IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.11.2016

PRONOUNCED ON : 05.01.2017

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.OP.No.11171 of 2014

and MP.No.1 of 2014

Thyagarajan ...Petitioner/Accused No.1

Vs.

State by
The Inspector of Police,
Vigilance & Anti Corruption
City Special Unit - III,
Chennai - 600 035.
(Cr.No.3/AC/2011/CC-II of 2011) ...Respondent/Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to CC.No.6 of 2013 pending on the file of the Special Judge for cases under prevention of Corruption Act, Chennai and quash the charges against the Petitioner/Accused-1 under Section 7, 13(2) R/w.13(1)(d) of Prevention of Corruption Act, 1988.

For Petitioner : Mr.K.Srinivasan
For respondent : Mr.P.Govindarajan. APP.

O R D E R

This petition has been filed praying to quash the CC.No.6 of 2013 on the file of the Special Judge for Prevention of Corruption Act, Chennai filed under Section 7, 13(2) R/w.13(1)(d) of Prevention of Corruption Act, 1988.

2.The brief facts of the case is as follows :-

The defacto complainant/A.A.Abubacker who is the owner of the Massa Medicals preferred complaint against the petitioner/A1 stating that he went to the office of the petitioner on 02.06.2011 to obtain assessment order for the years 2008-2009 and 2009-2010, as per the prosecution the defacto complainant met A2 who directed the defacto complainant to meet A1/petitioner and hand over a sum of Rs.15,000/- in order to get the assessment orders. Thereafter, on 09.06.2011, the defacto complainant paid a sum of Rs.15,000/- to the A1, inturn the petitioner counted the currency and handed over the same to A2, A2 also counted the currency and kept the notes in his table locker, at that time the respondent police came into the office of the petitioner and caught red handed the petitioner/A1 and A2 and seized the currency notes from A2 and arrested the petitioner/A1 and A2 at 8.10pm and they were remanded to judicial custody. Subsequently, the Inspector of police, Vigilance and Anti Corruption recorded 161 statement and forwarded the MOs to Forensic Department Lab and the Deputy Superintendent of Police, obtained sanction and filed final report before the Special Court for V&AC on 03.03.2013 against A1 and A2 under Section 7, 13(2) r/w.13(1) (d) of Prevention of Corruption Act, 1988.

3.The main grounds raised by the petitioner is that the respondent police without any evidence implicated the petitioner/A1. The sanctioning authority who accorded sanction against the petitioner has not verified the basic aspects and fundamental principals, mechanically granted sanction against the petitioner. The petitioner has become scapegoat and victim to the circumstances and therefore, the trial against this petitioner is unwarranted in the absence of demand, acceptance and recovery from the petitioner. The trial Court ought not to have framed charge against A1 and further the cognizance taken by the trial Court against A1 is bad in law. While attending the complainant grievance of issuing assessment order, in any manner the petitioner has no role to play either directly or indirectly, even in the preparation of assessment order, A2 is having separate clerk to carryout his work. In the final report filed by the respondent police does not disclose foundational aspects of demand, acceptance and recovery and the materials collected by the respondent police are not sterling quality and the charge against the petitioner is not maintainable. The trap laying officer having inimical term with the petitioner, at that time, the complainant has given prevaricating statement regarding demand and acceptance. After coming out on bail, the petitioner made representation infusing serious and scathing allegation against the trap laying officer, during the course of trapping the petitioner was compelled to handle the money before conducting the phenolphthalein test. From the 161 statement of complainant and officials witness it can be inferred that the petitioner in a divorced circumstances and as per the instructions of A2 being the superior officer, the petitioner received money and entrusted the money and documents to A2, therefore fastening criminal liability against the petitioner is perse illegal. The final report and the documents collected by the respondent/police are crystal clear that the demand of money was made by A2 for issuing assessment order and A2 authorised to issue the same as per law and the same was borne by records, however the trap laying officer not figured A2 in the FIR and the DSP laid the final report without assigning proper rank in the charge sheet, the above factum strengthen the allegation of the petitioner against the respondent/police that right from the geneses of the FIR and culminating into final report the respondent/police acted with malafide intention to implicate the petitioner in the trapping.

