

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2017

Coram:

The Hon'ble Dr.Justice G.Jayachandran

Crl.O.P.No.26624 of 2017

and

Crl.M.P.No.15316 of 2017

N.Raghavulu Naidu

.. Petitioner

/versus/

The State
rep.by the Inspector of Police,
Central Bureau of Investigation,
ACB, Chennai.

.. Respondent

Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to this case and quash all proceedings in C.C.No.6282 of 2017 pending on the file of the Court of learned Additional Chief Metropolitan Magistrate at Egmore, Chennai.

For Petitioner :Mr.V.Prakash, Sr.C for
Mr.T.Sivananthan

For Respondent :Mr.K.Srinivasan,
Spl.PP for CBI cases

ORDER

This petition is filed to quash the proceeding in C.C.No.6282 of 2017 on the ground that the trial Court has taken cognizance of the final report without applying the mind and had framed charges for the offence under Section 420 IPC.

2. According to the petitioner, based on the source information, CBI has registered First Information Report against this petitioner and others under Sections 7, 12, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. After completion of the investigation, two final reports have been filed. One for offence under Section 120B IPC r/w 12 of Prevention of Corruption Act, 1988 against this petitioner and others for paying illegal gratification of Rs.40 lakhs to one Manuneethicholan, public servant (now deceased). The other final report for the offence under Section 420 IPC on the allegation that Manuneethicholan (now deceased) paid a sum of Rs.5 lakhs in cash to the petitioner herein for purchase of a second-hand Honda City Car bearing Regn.No.TN 30-AQ-5747 in the petitioner's name as binami of Manuneethicholan (now deceased).

3. Thereafter, the said Manuneethicholan (now deceased), as Registrar of Company (ROC), by flouting the norms of Purchase Committee, had selected the car, he purchased in the name of the petitioner herein for the purpose of renting it for the use of Registrar of Company, thereby, earned the rent of Rs.25,000/- per month as if the car, which was purchased in the name of the petitioner being hired by the Government of India for the use of the Registrar of Company(ROC). According to the petitioner, there is no cheating in the alleged transaction and therefore, the proceedings has to be quashed.

4. A perusal of final reports indicates that the second hand Honda City Car bearing Regn.No.TN 30-AQ-5747 was purchased by the petitioner herein from M/s TVS Sundaram Motors, Chennai. A sum of Rs.5 lakhs was deposited into the account of the petitioner herein at Punjab National Bank, Mahalingapuram Branch, Chennai and a sum of Rs.3 lakhs has been transferred from that account to the account of TVS Iyengar and Sons account towards purchase of second-hand Honda City Seda Car through Cheque No.510226 dated 17.02.2014 issued by the petitioner herein. The investigation reveals that the cash of Rs.5 lakhs was deposited by

Manuneethicholan (now deceased) into the account of the petitioner herein. On 17.2.2014, the petitioner was not in India and he returned to India only on 25.02.2014. Whereas, the cheque in favour of TVS Iyengar and Sons account for Rs.3 lakhs drawn by the petitioner was handed over to the Sales Officer of M/s Sundaram Motors by Manuneethicholan at his ROC office, Sastri Bhawan, Chennai.

5. Further, the balance amount of Rs.3,04,000/- towards the cost of second-hand Honda City Seda Car has been paid through the loan availed in the name of the petitioner from M/s Sundaram Finance. At the instance of the Manuneethicholan (now deceased), T.VijayaKumar, Personal Assistant to Manuneethi Cholan(now deceased) stood as a guarantor for the loan from M/s Sundaram Finance availed in the name of the petitioner herein. The car was delivered at Shastri Bhawan, Chennai. As the Registrar of Company(ROC) Manuneethicholan(now deceased) had influenced Purchase Committee constituted on 07.03.2014 and awarded the order to the petitioner, wherein the said luxury car had been hired for official use of Manuneethicholan (now deceased).

6. A criminal conspiracy between Manuneethicholan (now

deceased) and the petitioner herein had been unravelled by the investigation which shows that in the course of the conspiracy, from the money advanced by Manuneethicholan(now deceased), a luxury car has been purchased and influencing the purchase committee, the car purchased by Manuneethicholan (now deceased) has been recommended for hire to him.

