



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN.

CrI.O.P(MD)No.3102 of 2015

WEB COPY

K.P.T.Stalin

... Petitioner / Sole Accused

Vs

The State by
The Inspector of Police,
Directorate of Vigilance and Anticorruption,
Nagercoil,
Kanyakumari District
(Crime No.5 of 2007)

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 07.01.2015 passed by the Special Judge and Chief Judicial Magistrate, Nagercoil in Cr.M.P.No.1338 of 2014 in S.C.No.4 of 2008.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.C.Ramesh, APP

ORDER

This Criminal Original Petition is filed praying to set aside the order dated 07.01.2015 passed by the learned Special Judge and Chief Judicial Magistrate, Nagercoil in Cr.M.P.No.1338 of 2014 in S.C.No.4 of 2008.

2. By consent, the Criminal Original Petition itself is taken up for final disposal.

3. The petitioner is facing prosecution in Special C.C.No.4 of 2008, pending on the file of Court of Special Court for Prevention of Corruption Act / Chief Judicial Magistrate, Kanyakumari District at Nagercoil, for the alleged commission of offence under Sections 7 and 13 (i)(d) r/w 13(2) of Prevention of Corruption Act. The allegation is that the petitioner, who was incharge of Firka Surveyor, Kurunthancode Firka, between 01.11.2006 and 30.04.2007 and as a regular Surveyor of that Firka between 01.05.2007 and 07.07.2007, has demanded and accepted the illegal gratification of Rs.500/- as other than legal remuneration on 07.07.2007 at about 12.55 p.m., for doing the official work of measuring and making sub division of land. After filing necessary charges, the petitioner / accused pleaded not guilty to the charges and the prosecution has examined all the witnesses and the petitioner / accused was also questioned under Section 313(1)(b) of Cr.P.C., and written arguments were also been submitted by the prosecution. Subsequently, P.Ws.2 and 6 were recalled and further cross-examined and at that stage, this petitioner came forward to file Cr.M.P.No.1338 of 2014, under Section 91 of Cr.P.C.,



praying for production of Vigilance and Anticorruption (DVAC Manual) to sustain his defence that the prosecution has failed to conduct investigation in accordance with law the guidelines in the said DVAC Manual.

4. The learned counsel appearing for the petitioner would contend that the said guidelines are mandatory and the respondent is duty bound to follow the same and however, he has not done so and to strengthen the facts, he requires the production of DVAC Manual and further cross-examine the trap line officer as well as the investigation officer.

5. Per contra, Mr.C.Ramesh, the learned Additional Public Prosecutor appearing for the respondent would submit that the matter in issue is no longer res integra for the reason that this Court has considered the similar plea and dismissed the petition in CrI.O.P.(MD)No. 2987 and 3087 of 2015 on 24.02.2015.

6. In the light of the above said order, this Court is of the view that this Criminal Original Petition is liable to be dismissed and accordingly dismissed. As already observed in the above cited orders, the Department of Vigilance and Anticorruption Shall upload its manual in the website within the time stipulated and also periodically update the same.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.The Special Judge and Chief Judicial Magistrate,
Nagercoil,

2.The Inspector of Police,
Directorate of Vigilance and Anticorruption,
Nagercoil,
Kanyakumari District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.Lenin Kumar, Advocate in SR.No.9786

sm:24.03.2015:2P/5C

CrI.O.P (MD) No.3102 of 2015
02.03.2015