. As rightly pointed out on the side of the respondent, in the complaint, it has been specifically stated about the demand alleged to have been made by the petitioner.

9. At this juncture, it would be more useful to look into the statement given by trap witness, by name Elango and he specifically stated that the petitioner has demanded money quoted by him from the defacto complainant and accordingly he has given the same and thereafter, subsequent process has been done.

10. Since on the basis of complaint dated 5.11.2013, a proper trap has been conducted in the presence of a proper person, the Court cannot belittle the same. Therefore, it is needless to say that sufficient materials are available so as to proceed against the petitioner. To put it in short, sufficient prima facie evidence is available on record.

11. It has already been pointed out that at this stage, this Court has not found any materials for the purpose of coming to the conclusion that prior to the complaint dated 5.11.2013, request of the said Mumtaj has been complied with. Under the said circumstances and viewing from any angle, the contention put forth on the side of the petitioner cannot be accepted.

In fine, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ajr

To

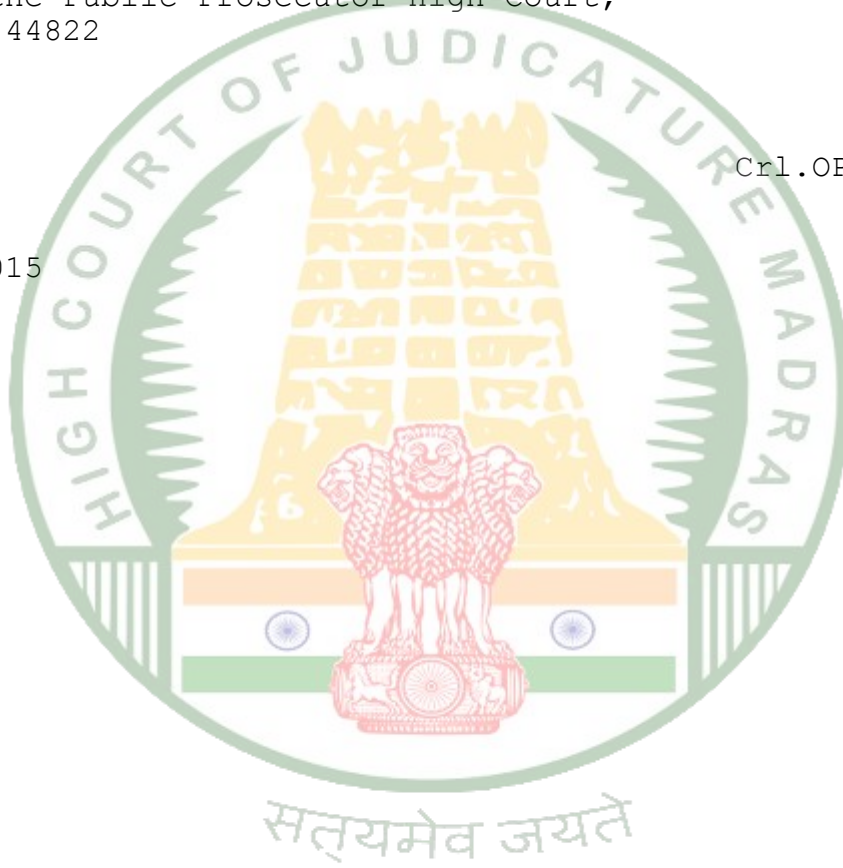
1. The Chief Judicial Magistrate,
cum Special Judge
Chengalpattu
2. The Inspector of Police, Vigilance and
Anti Corruption, Chennai
3. Public Prosecutor, High Court, Madras.

+1 cc to M/S.Ramasamy law Associates Advocate
sr.44379

+1 cc to the Public Prosecutor High Court,
Madras sr.44822

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