

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2016

(Reserved on : 02.11.2016 ; Pronounced on : 02.12.2016)

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.RC.No.1013 of 2016

V.Gurupatham ...Petitioner/Accused No.1

Vs.

State

Rep. By the Inspector of Police,  
CBI, ACB, Chennai

...Respondent/complainant

Prayer: Criminal Revision Case is filed under Sections 397 & 401 of Cr.P.C., to call for the records pertaining to the order passed in CrI.MP.No.816 of 2016 in Spl.C.C.No.1 of 2010 on the file of the Special Judge, Puducherry and to set aside the same.

For Petitioner : Mr.D.Ravichander

For Respondent : Mr.K.Srinivasan

Special Public Prosecutor

O R D E R

The Criminal Revision Case is filed under Sections 397 & 401 of Cr.P.C., to call for the records pertaining to the order passed in Cr.MP.No.816 of 2016 in Spl.C.C.No.1 of 2010 on the file of the Special Judge, Puducherry and to set aside the same.

2. The case of the prosecution is that on 10.04.2008, the petitioner/accused was caught red handed while demanding and accepting an amount of R.5,000/- as illegal gratification from one Sri.R.Panneer Selvam of Villianur for registering a release deed and a case was registered by CBI, ACB, Chennai, u/s. 7 of PC Act, 1988 in R.C.No.MAI 2008 A 0018 on the same day, on the basis of the complaint of R.Panneer Selvam. Subsequently, a search was conducted in the residence of the petitioner/accused at No.25, Thillaiyadi Valliamman Kovil Street, Lawspet, Puducherry. During the course of search, various incriminating documents and unaccounted amount of

Rs.29,69,100/- were seized. In pursuance of the same, a case in RC.MA1 No. 2008 A 0020 was registering in CBI, ACB, Chennai on 25.04.2008 against the petitioner/accused and three others u/s.13(2) r/w.13 (1) (e) of Prevention of Corruption Act, 1988. After investigation, in RC.MAI.No. 2008 A 0018, a chargesheet was filed before the Special Court, Pondy and the same was taken on file in Spl.C.C.No.6/2008 u/s. 7, (3) (2) r/w. 13(1) (e) of P.C Act,1988 and after trial, the accused was duly convicted by the trial court dated 02.08.2014. As regards to the case in RC.MA1 No. 2008 A 0020. After investigation, charge sheet was filed before the Special Court and the same was taken on file in Spl.C.C.No.1 of 2010 u/s. 120 B, 467, 471, 193 IPC and Section 13(2) r/w.13(1) (e) of Prevention of Corruption Act,1988.

3. When the matter was pending before the trial court, the petitioner has filed a petition to discharge him from the said case on the ground that District Registrar, Puducherry, was not a competent authority to grant sanction for prosecution in this matter. After hearing the said application, the trial court has dismissed the petition against which the petitioner/accused No.1 has filed this revision petition before this court.

4. The petitioner has filed this revision petition under Sections 397 and 401 of Cr.P.C., mainly on the ground that the District Registrar, Puducherry, was not a competent authority to grant sanction for prosecution in this matter and that the relevant records are not placed before him and consequently, the sanction order was granted without any application of mind. The very same ground was raised before the trial court and after considering the same, the trial court dismissed the discharge petition filed by the petitioner.

5. The contention of the respondent as per the counter is that the District Registrar, Puducherry, is the competent authority to remove the officer of the rank of Sub Registrar from his office as per the Ex.P2 - G.O.Ms.No.68 dated 16.11.1982. Even though the Additional Secretary to the Government, who is above the District Registrar in hierarchy might have issued the placement order to the petitioner, the petitioner was a Sub-Registrar during the check period and sanction was accorded by the District Registrar in accordance with the above said Government Order. All the relevant documents and available records relating to this case were placed before the sanctioning authority for his perusal and consideration, before according sanction for prosecution. Sri M.Venkata Subramaniam, formerly District Registrar, Puducherry, the sanctioning authority has clearly stated that in his sanctioned order that he perused and considered all the

documents, applied his mind and accorded sanction for prosecuting Sri.V.Gurupatham (petitioner herein). The sanction for prosecution in this case was accorded by sanctioning authority in accordance with law after due consideration of documents and records laid before him and after applying his mind. Therefore, the grounds taken by the revision petitioner is not sustainable under law and the same is liable to be rejected.

