

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.28025 of 2015

P.Velayudham

.. Petitioner

Vs.

1.State of Puducherry, represented by
Inspector of Police,
Vigilance and Anti-Corruption Unit,
Puducherry-605 001.

2. J.Thirunavukkarasu @ Dhillip
.. Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) praying to call for the records in Spl.C.C.No.27 of 2015 on the file of the Special Court, Principal District Court, Puducherry and quash the same.

For petitioner : M/s.P.Veeraraghavan
For respondents : Mr.M.R.Thangavel,
Addl.P.P (Pondicherry) for R-1
R-2 - Notice returned
(vacated from the address)

ORDER

This Crl.O.P. is filed to call for the records in Spl.C.C.No.27 of 2015 on the file of the Special Judge, Principal District Judge, Puducherry and quash the same.

2. The case of the prosecution is briefly stated hereunder:
(a) On 19.06.2014 at about 11 hours, in the proposed computer hardware service centre in the name of "Soft Enterprises" in Murungapakkam, Puducherry, the petitioner demanded Rs.1,500/- from the de-facto complainant / second respondent herein and received the same illegally from him as a part of the amount for processing his application for issuance of Municipal Trade License and the petitioner further demanded bribe of Rs.500/- and received the same on 24.06.2014 at about 10 hours in the office of the Mudaliarpur Municipality for doing

an official act in exercise of his official function, thereby, the petitioner is liable to be punished for the offences stated supra.

(b) Even on 23.06.2014, the second respondent-de-facto complainant lodged a complaint with the Superintendent of Police, Vigilance and Anti-Corruption Wing, Muthialpet, Puducherry. Subsequently, on 24.06.2014, a trap was laid. One N.Kanniappan and S.Suresh, who were working as Assistant Engineer, PWD, Puducherry, who were the official witnesses, assisted in laying the trap and after the conduct of the said trap, the petitioner was caught and ultimately arrested.

(c) Charges were framed against the petitioner (who was working as Lower Division Clerk in Mudaliarpur Municipality, Puducherry, a public servant within the meaning of the provisions of the Prevention of Corruption Act) under Sections 7 and 13(1)(d)(ii) read with Section 13(2) of the Prevention of Corruption Act, and charge-sheet/final report came to be filed before the trial Court and the case was taken on file in Spl.C.C.No.27 of 2015 (pertaining to Crime No.2 of 2014 given by the de-facto complainant (second respondent)).

3. In the Crl.O.P, the petitioner has raised various grounds to quash the criminal proceedings pending against him before the trial Court, which were denied by the first respondent by filing counter affidavit.

4. Learned counsel for the petitioner/accused submitted that in the complaint given by the second respondent/complainant, the de-facto complainant has not specifically stated the correct time of demand of the alleged bribe amount by the petitioner, in the absence of the same, the charges framed against the petitioner have no legs to stand, as the time of demand and acceptance are crucial for the investigation. The time specified subsequently is only an after-thought for implicating the petitioner as an accused in the case. He further contended that the further statement from the de-facto complainant was obtained only on 26.06.2014, by way of clarification, which is after registration of the complainant/FIR and the same is against the fundamental principles of criminal jurisprudence, thereby, wrongly quoting the offences under the said law.

5. Learned counsel further contended that the official witnesses in their statements recorded by the Police stated that they have not witnessed the demand and acceptance of the alleged bribe amount. In this regard, the learned counsel invited the attention of this Court to the statements of the trap witnesses (official witnesses) and he made a detailed arguments on that aspect. He further submitted that when the materials available on record show that there is no evidence for demand and

acceptance of the alleged bribe amount, the complaint itself is liable to be quashed. He therefore prayed that criminal proceedings against the petitioner may be quashed by allowing this CrI.O.P.

6. Countering the above submissions, learned Additional Public Prosecutor (Pondicherry) appearing for the first respondent invited the attention of this Court and stated that in the complaint itself, the de-facto complainant (second respondent) has specifically stated the time of demand and acceptance of bribe by the petitioner/accused, that is to say that the petitioner/accused asked the de-facto complainant to give the amount as bribe between 10 and 10.30 hours on 24.06.2014. Learned Additional Public Prosecutor further stated that a reading of the statements of the trap witnesses/official witnesses, shows that they have witnessed the occurrence during the laying of trap. Therefore, the learned Additional Public Prosecutor submitted that it is incorrect to state that there is no material to prove the demand and acceptance of the bribe by the petitioner/accused.

