

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.Nos.1320, 1321 and 1322 of 2016

G.Raghupathy

...Petitioner in all Crl.RCs.

Vs.

State Rep. by
Deputy Superintendent of Police
Vigilance & Anti Corruption
Chennai City - IV,
Chennai - 35.

...Respondent in all Crl.RCs.

Prayer: These Criminal Revision Cases are filed under Section 397 r/w 401 of Criminal Procedure Code to call for records and set aside the orders dated 23.09.2016, passed in Crl.M.P.No.743 of 2015 in C.C.No.9 of 2014, Crl.M.P.No.897 of 2016 in C.C.No.10 of 2014 and Crl.M.P.No.898 of 2015 in C.C.No.11 of 2014, respectively, on the file of Special Judge, PC Act Cases, Chennai.

For Appellant : Mr.K.Shanker (in all Crl.RCs.)

For Respondents : Mr.R.Ravichandran, GA (in all Crl.RCs.)

COMMON ORDER

These Revision Petitions are filed against the impugned orders dated 23.09.2016, in Crl.M.P.No.743 of 2015 in C.C.No.9 of 2014, Crl.M.P.No.897 of 2016 in C.C.No.10 of 2014 and Crl.M.P.No.898 of 2015 in C.C.No.11 of 2014, respectively, on the file of Special Judge, PC Act Cases, Chennai.

2. The case of the prosecution is that the petitioner while working as a General Manager in Stationary and printing Department, Chennai along with other accused had purchased 66 MTS manifold papers from M/s.Ricko Enterprises, Chennai in violation of tender process and thereby causing monetary loss to the government, for the above act he is facing charges for alleged offences u/s.120-B, 409 IPC and under Sections 13 (1) (c) and 13 (1) (d) of Prevention of Corruption Act, 1988. The Revision Petitioner above mentioned prefers this memorandum of grounds of Criminal Revision against the order of dismissal in his discharge petition filed vide

Cr1.MP.No.743 of 2015 on 23.09.2016 passed by the learned court of the cases under Prevention of Corruption Act at Chennai in C.C.No.9 of 2014.

3. The case of the petitioner is that the documents, official correspondence, files, remarks and noting are categorically establishes that the petitioner and many other officers after due diligence and care purchased the Manifold papers in accordance with the procedures and practice prevailing during the relevant period. The documents clearly establishes there is no tender violation in the purchase of 66MTS of manifold papers and it is also admitted that 66MTS of manifold papers were supplied by the suppliers and were received by stationary and printing department. As per Tender Transparency Act, relevant rules and regulations and government orders, commissioner of stationary and printing department has absolute authority to decide and purchase stationary material based on committee forecast. the quantification and decision of purchasing was not done by an individual act but by collective decision by way of appointing committee. The Tender Transparency Act and Rules protests the petitioner against any action taken in good faith. The forecast for 66MTS of manifold paper was decided scientifically. In order to meet the Election needs and other government departments 66MTS manifolding paper was procured and it was utilised in the year 2009. 10MTS of manifold paper was purchased during 2010. The purchase of new typewriters for Judiciary during 2006-07 will show the need for manifold sheets. The committee recommended 31 stationary items. The committee reduced the quantity of duplicate papers from 532 MTS to 125 MTS and saved Rs.1,49,75,600/- and even quantity of 4 items also reduced. The same shows that the accused has no intention to cause loss to the government. The present complaint is motivated complaint due to enmity to wreck vengeance against the petitioner. Hence the petitioner has to be discharged.

4. After hearing both sides, considering all the materials placed before this Court and perusing the documents filed with the final report under Section 173 of Cr.P.C., the trial court, came to the conclusion that there are sufficient materials to proceed against the petitioner. Aggrieved with the orders of the trial court, these petitioners/accused have filed these revision petitions.

5. The learned counsel for the respondent would submit that the trial court has correctly dismissed the petitions filed by the petitioner u/s.239 of Cr.P.C., and proceeded further for framing of the charges considering all the materials and records carefully. The trial court has found

that there are strong grounds to frame the charges against the petitioners.

