IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 02.11.2016

JUDGMENT PRONOUNCED ON : 02.12.2016

CORAM:

THE HON'BLE MR. JUSTICE P. VELMURUGAN

Crl.R.C.No.498 of 2015

P.Anbalagan ... Petitioner

-vs-

State of Tamil Nadu represented by
The Inspector of Police
Vigilance and Anti-Corruption
Special Investigation Cell
Chennai
Crime No.6/2012/AC/HQ ... Respondent

This Criminal Revision is filed under Sections 401 r/w.397 of Cr.P.C. seeking to set aside the order of dismissal dated 28.04.2015 made in Crl.M.P.No.812 of 2014 in C.C.No.3 of 2014 on the file of the learned Special Judge, Special Court for Cases under the Prevention of Corruption Act, Chennai.

For Petitioner : Mr.Vimal B.Crimson
For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

O R D E R

This Criminal Revision is directed against the order of dismissal dated 28.04.2015 made in Crl.M.P.No.812 of 2014 in C.C.No.3 of 2014 on the file of the learned Special Judge, Special Court for Cases under the Prevention of Corruption Act, Chennai.

2. The case of the revision petitioner as averred in the Revision Petition in brief is as follows:-

A case against the petitioner was registered by the respondent based on the complaint given by one S.Purushothaman / de facto complainant, who has been working as a driver on daily wages at the Metropolitan Transport Corporation, Central Depot alleging that the petitioner / accused demanded illegal gratification from the de facto complainant on various occasions with a threat of transferring him to a far off Ennore depot to his inconvenience and also to discharge him from 11-C charge memo charged by the Department and also harassed him to pay the money and that unwilling to pay illegal gratification, the de facto complainant lodged a complaint before the Vigilance and Anti Corruption Special Investigation Cell, Chennai. The petitioner/accused never, ever involved or received the alleged tainted money from the complainant, who is irregular for more than years and also the 11-C memo was issued to the complainant by the Manager and the enquiry was pending before the concerned Manager and not before the petitioner/accused, and therefore, the demand does not arise in any manner with the alleged complainant. The respondent, without any basis of truth and clinching material evidence and out of their imagination, had falsely implicated the petitioner.

3. The case of the respondent as averred in the counter filed by the respondent is as follows:-

The petitioner has been working as a Senior Tradesman (STM) at Central Depot, Chennai Metropolitan Transport Corporation Ltd., Pallavan Salai, Chennai-2 and also holding the post of Vice President, Anna Labour Union associated with the said depot. The de facto complainant S.Purushothaman has been working as a driver on daily wages at the said depot. The petitioner / accused demanded illegal gratification from the de facto complainant Purushothaman on various occasions with a threat of transferring him to a far off Ennore depot to his inconvenience and harassed him to pay the money. Unwilling to pay illegal gratification, the de facto complainant lodged a complaint before the Vigilance and Anti Corruption, Chennai.

4. Based on the said complaint, a case in DVAC Headquarters Crime No.6/12 under Section 7 of Prevention of Corruption Act, 1988 was registered on 16.11.2012 and taken up for investigation.

5. On completion of investigation in Crime No.6/2012/AC/HQ, the Inspector of Police, Vigilance and Anti-Corruption, Chennai Unit, filed the charge sheet under Sections 7 and 13(2) r/w.13(1)(d) of the Prevention of Corruption Act, 1988 against the petitioner on 11.06.2014 and the same was taken on file in C.C.No.3 of 2014 on the file of the learned Special Judge, Special Court for Cases under the Prevention of Corruption Act, Chennai.

6. After taken on file and pending for framing charge, the petitioner herein filed discharge petition in Crl.M.P.No.812 of

2014 before the trial Court. After hearing both sides, the same was dismissed on 28.04.2015. Aggrieved with the order passed by the trial Court, the petitioner has filed the present Revision Petition before this Court.

7. The main grounds taken by the revision petitioner in the Revision Petition is that there is no prima facie materials available in the final report and there are no materials to establish the prosecution version. The sanctioning authority without application of mind has accorded the sanction for the proseuction and the trial Court without considering the objections raised by the petitioner mechanically dismissed the petition.