4. The learned counsel for the petitioner has also raised additional grounds for quashing the charge sheet that the prosecution has violated Rules 42, 43, 45, 47(2), 49, 51 and 54 of the Manual of Directorate of Vigilance and Anti-corruption. Even if the case goes for trial the prosecution will be vitiated and the petitioner is entitled for discharge.

5. The learned Additional Public Prosecutor filed its counter, the averments made in the counter is as follows : -

> In this case, on 02.06.2011, the defacto complainant for the purpose of getting assessment order and the purpose of paying sales tax arrears went to the office of A1 and A2 at 3.00pm and insisted to A2 to issue the assessment orders for the years 2008-2009 and 2009-2010. A2 demanded Rs.15,000/- from the complainant as bribe and directed the defacto complainant to approach A1 by stating that you have come late. Hence, the defacto complainant approached A1 as directed by A2 and requested him to hand over the assessment orders for 2008-2009 and 2009-2010 and further requested to receive the sale tax arrears due for four months. While he met A1, A1 also demanded an amount of Rs.15,000/- as illegal gratification for himself and also for A2 to close the file, failing which a notice would be issued to take further action. The defacto complainant again met A1 in his office on 06.06.2011 at about 3.00pm and A1 again demanded Rs.15,000/- to do the work. When the complainant expressed his inability to pay the amount and requested A1 two days time to make arrangement for the bribe amount. On 09.06.2011 in pursuance of the above said demand made by A1 and A2 earlier, at about 18.30hrs in the office of accused A1 and A2 earlier, at about 18.30hrs in the office of accused A1 and A2, the defacto complaint along with an official witness by name Tr.Ahilan met A1. The defacto complainant, official witness Tr.Ahilan and A1 went inside the room of A2.

In the presence of A1, A2 reiterated their earlier demand of Rs.15,000/- and demanded the complainant to give the bribe amount of Rs.15,000/- to A1. Then the complainant, official witness Tr.Ahilan and A1 came out of the room and A1 with the knowledge that it was bribe amount of Rs.15,000/- to A1, who obtained the same for himself and for A2 as illegal gratification other legal remuneration, as a motive or reward for the purpose of handing over the assessment order for the year 2008-2009, 2009-2010 and handed over the said bribe amount to A2, who counted the same by using his hands and kept it in his right side table drawer. Thereby both the accused have committed an offence punishable under Section 7 of the Prevention of Corruption Act, 1988. Further at the above said same place, time and date and in the course of the same transaction, the accused, being public servants, by corrupt or illegal means and by abusing their official positions, obtained Rs.15,000/- for themselves as pecuniary advantage from the complainant namely Tr.Abubacker in the circumstances stated above and thereby both the accused committed an offence punishable under Section 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1988.

6. The learned Additional Public Prosecutor submits that there are substantial materials available for the demand and acceptance made by the petitioner. The petitioner was subjected to phenolphthalein test on both his hands and it proved positive. The forensic science analyst report also confirmed the presence of phenolphthalein. The solution used for the test was also submitted before the trial Court through Form-95. The official witness was examined by the investigating officer and stated that the demand and acceptance made by both the accused on 09.06.2011 in the office of the petitioner, the another witness also stated the same before the investigating officer. The respondent/police has collected concrete reliable, trustworthy, unimpeachable evidence against the petitioner and the present petition is not sustainable in law.

7. As per the charge sheet, the prosecution case before the Special Court is as follows :-

The complainant namely Tr.Abubacker is the owner of Medical Store named as Maasa Medicals which is situated at No.82/142, Portuguese Street, Seven Wells, Chennai - 1.