6. Heard both sides. Perused the records placed before this court carefully.

7. Learned counsel for the revision petitioner would submit that M.Venkata Subramaniam, formerly District Registrar, Puducherry, has accorded sanction for prosecution and he has been examined as PW1 and the sanction order was marked as Ex.P1. But, she is not the competent authority to accord sanction for prosecution against this petitioner. The competent authority is an Additional Secretary to the Government. The placement order of this petitioner was passed by the Additional Secretary to the Government, who is above the position of the District Registrar, Puducherry. Therefore, the District Registrar, Puducherry, is not a competent authority to accord sanction. In this case, the sanction for prosecution was accorded only by the District Registrar, Puducherry and not the Additional Secretary to the Government. Therefore, the sanction for prosecution is not valid and it vitiates the case. On this ground, the petitioner is liable to be discharged from this case.

8. Learned Additional Public Prosecutor would submit that the District Registrar, Puducherry, is the competent authority to remove the officer of the rank of Sub Registrar from his office, as per Ex.P2 even though Additional Secretary to the Government, who is above the Deputy Registrar in hierarchy, might have issued the placement order to the petitioner. DW1, M.Venkata Subramaniam, formerly District Registrar, Puducherry, who is the competent authority to accord sanction for prosecution. Accordingly, all the materials documents were placed before him. After due consideration of those documents and records laid before him and after applying his mind, the sanction for prosecution was accorded by him as competent authority correctly in accordance with law. Therefore, the contention raised by the learned counsel for the petitioner is not acceptable and the same is liable to be rejected.

9. On perusal of the records placed before this court and order passed by trial court and submissions made by both the counsel before this court, the admitted facts are that while the petitioner was working as Sub Registrar, Thirukanur,



Puducherry, was caught red handed by the respondent. Subsequently, his house was searched by the respondent and seized unaccounted amount of Rs.29,69,100/- and the case was registered in RC.MAI.No. 2008 A 0020 against the petitioner and 3 other accused u/s. Sections 13(ii) r/w.13(i) (e) of PC Act, 1988. After investigation, charge sheet was filed before the trial court and the same was taken on file in Spl.C.C.No.1/2010 u/s. 120 B, 467, 471, 193 of IPC & Section 13(2) r/w. (13 (1) (e) of Prevention of Corruption Act, 1988 and the same is under trial. The sanctioning authority, M.Venkata Subramaniam, formerly Registrar, Puducherry, was examined as PW1 and was cross examined. So far, the disputed facts are that according to the petitioner, PW1 was not a competent authority to accord the sanction for prosecution. Since he is not appointing authority, he is not a competent person to accord the sanction for prosecution against the petitioner. Therefore, the sanction order is not valid under law. Therefore, the petitioner is liable to be discharged. According to the prosecution, PW1 is the competent authority to accord the sanction for prosecution against the accused and the sanction order is in accordance with law. Therefore, the contention of the learned counsel for the petitioner is not sustainable and the same is liable to be rejected.

10. Under the above said circumstances, on perusal of the records, when the petitioner was serving as Sub-Registrar in Thirukanur, was caught red handed while demanding and accepting the amount of Rs.5,000/- as illegal gratification from one Sri. Panneer Selvam of Villianur for registering the release deed for which a case was registered against the petitioner on the basis of the complaint made by Sri Panneer Selvam. Subsequently, a search was conducted in the residence of the petitioner. During the course of search, various incriminating documents and unaccounted amount of Rs.29,69,100/- were seized. In pursuance of the same, this case was registered against the petitioner and during the trial, after examination of PW1, the petitioner had filed a petition to discharge him from this case before the trial court. The main ground in that petition is that PW1 is not a competent authority and on perusal of the records, B1 and B2 was the placement order issued by the Additional Secretary to the Government, Puducherry to the petitioner. Therefore, the petitioner now claims that as the appointing authority, the Additional Secretary to the Government is the competent authority to issue the sanction of prosecution. But, whereas in this case, the District Registrar has accorded the sanction for prosecution. Therefore, the sanction order accorded by the Deputy Registrar is not valid. The very same ground was raised before the trial court in the discharge

application. The trial court has discussed elaborately in this regard and dismissed the petition stating the reason in para-14 of the order of the trial court which reads as follows:

" 14. The petitioner/accused No.1 is trying to take advantage of a peculiar practice in Puducherry called "sliding" wherein Public servants exercise option for frequent posting on deputation from one Department to another Department. The offence now under consideration is alleged to have been committed by the petitioner while functioning as the Sub-Registrar, Villianur, Puducherry and consequently, the competent authority to grant sanction to prosecute is the District Registrar. In the course of his employment as public servant. The petitioner had been, like many others, posted on deputation to various other Departments and while on deputation administrative orders would be passed by authorities in charge of those department. However, this would not affect the material fact that the major offence u/s.13 (1) (e) of which the petitioner is charged was committed when he was Sub-Registrar at Villianur. Consequently, the challenge to competency of PW1 does not lie."