8. The learned counsel for the petitioner would submit that the allegations raised by the de facto complainant for demanding money is not believable because this petitioner has no power to transfer the de facto complainant. Therefore, the reasons stated for demand as projected by the defacto complainant is not acceptable and that the prosecution failed to see that this petitioner has no power to transfer the defacto complainant and without doing investigation properly, the prosecution has filed a false case against this petitioner and therefore, the petitioner is liable to be discharged.

9. The learned Additional Public Prosecutor would submit that this is a case based on the complaint given by the defacto complainant, who was working as a driver on daily wages. Based on his complaint that the petitioner demanded bribe for not to transfer him to some other place and allow him to continue peacefully in the place, where he is working and based on the complaint, the trap team went to the place of occurrence and the petitioner was caught red handed while demanding and accepting the bribe. Prima facie there are materials available to frame charge against this petitioner, and therefore, the trial Court has correctly considered the materials available on record and has come to the conclusion that there are sufficient materials to frame charge and dismissed the petition. Sanctioning Authority also accorded the sanction of prosecution after applying its mind. Hence, this petition is liable to be dismissed.

10. Heard both sides. Considered the submissions made by the learned counsel for both sides. Perused the records placed before the Court carefully.

11. It is an admitted fact that the petitioner was charged under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988 and a case in C.C.No.3 of 2014 is pending on the file of the Hon'ble Special Court for cases under the

Prevention of Corruption Act, Chennai . The disputed facts are that, according to the petitioner, the prosecution has falsely implicated this petitioner in this case and failed to consider the fact that the petitioner is not a transferring authority and he has no power to transfer and the sanctioning authority mechanically accorded sanction for prosecution. According to the respondent, based on the complaint, trap team went to the place of occurrence and this petitioner was caught redhanded by the team. After investigation and also collecting the materials, the respondent filed charge sheet. If at all, the petitioner has got any grievance, he can only prove his innocence during the trial and not at this stage.

12. As already stated, from the admitted facts and on perusal of charge sheet, it is clear that specifically, there are certain allegations against this petitioner for the offence under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988. Further from the materials produced by the prosecution under Section 173 of Cr.P.C to the petitioner, viz., the charge sheet, order of sanction of prosectuion, the statement of sanctioning Authority, statement of prosecution witnesses and other material documents, prima facie materials are available to proceed the case against this petitioner. Objection regarding non-application of mind is concerned, that can be decided after trial and not at this stage.

13. Considering the facts and circumstances, this Court bearing in mind an important fact that as far as the present stage is concerned, there are enough materials to implicate the petitioner in this case, at this stage, this Court is not expected to go deep into the probative value of the materials on records. Further, the charge sheet as laid down in the present case in C.C.No.3 of 2014 for the offence under Sections 7 and 13 (2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988 cannot be ignored and this Court comes to a conclusion that there are enough materials in the form of records to bring home the role played by this petitioner. Therefore, the petition filed by the revision petitioner before the trial Court seeking to discharge her from the case in C.C.No.3 of 2014 is liable to be dismissed. Under the above said circumstances, the dismissal order passed by the trial Court in Crl.M.P.No.812 of 2014 in C.C.No.3 of 2014 dated 28.04.2015, does not suffer from any patent illegality or impropriety in the eye of law.

14. In fine, the Criminal Revision Petition is dismissed. The order passed by the learned Special Judge, Special Court for Cases under the Prevention of Corruption Act, Chennai, in Crl.M.P.No.812 of 2014 in C.C.No.3 of 2014 dated 28.04.2015 is confirmed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1 The Special Judge,
Special Court for cases under the prevention of corruption Act, Chennai

2 The Inspector of Police
Vigilance and Anti Corruption
Special Investigation Call
Chennai

3 The Public Prosecutor
High Court, Madras

4 The Section Officer
Criminal Section,
High Court, Madras

mp(CO)
md(20/02/2017)

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