The complainant went to the office of A-1 and A-2 on 02.06.2011 for the purpose of getting Assessment orders and for the purpose of paying Sales Tax arrears. The complainant met A-2 in the office of the

Assistant Commissioner of Commercial Tax, Mannady East Assessment Circle, Wavoo complex, No.191, N.S.C.Bose Road, Chennai - 1 at 3.00 P.M. and insisted A-2 to issue the Assessment Orders for the years 2008-09 and 2009-10. A2 demanded Rs.15000/- from the complainant as bribe and directed the complainant to approach A-1 by stating that you have come late. Accordingly the complainant approached A-1 as directed by A-2 and requested him to hand over the Assessment Orders for 2008-09, 2009-10 and further requested him to hand over the Assessment Orders for 2008-09, 20096-10 and further requested to receive the Sales Tax arrears that was due for 4 months. The accused A-1 noted in the margin demanded an amount of Rs.15,000/- as illegal gratification for himself and for A-2 to close the file and added further that otherwise a notice will be issued to take further action.

The complainant again met A1 in the office of the accused on 06.06.2011 at about 3.00 PM and A.1 again demanded Rs.15,000/- from the complainant to do the work. The complainant expressed his inability to pay the amount and requested A1 to give two days time to arrange for the money demanded for which A1 agreed.

In pursuance of the above said demand made by A-1 and A-2 earlier, on 09.06.2011, at about 18.30 hrs. in the office of the Assistant Commissioner of Commercial Tax, Mannady East Assessment Circle, Wavoo Complex, No.191, N.S.C. Bose Road, Chennai - 1, the complainant accompanied by an official witness namely Tr. Ahilan me A.1. The complainant, witness namely Tr.Ahilan and A-1 went inside the room of A-2. A-2 in the presence of A-1 reiterated their demand of Rs.15,000/- and directed the complainant to give the bribe amount to A-1. Accordingly the complainant, witness Tr.Ahilan and A-1 came out of the room of A-2. As soon as they came out of the room, A-1 demanded again the bribe amount from the complainant. The complainant gave the amount of Rs.15,000/- to A-1 who obtained the said amount as gratification other than legal remuneration, as a motive or reward for the purpose of handing over Assessment Order for the years 2008-09, 2009-10 and handed over the said bribe amount to A-2 who counted the bribe amount by using his both hands and kept in his right side table drawer. Thereby both the accused have committed an offence punishable under section 7of Prevention of Corruption Act 1988.

Further at the above said place, time and date and in the course of the same transaction, the accused being Public Servants by corrupt or illegal means and by abusing their official positions, obtained Rs.15,000/- for themselves as pecuniary advantage from the complainant namely Tr.Abubacker in the circumstances stated above and thereby both the accused committed an offence punishable u/s 13(2)r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

8. According to the petitioner, the petitioner arrayed as A1 in the charge sheet, the petitioner along with A2 is facing trial for the offences punishable under Section 7, 13(2) r/w.13 (1) (d) of Prevention of Corruption Act, 1988. The allegations against the petitioner/A1 and A2 that the defacto complainant went to the office of the petitioner on 02.06.2011 to obtain assessment order for the years 2008-2009 and 2009-2010, the defacto complainant handed over a sum of Rs.15,000/- to the petitioner/A1 who inturn handed over the said amount to A2 and A2 kept the said amount in his table drawer. The respondent has not proved demand, acceptance and recovery of the bribe. This petitioner has no role in passing the assessment order to the defacto complainant, no amount was recovered from the petitioner, the money was recovered only from the A2. Before, during and after the trapping proceedings, the respondent have violated the Rules 42, 43, 45, 47(2), 49, 51 and 54 of the Manual of Directorate of Vigilance and Anti-corruption, prima facie there is no materials available against the petitioner to proceed further and the prosecution will not be in a position to establish their case against the petitioner from the available records. Further, the respondents have violated the mandatory procedure as contemplated under Manual of Directorate of Vigilance and Anti-corruption and it is utter violation of the principles laid down by the Hon'ble Apex Court in various decisions. After the trapping, the trap laying officer has not given any opportunity to the petitioner to offer his explanation, if the explanation is found satisfactory by the investigating officer or the trap laying officer, the alleged accused would be relieved of the agony of facing further proceedings. The failure to give an opportunity to submit his explanation, immediately after the trap will amount to unfair and unjust procedure and is in violation of Article 21 of the Constitution of India. Under such circumstances, framing of charges and conducting trial will amount to culpable to the prosecution, this petitioner need not face trial unnecessarily, even without any material, in this circumstances, the case is liable to be quashed.