7. Heard both sides. Irrespective of the submissions made on either side, I am of the opinion that the principles for quashing the complaint/criminal proceedings should be based on the entire materials available on record. The scope of Section 482 Cr.P.C. to quash the criminal proceedings filed under the Prevention of Corruption Act, is very limited. If the allegations made in the complaint on its face value, do not constitute any offence, then the criminal proceedings can be quashed. As far as the petitioner is concerned, a complaint has been lodged against him by the second respondent-de-facto complainant, under the above said offences under the Prevention of Corruption Act, as quoted in the earlier paragraphs of this order, in respect of the petitioner's demand and acceptance of bribe. Further, on a perusal of the available materials on record, I find that prima-facie case is made out to prosecute the petitioner/accused in the case. The submissions made by the learned counsel for the petitioner/accused are purely matter for evidence at the time of trial before the Court below and at any cost, the same will not serve as grounds for quashing the criminal proceedings pending against him. Therefore, there is no scope for interference by this Court at this stage.

8. Hence, the CrI.O.P. is dismissed. The trial Court is directed to expedite the trial and complete the same as early as possible. The petitioner/accused is at liberty to raise all his defence as raised in this CrI.O.P., before the trial Court at the time of trial. The petitioner/accused and the second

respondent/de-facto complainant shall co-operate for the early disposal of the case by the trial Court.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

CS

Copy to

1. The Special Judge,
Principal District Judge, Puducherry.

2.-do-The Chief Judge Puducherry

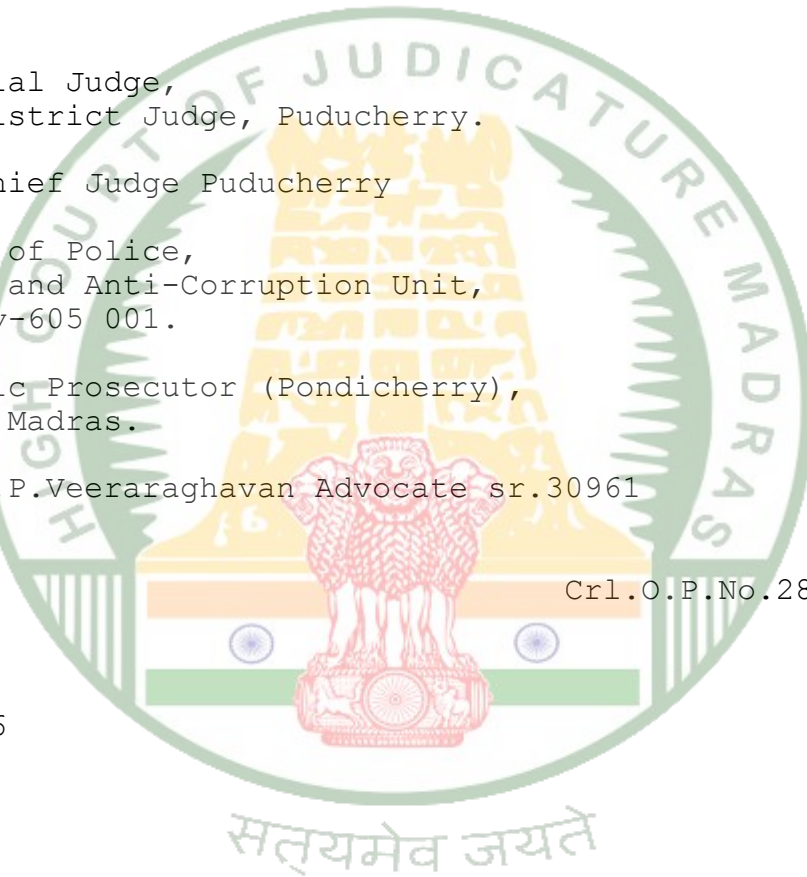
3. Inspector of Police,
Vigilance and Anti-Corruption Unit,
Puducherry-605 001.

4. The Public Prosecutor (Pondicherry),
High Court, Madras.

+1 cc to Mr.P.Veeraraghavan Advocate sr.30961

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