

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV. DATE: 21.12.2015

ORDER DATE : 18-01-2016

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Original Petition No.29988 of 2015

P.K. Panchaksharam
Male aged about 55 years
Son of P.P. Kuppusamy Mudaliar
Formerly Executive Engineer, O&M
TNEB Kanchipuram North, Kanchipuram

Now Residing at
253/7, Pioneer Colony
Anna Nagar West, Chennai - 101

... Petitioner

Vs.

State Represented by
The Deputy Superintendent of Police
Vigilance & Anti Corruption
Chennai City Unit IV
Nandanam, Chennai - 35

... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C., to set aside the order passed by the Special Judge cum Chief Judicial Magistrate, Chengalpet, dated 26-11-2015 made in Crl.M.P.No.697 of 2015 in Spl.C.C.No.14 of 2011 and allow this petition.

For petitioner :: Mr. S. Karthikeyan
For respondent :: Mr. B. Mohan, Spl.P.P.(V& AC)

ORDER

Challenge in this criminal original petition is to the order dated 26-11-2015 passed in Crl.M.P.No.697 of 2015 in Spl.C.C.No.14 of 2011 by the Special Judge cum Chief Judicial Magistrate, Chengalpet.

2. The petitioner herein as petitioner has filed Crl.M.P.No.697 of 2015 in Spl.C.C.No.14 of 2011 under Section 91 of the Code of Criminal Procedure, 1973 and Section 162 of the

Indian Evidence Act wherein the present respondent has been shown as sole respondent.

3. It is averred in the petition that the petitioner has been shown as accused in C.C.No.14 of 2011 and he has been facing a charge under Section 13(2) read with 13(1) of the Prevention of Corruption Act, 1988. Under the said circumstances, the documents mentioned in the petition are very much essential and for the purpose of causing production necessary summons may be issued to the person-concerned.

4. The Court-below after considering the divergent contentions raised on either side has dismissed the petition. Against the dismissal order, the present criminal original petition has been filed at the instance of the petitioner.

5. The learned counsel appearing for the petitioner has contended that the documents mentioned in the petition are very much essential so as to put forth defence of the petitioner/accused. Under the said circumstances, the present petition has been filed. The Court-below without considering the nature of relief sought in the petition has erroneously dismissed the same and therefore, the dismissal order passed by the Court-below is liable to be set aside and the petition filed in Crl.M.P.No.697 of 2015 is liable to be allowed.

6. The learned Additional Public Prosecutor has contended that on 27-07-2007, a final report has been filed and on 28-09-2011, copies of documents have been furnished to the petitioner. On 30-11-2011, the petitioner has filed a discharge petition and the same has been dismissed on 25-05-2015. After lapse of four years, the petitioner has filed the present petition and only due to dilatory tactics of the petitioner, Spl.C.C.No.14 of 2011 is pending for a long time and further, the documents mentioned in the petition are not at all necessary for the purpose of proving the charge framed against the petitioner and the Court-below after considering the evil design of the petitioner has rightly dismissed the petition and therefore, the dismissal order passed by the Court-below does not require any interference.

7. It is seen from the records that against the petitioner charge has been framed under Section 13(2) and 13(1) of the Prevention of Corruption Act, 1988. In fact, this Court has perused the nature of documents mentioned in the petition and ultimately found that the documents mentioned in the petition are not at all necessary either for proving the charge framed against the petitioner or for taking defence.

8. The specific charge framed against the petitioner is that from 04-12-2009 to 19-11-2010, the petitioner has served as Executive Engineer in Tamil Nadu Electricity Board,

Kancheepuram. The petitioner has demanded and received a sum of Rs.10,000/- (Rupees Ten thousand only) as bribe from the defacto complainant Bharanitharan for effecting service connection to his residential house. Since the petitioner has been facing a charge under the said Sections, it is for the prosecution to prove the alleged demand as well as receipt of Rs.10,000/- (Rupees Ten thousand only) as bribe. Therefore, it is quite clear that the documents mentioned in the petition are totally unwarranted for the proceeding in Spl.C.C.No.14 of 2011. Further, it is seen from the records that already the petitioner has filed a discharge petition and the same has been dismissed by the Court-below and after lapse of four years, the present petition has been filed.

9. The Court-below after considering the evil design of the petitioner has rightly dismissed the petition. In view of the discussion made earlier, this Court has not found merit in the petition and therefore, the same is liable to be dismissed.

In fine, this Criminal Original Petition is dismissed and the order passed in Crl.M.P.No.697 of 2015 in Spl.C.C.No.14 of 2011 is confirmed.

glp

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Special Judge cum Chief Judicial Magistrate,
Chengalpet.
2. The Deputy Superintendent of Police
Vigilance & Anti Corruption
Chennai City Unit IV
Nandanam, Chennai - 35
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Govt.Pleader, SR.3186 (6/5/16)

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