9. According to the respondent, based on the complaint received from the defacto complainant, the respondent conducted trapping on 09.06.2011 in the office of the petitioner, the defacto complainant approached A2 for issuing assessment orders

for the year 2008-2009 and 2009-2010 and A2 demanded Rs.15,000/- as bribe and as directed by A2 the defacto complainant handed over the sum of Rs.15,000/- to the A1, in turn A1 handed over the same to A2, the A2 received and kept in his table drawer, A1 obtained the same for himself and A2 as illegal gratification, thereby the petitioner and the A2 committed the offence punishable under Section 7, 13(2) r/w.13(1) (d) of Prevention of Corruption Act, 1988.

10. Heard the rival submissions made on both sides and perused the records.

11. The learned counsel for the petitioner would submit that the allegations made against the petitioner is that the complainant gave a sum of Rs.15,000/- to the petitioner, the petitioner handed over the same to A2, who kept the same in his table drawer, from there it is alleged to have been recovered, admittedly no amount was recovered from the petitioner during the trap proceedings, the trap laying officer has not followed any rules prescribed under the Manual of Directorate of Vigilance and Anti-corruption and also the proposition laid down by the Hon'ble Supreme Court from time and again. The learned counsel also produced the photocopy of the Circular dated 10.12.1976, the accused should invariably be examined soon after the trap proceedings, an opportunity should have been given to the accused to offer his explanation. If there is any need to examine further in the light of fresh evidence that come up during further examination at a later stage, further statement of the accused should be recorded. Therefore, the failure on the part of the investigating authority denying the opportunity of submitting explanation by the accused after completion of trap proceedings envisaged under Sub Rule 2 of Rule 47 of the DVAC Manual is in utter violation of Article 21 of the Constitution of India. In the absence of one such statement, it has to be necessarily observed that the benefit of doubt has arisen and the same should be taken in favour of the accused.

12. Further, the Hon'ble Supreme Court has time and again in bribe cases, the prosecution has to prove the demand, acceptance and recovery of the bribe money. Admittedly, from the evidence of the official witness recorded under section 161 Cr.PC clearly proves that no amount was recovered from this petitioner during trap proceedings. This aspect goes to the root of the trial in the absence of one such recovery from the petitioner, the prosecution cannot prove the case before the trial Court. On this score alone, the prosecution will not succeed in this case, under such circumstances, the petitioner need not undergo trial unnecessarily. Therefore, the charge sheet against the petitioner is liable to be quashed.

13. The learned counsel for the petitioner in support of his

contention submitted the following authorities :-

1. (2013) 3 SCC 594 - State rep by Inspector of Police, Chennai V. N.S.Gnaneswaran
2. Unreported judgment of the Division Bench in WA.No.1238 of 2012 dated 03.01.2013 - http://indiankanoon.org/doc/116093006 - Duraimurugan V. State rep by Deputy Superintendent of Police, Vigilance and Anti Corruption, Vellore.
3. 2001 Crl.LJ 4139 - G.A.Ethiraj V. The State
4. 2004 Crl.LJ 3754 - K.Selvaraj and others V. The State
5. 2012 (3) MWN (cr.) 380 - P.Palraj V. State rep by Inspector of Police, Vigilance and Anti Corruption wing Thoothukudi.
6. 2013 (3) LW (Crl) 157 - State rep by Inspector of Police, Vigilance and Anti Corruption V. M.L.Rajan.
7. Unreported judgment in Crl.OP.No.20882 of 2014 dated 01.04.2015 - G.Mohana Sundaram V. State Inspector of Police, Directorate of Vigilance and Anti Corruption and others
8. Unreported judgment in Crl.A.No.189 of 2005 dated 25.04.2011 - State rep by Inspector of Police, Vigilance and Anti Corruption, Dindigul V. P.Paraman

