

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on: 20.11.2017

Orders Pronounced on: 27.11.2017

Coram:

The Hon'ble Dr.Justice G.JAYACHANDRAN

Crl.O.P.No.23793 of 2017

and

Crl.M.P.No.13777 of 2017

K.Manikandan

.....

Petitioner/Accused

Versus

State of Tamil Nadu rep., by
its Inspector of Police
Vigilance and Ani-Corruption,
Cuddalore.

.....

Respondent/Complainant

Criminal Original Petition filed Under Section 482 of Cr.P.C., seeking to quash the First Information Report in F.I.R.No.2 of 2017 dated 25.01.2017 on the file of the Respondent Police.

For Petitioner .. Mr.S.Ilamvaludhi

For Respondent .. Mr.P.Govindarajan, APP (Crl.Side)

O R D E R

This petition is filed under Section 482 of Criminal Procedure Code to quash the First Information Report in Crime No.2 of 2017 dated 25.01.2017 on the file of the Inspector of Police Vigilance and Ani-Corruption, Cuddalore.

2.The case against the petitioner is that he being the Firka Surveyor of U-Mangalam Firka of Viruthachalam, when the defacto complainant met him in his house and gave a representation to measure his land and issue separate patta, he demanded bribe of Rs.2,000/- and received the same at his residence on 14.2.2017 in the presence of accompanying witnesses.

3.The First Information registered by the Inspector of Police, Vigilance and Anti-Corruption, Cuddalore, on 25.01.2017 based on the complaint given by one Nagarajan at 11 am on 23.1.2017, runs as follows:-

"I am B.Sc. graduate residing along with my parents at No.4/81, South Street, Ko-Pavazhangudi Village, Virudhachalam Taluk. My grandfather Kuppusamy had 48 cents of land purchased under Document No.395/1961. After the demise of my grandfather Kuppusamy my grandmother Dhanakkannu, my senior paternal uncle Ramu, my father Arumugam were enjoying the property jointly after alienating 20 cents of land to Ko-Pavazhangudi Agricultural Co-operative Society in the year 1983. For the remaining 28 cents has been subdivided and separate patta has been issued under UDR Scheme. However, the same has not been carried out in the Village Map and FMB Sketch maintained by the Tahsildar office. So to issue separate patta required fees of Rs.40/- was paid on 22.07.2016 and application was made to the Tahsildar office by my father Arumugam on 04.08.2016. Since there was no action taken on the application, again on 21.11.2016, an application seeking separate patta was given to Revenue Divisional Officer, Virudhachalam by my father. The Revenue Divisional Officer has made an endorsement in the said application and asked my father to meet the Tahsildar, Virudhachalam. Accordingly, along with my father I went to Taluk Office and enquired about the person whom we should contact for sub-division of land and for issuance of separate patta. They told that Firka Surveyor Manikandan is the person who has to measure the land and file report. So I met Firka Surveyor Manikandan and sought for necessary action in the application for issuing separate patta. The said Manikandan asked to meet him after 20 days. But when I went to Surveyor's office in the first week of January I could not meet the Firka Surveyor Manikandan. People in the office informed me that Manikandan rarely used to come to office and if I want to meet him I should go to his house at Senthnanadu, Kallamedu. On 22.1.2017 at 7 am I went to Senthnanadu and met Manikandan. He demanded Rs.2,000/- as bribe to measure the land and issue separate patta. Since I did not want to give any bribe for the said purpose action may be taken against the said

Manikandan who has demanded Rs.2,000/- to measure my field and issue separate patta."

4. Based on this complaint the respondent has made preliminary enquiry about the public servant against whom complaint was lodged. The antecedence of Manikandan was enquired by the Inspector of Police and after satisfied that he is very irregular in attending office and the content of the complaint is true, he has arranged one Parthasarathy to accompany Nagarajan to meet Manikandan and record the conversation distinctly. On confirming that there is a demand of illegal gratification by Manikandan the complaint has been taken on file in Crime No.2/2017 and forwarded to the Chief Judicial Magistrate Court on the same day.

5. Thereafter it appears that pre-trap proceedings was arranged on 27.1.2017 and 3.2.2017. But on both days the accused did not turn up to the office. Hence the proceedings was dropped and the same was informed to the court. Thereafter it was on 14.2.2017 the defacto complainant along with accompanying witnesses has gone to the house of accused/Manikandan. When the accused asked the defacto complainant whether he brought Rs.2,000/-, the defacto complainant gave Rs.2,000/- to the accused. He asked the defacto complainant to keep it on the table besides the diary. After receiving the pre arranged signal, the trap laying officer along with his team entered the house of the accused. After taking hand wash sample of the accused person the tainted money had been recovered from the table of the accused.