11. Considering the above prevailing practice adopted in Puducherry and the sanction order accorded by the PW1, there is no illegality or impropriety found in the order passed by the trial court. There is no merit in the revision petition and there is no reason to interfere with the order passed by the trial court. Therefore, this revision petition is liable to be dismissed.

12. In fine, this criminal revision case is dismissed and the order passed by the trial court in CrI.MP.No.816 of 2016 in Spl.C.C.No.1 of 2010 on the file of the Special Judge, Puducherry is hereby confirmed. However, the petitioner is at liberty to take all the defence before the trial court during the trial.

13. Since the alleged commission of offence is of the year of 2008 and the calendar case is in the year of 2010, the trial court is directed to dispose the case, preferably within six months from the date of receipt of a copy of this order.

Both the learned counsel will give their cooperation to the trial court to complete this case in time and it is made clear that the learned Special Judge is uninfluenced by the observation made in this order will dispose of Spl.C.C.No.1/2010 on merits in accordance with law.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

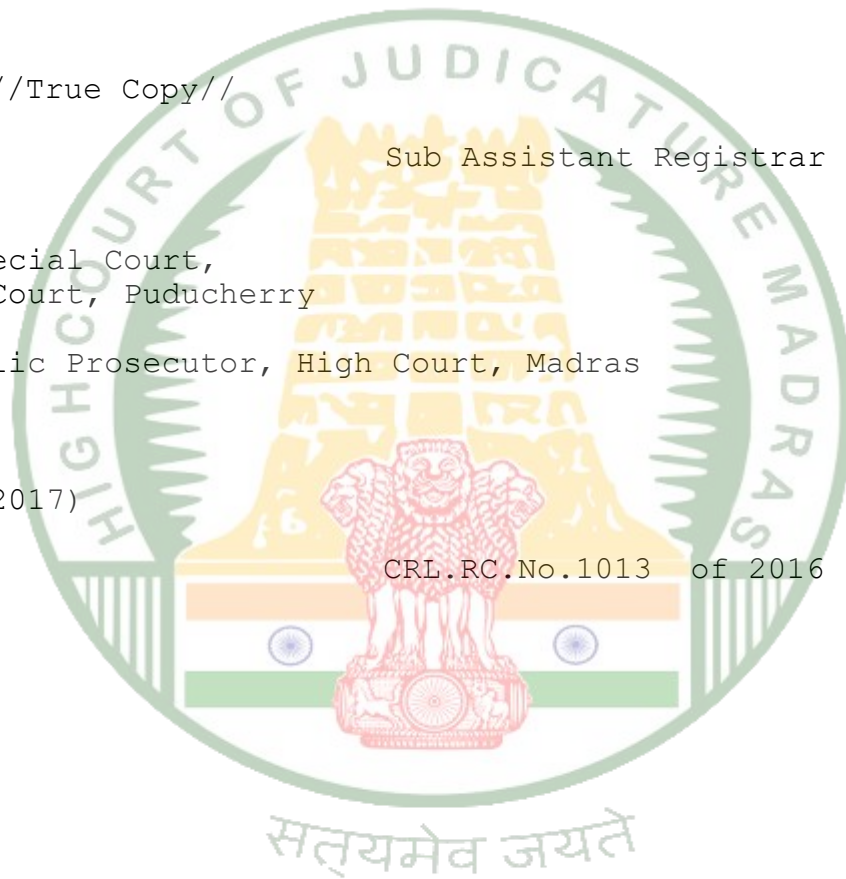
To

1 The Special Court,  
Special Court, Puducherry

2 The Public Prosecutor, High Court, Madras

cnr(CO)  
md(11/01/2017)

CRL.RC.No.1013 of 2016



WEB COPY