14. The learned Additional Public Prosecutor would submit that the defacto complainant went to the office of the petitioner for getting assessment order for the year 2008-2009 and 2009-2010 for paying sales tax arrears. A2 demanded Rs.15,000/- from the complainant as bribe and directed the defacto complainant to approach A1. While he met A1, A1 also demanded an amount of Rs.15,000/- as illegal gratification for himself and also for A2, failing which a notice would be issued to take further action. On 09.06.2011 in pursuance of the above said demand made by A1 and A2, the defacto complainant paid the amount to A1, A1 inturn handed over the same to A2, A2 kept the amount in his table drawer, as illegal gratification other than legal remuneration, for the purpose of handing over the assessment order for the year 2008-2009, 2009-2010. Thus, the accused have committed an offence punishable under Section 7 of the Prevention of Corruption Act, 1988. From the available evidences, it is seen that the involvement of both the accused, the respondent collected concrete reliable, trustworthy, unimpeachable evidence against the petitioner and A2. Therefore, this petition is not sustainable under law.

15. The learned Additional Public Prosecutor has brought to the knowledge of this Court that the petitioner/A1 has filed petition under Section 239 Cr.PC before the Special Judge under PC Act cases, Chennai for discharge on 10.06.2013 in Crl.MP.No.511 of 2013, during the pendency of discharge petition, the petitioner filed the present Crl.OP.No.11171 of 2014 to quash the CC.No.6 of 2013. During the pendency of this

criminal original petition, the petitioner withdrawn the discharge petition in Crl.MP.No.511 of 2013 on 09.05.2014. Subsequently, the petitioner filed another petition for discharge before the Special Court on 23.02.2015 in Crl.MP.No.225 of 2015 and the same is still pending, the petitioner is evading the Court proceedings in framing charges stating that this Crl.OP is pending. If there is no alternative or efficacious remedy is available, the petitioner can seek remedy before this Court under Section 482 Cr.PC, but in this case, in order to avoid framing of charges against the petitioner, the petitioner is dragging on the proceedings by filing petition after petition before the Courts, the petitioner has not made out any valid ground for quashing the CC.No.6 of 2013, as per the guidelines enumerated by the Apex Court in its earlier decisions.

16. In support of his contention, the learned Additional Public Prosecutor cited the judgment as follows :-

> Unreported judgment of the Division Bench in WA.No.1238 of 2012 dated 03.01.2013 - Duraimurugan V. State rep by Deputy Superintendent of Police, Vigilance and Anti Corruption, Vellore.

17. On perusal of the records, it is admitted fact that the petitioner/A1 along with A2 are facing trial for the offences under Sections 7, 13(2) r/w.13(1) (d) of Prevention of Corruption Act, 1988. The main allegations contained in the charge sheet is that the defacto complainant who is the owner of the medical shop approached A2 for getting his assessment order, A2 in turn demanded a bribe of Rs.15,000/- for issuing assessment order for the year 2008-2009 and 2009-2010 and directed the complainant to approach A1. On 09.06.2011, the complainant along with the official witnesses went to the office of the accused, A2 in the presence of A1 reiterated the amount demanded and directed to give the same to A1. The complainant gave the amount of Rs.15,000/- to A1, who obtained the said amount as illegal gratification and other than legal remuneration, handed over the said amount to A2, who inturn kept the same in his table drawer, thus the accused 1 and 2 alleged to have committed the offences as stated above. The said amount was recovered by the trapping officers and registered the case and also filed charge sheet against the A1 and A2 before the Special Court under Prevention of Corruption Act, Chennai. The petitioner/A1 has filed a petition under Section 239 Cr.PC for discharge on 10.06.2013 in Crl.MP.No.511 of 2013, during the pendency of discharge petition, the petitioner filed the present Crl.OP.No.11171 of 2014 before this Court, to quash the CC.No.6 of 2013. During the pendency of this criminal original petition, the petitioner withdrawn the discharge petition in Crl.MP.No.511 of 2013 on 09.05.2014. Subsequently, the