6. At the stage of framing of charge, the court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion found on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of commission of that offence. The court has to find out whether there is sufficient grounds for proceedings against the accused as it is not required to appreciate evidence to conclude whether there are adequate materials for convicting the accused. At the time of framing of charge, what the trial court is required to and can consider are only the police report referred to under Section 173 and the documents sent with it. The accused has right to be heard and the court can also examine it where it finds it necessary. While framing charge, the Magistrate is expected to apply his mind to the facts of the case keeping in view of the essential ingredients of the offence for which the accused is sought to be charged. Further settling the bank's dues subsequent to lodging the complaint is not the ground for discharging the accused from the charges. Therefore, the contention of the revision petitioner cannot be accepted for the above said reasons. Viewing from any angle, the revision petitions filed by the petitioners are liable to be dismissed.

In fine, all the revision petitions are dismissed, by confirming the orders dated 23.09.2016 and CrI.MP.No.898 of 2015 in C.C.No.11 of 2014 respectively, on the file of the Special Judge, Prevention of Corruption Act Cases, Chennai.

pvs

Sd/-

Assistant Registrar

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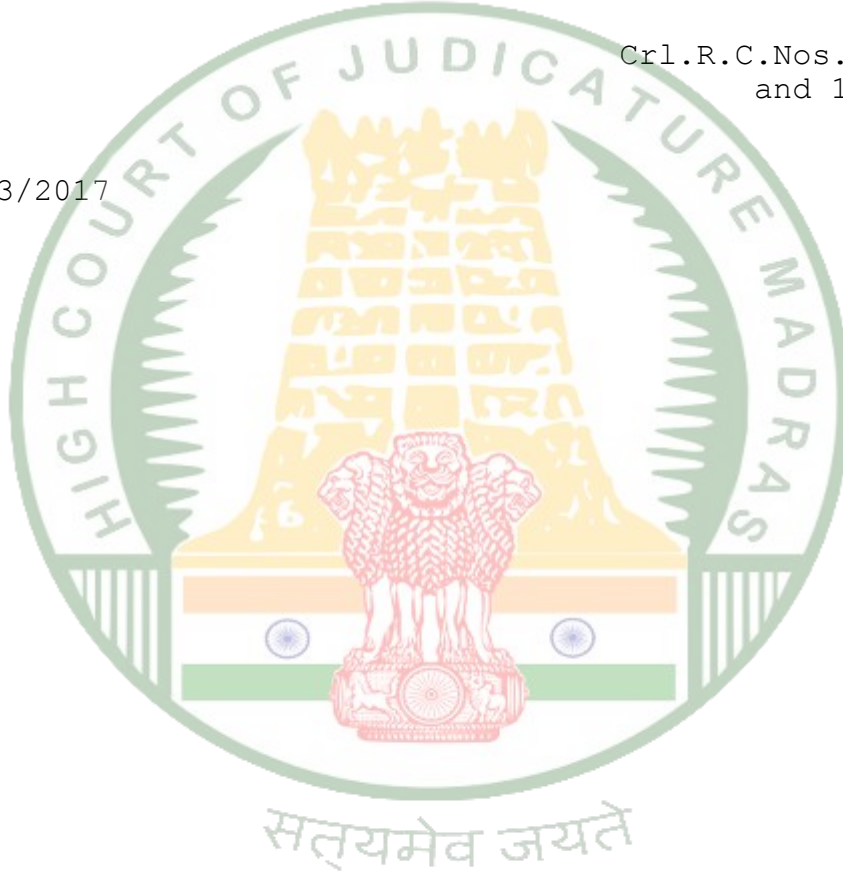
Sub-Assistant Registrar

To

1. The Special Judge, PC Act Cases,
Chennai.
2. The Deputy Superintendent of Police
Vigilance & Anti Corruption
Chennai City - IV, Chennai - 35.
3. The Public Prosecutor,
High Court, Madras.

Crl.R.C.Nos.1320, 1321
and 1322 of 2016

LRS[CO]
MK:14/03/2017



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