6. The learned counsel for the petitioner contends that on the face of the complaint it is clear that there was no demand or acceptance of illegal gratification by the accused person, the defacto complainant on the trap had chasing the petitioner since the registration of the complaint with an intention to fix him in the crime had created document as if the petitioner has demanded bribe of Rs.2,000/- to measure the land of the defacto complainant and to issue separate patta on 22.1.2017 and in the said process the petitioner has received Rs.2,000/- from the defacto complainant on 14.2.2017 in his house at Senthnanadu Village. Neither the hands of the petitioner dipped in Sodium Carbonate solution turned pink colour nor the money was recovered from the possession of the petitioner. On the other hand, the tainted money alleged to have been recovered from the table of the petitioner.

7.The learned counsel for the petitioner further contended that when the First Information Report and the seizure mahazar read together indicate that after registration of FIR on 25.1.2017 the prosecution had been haunting the petitioner and after their attempts failed planted the tainted money on the table of the petitioner and has woven story that the petitioner had demanded and accepted bribe of Rs.2,000/- from the de facto complainant.

8.This Court after hearing the counsel for the petitioner, called the Case Diary from the respondent to find out whether there is any prima facie materials available against the petitioner herein to proceed with investigation.

9.Perusal of the Case Diary filed indicates that on 23.1.2017 the de facto complainant Nagarajan had given a complaint to the respondent police alleging demand of illegal gratification by the petitioner to measure his land and issue separate patta. After receiving the complaint the respondent police has made preliminary enquiry and had registered First Information Report on 25.1.2017. The copy of the First Information Report has been forwarded to the Chief Judicial Magistrate on the same day and the endorsement indicates that Chief Judicial Magistrate office has received the FIR copy at 4 pm on 25.1.2017. The next day being the Republic Day and a public holiday the Entrustment Mahazar and Trap Proceedings had been attempted on 27.1.2017. The respondent police has forwarded the Entrustment Mahazar and the failure of trap due to non-availability of the accused at his office. The Mahazar of the failed trap proceedings has also been forwarded to the Chief Judicial Magistrate on 27.1.2017 itself and the same has been reached the court at 8.45 pm. The reason for failure is also stated in the said document. Again on 3.2.2017 the trap laid, but could not succeed for the reasons stated in the Entrustment Mahazar sent to the Chief Judicial Magistrate Court on 3.2.2017.

10.Under these circumstances, since the petitioner had not in the habit of attending the office regularly and used to be in his house or at field, the de facto complainant has gone to meet the petitioner at his house on 14.2.2017. The recovery Mahazar prepared after completion of the trap proceedings indicates that when the de facto complainant met the complainant at his house on 14.2.2017 the petitioner has demanded Rs.2,000/- and enquired him whether he has brought Rs.2,000/-. When the de facto complainant has tendered money the petitioner has asked him to place the money on the table besides the diary kept in the table. Thereafter the accused has promised the de facto

complainant that soon he will come and measure his property and do the needful. The accompanied witness has also witnessed the event. The statements of the witnesses have been recorded.

11. In the counter the respondent has stated that during the investigation they have examined 14 witnesses and collected 20 documents which are incriminating and sufficient to prove guilty of the petitioner. On perusal of the Case Diary file this Court finds that there is prima facie material disclosing the commission of offence namely demand and acceptance of illegal gratification by the petitioner. The allegation made in the First Information Report and the Entrustment and recovery Mahazars prepared on 27.1.2017 and 3.2.2017 which has been promptly forwarded to the Chief Judicial Magistrate and the final trap proceedings dated 14.2.2017 on cumulative assessment disclose prima facie enough material to proceed with the investigation to reach its logical conclusion. Therefore, this Court is of the view that the petition to quash the First Information cannot be entertained and hence this Court is not inclined to interfere with the investigation.

12. In the result, this Criminal Original Petition is dismissed. Consequently, CrI.M.P.No.13777 of 2017 is closed.

Sd/-
Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

gr.
Copy to:

1. The Inspector of Police,
Vigilance and Anti-Corruption, Cuddalore.

2. The Public Prosecutor, High Court, Madras.

+1cc to Mr.S.ILAMVALUDHI Advocate, S.R.No. 84135

PRE DELIVERY ORDER
IN CrI.O.P.No.23793 of 2017

TR(13/12/2017)