petitioner has filed another petition for discharge on 23.02.2015 in Crl.MP.No.225 of 2015 and the same is still pending, now the petitioner is simultaneously proceeding both the petitions.

18. Though, the petitioner admitted the trap proceedings, his contention is that no recovery was directly made from him during the trap proceedings. The alleged amount was recovered only from the table drawer of A2, further this petitioner has no role in passing the assessment order, the settled proposition of law in bribe cases is demand, acceptance and recovery have to be proved by the prosecution. But, in this case there is no evidence to show that the recovery was made from this petitioner, prima facie, there is no valid material against the petitioner. Before, during and after the trap proceedings, the prosecution has not followed the mandatory rules prescribed under the Manual of Directorate of Vigilance and Anti-corruption. Time and again, the Hon'ble Apex Court and this Court on various occasions have held that the trap laying officer has to follow the procedures contemplated under the DVAC Manual rules, the violation of rules will be viewed seriously. But, in this case, the trap laying officers has not followed the procedures as contemplated the rules in the Manual. Immediately after the trap proceedings the trap laying officer has not given any opportunity to submit his explanation, the violation of the proceedings vitiate that no charge will stand against the petitioner, if any charges are framed by the prosecution. In the said circumstances, facing of trial by the petitioner before the Courts is futile exercise, no purpose will be served. The violation of Manual rules and denying opportunity is violation of Article under 21 of the Constitution of India.

19. The contention of the respondent is that from the evidence of official witnesses those who participated in the trap proceedings have clearly stated that as directed and demanded by A2, the complainant gone and approached the petitioner. Subsequently, on the fateful day the complainant approached the petitioner and handed over the amount as demanded by them, A1 after receiving the amount of Rs.15,000/- from the complainant, handed over the same to A2 and A2 kept the same in his table drawer. The trap laying officer recovered the same from the table drawer of A2. Now, the petitioner cannot say that no recovery was made from him, there is specific allegation made against the petitioner in the FIR and the charge sheet and the official witnesses have spoken about the involvement of both the accused in the statement recorded by investigating officer under Section 161 Cr.PC., there are prima facie materials available against the petitioner. The petitioner has also filed discharge application, the same is pending before the trial

Court. If at all the petitioner has valid ground and any violation of Manual rules in the trap proceedings, the petitioner can very well canvas the same before the trial Court in the pending discharge petition. In order to drag on the proceedings and to evade from framing of charges, the petitioner is filing petitions one after the another. When there is specific provisions available for discharge before the trial Court, the petitioner cannot invoke the provision under Section 482 Cr.PC before this Court. Particularly when there are prima facie sufficient materials available against this petitioner to proceed the case, if the petitioner is having good defence, he can prove his innocence before the trial Court.

20. Admittedly, there are specific allegations against the petitioner and prima facie materials are available to proceed the case further. Under Such circumstances, now the point for consideration is whether the non compliance of violation of Manual of Directorate of Vigilance and Anti-corruption Rules would vitiate the proceedings against the petitioner and the same is liable to quashed.

