

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 21.06.2016****CORAM:****THE HONOURABLE DR.JUSTICE P.DEVADASS****CRL.OP(MD) No.24264 of 2015**

M.Venkatachalam

... Petitioner / Accused

-VS-

1.The State Rep.by

The Inspector of Police,
Vigilance and Anticorruption Wing,
Pudukkottai, Cr.No.5/2015,
Pudukkottai District.

... Respondent / Complainant

2.Navaneethakrishnan

... Respondent / Defacto
Complainant

PRAYER: Criminal Original Petition filed, under Section 482 of Cr.P.C., praying to admit the revision, to admit this quash petition on file, to call for the records in Cr.No.5 of 2015 on the file of the Inspector of Police, Vigilance and Anticorruption Wing, Pudukkottai, Pudukkottai District and to quash the same.

For Petitioner : Mr.K.Prabhu

For Respondent-1: Mr.P.Kandasamy

Government Advocate (crl.side)

O R D E R

The accused in a Vigilance and Anti Corruption Case, seeks quashing of the First Information Report registered by the respondent No.1 in Crime No.5 of 2015.

2. The Revision Petitioner served as a Tahsildar in Alangudi Taluk in Pudukkottai District. The second respondent alleged that the revision petitioner had demanded illegal gratification on 01.07.2015 for the discharge of his public duty viz., to release his seized tractor.

3.The first respondent registered FIR No.5 of 2016 under Section 7 of the Prevention of Corruption Act. Still the investigation is going on. At this juncture, the revision petitioner seeks quashing of the First Information Report on the following grounds:-



i. If really the revision petitioner had demanded illegal gratification, the defacto complainant would have complained about this to his higher officials such as RDO., Collector.

ii. There is one day delay in lodging the FIR. If really the bribe was demanded, why should he wait.

iii. There was no presence of pink colour on any part of the body of the revision petitioner.

iv. It is alleged that the tainted money was found on the table drawer of the revision petitioner. It will not amount to acceptance.

v. Since the revision petitioner had seized his vehicle, the defacto complainant is motivated.

vi. There is no witness to corroborate the allegation in the complaint lodged by the defacto complainant.

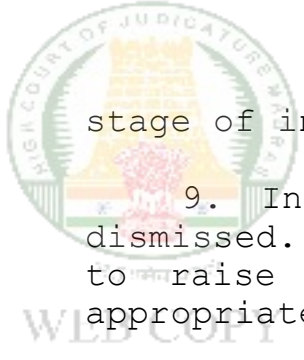
4. The first respondent filed counter.

5. The learned Government Advocate (crl.side) submitted that none of the said grounds are untenable. On these grounds an FIR cannot be quashed. He also quipped how the tainted money could walk into the drawer of the accused unless the accused has demanded. It is another mode of acceptance. Instead of stretching his hand, he has stretched his table drawer. This has also been recorded in the seizure mahazar and in the statement recorded under Section 161 Cr.P.C., The defacto complainant and Velayutham, an official witness has given statement.

6. I have anxiously considered the rival submissions and perused the petition averments and the counter filed by the prosecution and also gone through the materials on record.

7. The principles laid down in **State of Hariyana Vs. Bajanlal (AIR 1992 SC 604)** particularly para 102 squarely applies to this case.

8. In quashing FIR under Section 482 Cr.P.C., this Court cannot do the work of a trial Court. It cannot substitute itself for a trial Court. The delay in lodging the FIR, absence of witnesses to corroborate the defacto complainant and other aspects are matters to be considered by the trial Court, based on the evidence adduced. On those points, this case at the initial



stage of investigation cannot be quashed.

9. In view of the above, this revision fails and it is dismissed. However, it is always open to the revision petitioner to raise all these grounds before the trial Court, at the appropriate stage of the case.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Vigilance and Anticorruption Wing,
Pudukottai, Pudukoittai District.

2.The Government Advocate (crl.side),
Madurai Bench of Madras High Court, Madurai.

+1 cc to M/s.K.Prabhu, Advocate in SR.No.32072/16

mpk

CSL/KBM/01.07.2016 : 2p/4c

CRL.OP(MD) No.24264 of 2015

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