21. In this regard, the learned counsel for the petitioner would finally submit that in very same points earlier two judges of this Court in two different proceedings expressed two different views, therefore prayed to refer this matter to the Division bench for consideration. For which, the learned Additional Public Prosecutor would submit that already a division bench has expressed its view that rules under Manual of Directorate of Vigilance and Anti Corruption are directive and not mandatory and violation of Rules will not vitiate the proceedings. Therefore, there is no need to refer the same before the Division Bench.

22. Considering the submissions made on both sides and on perusal of the records and citations referred on behalf of the counsel for both parties, the contention raised by the learned counsel for the petitioner is not acceptable, the Division Bench has held otherwise and followed the directions of the Apex Court. Reliance was also placed upon the decision of the Hon'ble Supreme Court in Vineet Narain V. Union of India (1996) 1 SCC 226 - "The CBI manual based on statutory provisions of the Cr.PC provides essential guidelines for the CBI's functioning. It is imperative that the CBI adheres scrupulously to the provisions in the Manual in relation to its investigative functions, like raids, seizure and arrests. Any deviation from the established procedure should be viewed seriously and severe disciplinary action taken against the officials concerned". Subsequently, this Court in various occasions expressed its view that Rules under Vigilance Manual are only administrative and on non-observance of the same, there is no mandatory violation,

which would affect the validity of the prosecution.

23. Once it is decided that the compliance of the rules of the DVAC Manual is not mandatory, if at all any officials violating the rules of manual the court should recommend for taking departmental action against the officials concerned, which will not go to the root of the case. As already stated, that this Court finds there are specific allegations made against this petitioner in the FIR, charge sheet and also in the statement given by the official witnesses recorded during the investigation under Section 161 Cr.PC, there are prima facie allegations made out against this petitioner. Merely because the tainted money has not been recovered from the petitioner/A1 directly, it is not a ground for quashing the proceedings. Further, it is settled proposition that latches on the part of prosecution will not vitiate the case.

24. At this stage, this Court cannot interfere with the power of the trial Court by invoking the provisions contemplated under Section 482 Cr.PC, which is not automatic and it has to be invoked sparingly. The powers under Section 482 Cr.PC is directive one to exercise the power to prevent abuse of process of any Court or otherwise to secure the ends of justice, before exercising the power under Section 482 Cr.PC, it is the duty of the Courts to see whether the evidences collected during the investigation satisfy the ingredients of the offences and whether the dispute between the parties constitute a civil wrong or a criminal wrong. In this case, the offences alleged against the petitioner and other accused is that they demanded bribe and got bribe and the bribe money was recovered from the other accused. In the statement recorded under Section 161 Cr.PC, the official witnesses have clearly spoken about the active involvement of the petitioner, when there is enough material to proceed, the accused cannot take advantage of mere non-following of the procedure contemplated under the Vigilance Manual and seeking to quash the proceedings when it is not mandatory. Further, on this score alone, the prosecution case will not vitiate and that will not go into the root of the case. The petitioner has to necessarily face the trial and if necessary he can prove his innocence in the trial.

25. It is already held that there is prima facie sufficient materials available to proceed against the accused, the petitioner has not made out any ground to quash the proceedings. The grounds taken are not valid under law and not sufficient to quash the proceedings. Under such circumstances, this Court is not inclined to invoke the discretionary powers given under Section 482 Cr.PC to quash the proceedings and the petition filed by the petitioner for quashing the proceedings is liable to be dismissed and the same is hereby dismissed.

26. In the result, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is also closed. Considering the pendeny of the case for four years before the Special Court, this Court directs the Special Court to frame the charges immediately, in accordance with law, if already not framed and further directed to take up and dispose of the main case within six months from the date of receipt of copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police, Vigilance and Anti Corruption,
   City Special Unit III, Chennai - 35.

2 The Judge, Spl. Court for cases under
Pretension of Corruption Act, Chennai

3 The Commissioner of Commercial Taxes
Chepauk Chennai 5

4. The Public Prosecutor, High Court, Madras.

VGI(CO)
md(20/01/2017)

Crl.OP.No.11171 of 2014