7. The learned Senior Counsel appearing for the petitioner contended that there is no allegation of cheating in the said transaction and there is no *prima facie* material to try the petitioner, after Mauneethicholan has met his maker. However, from the final report, the fact disclosed is that Manuneethicholan, in his capacity of Registrar of Company (ROC), by abusing his official position, had entered into the conspiracy with the petitioner herein, who stood as name lender for Manuneethicholan for purchase of Honda City Seda Car bearing Regn.No.TN 30 AQ 5747 and by violating tender procedure, the car which he purchased through a name lender(the petitioner herein), had been rented for the Registrar of Company (ROC) by himself and Rs.25,000/- has been paid to the name lender as rent for the car. In addition, one Mr.Rajendran has been paid salary as Driver for the said Car, which is

illegal, since any vehicle hired should be driven by the owner of the car or a driver employed by the owner of the car and not by MTC of the Registrar of Company(ROC).

8. Thus, the material relied on by the prosecution *prima facie* indicates that this petitioner, being privy to the criminal conspiracy, had involved in the above said act and the trial Court, after going through the records, has taken cognizance of the offence under Section 420 IPC against this petitioner. This Court, on going through the documents relied on by the prosecution, finds *prima facie* material available for framing charges against the accused and put him for trial. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition No.15316 of 2017 is closed.

सत्यमेव जयते

05.12.2017

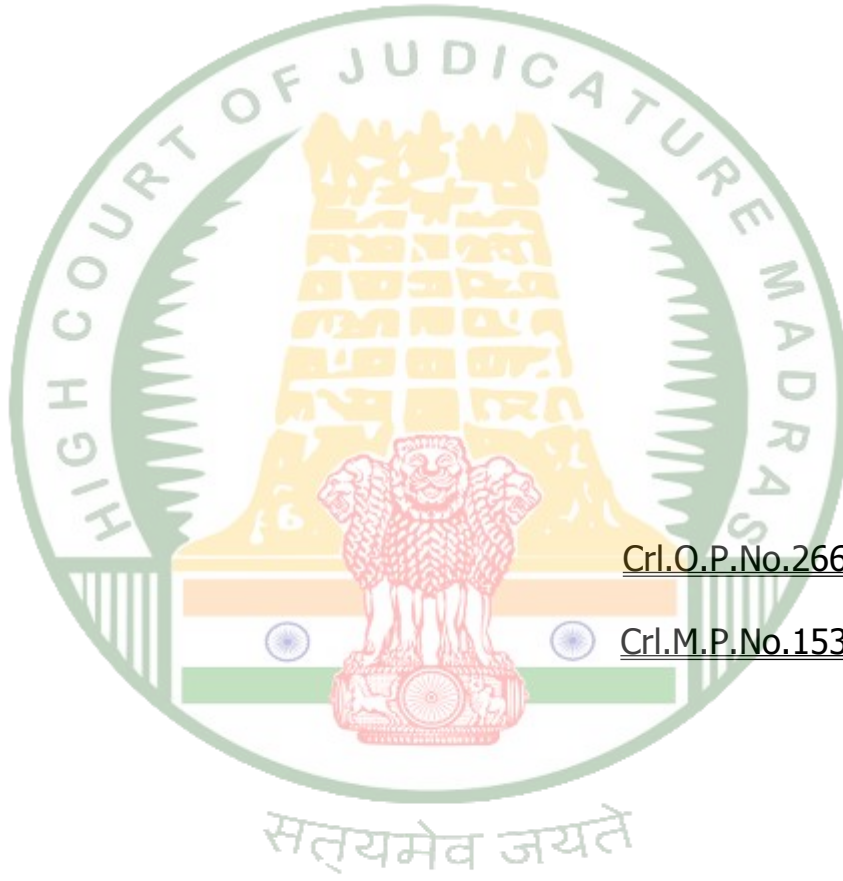
ari
To

- 1.The Additional Chief Metropolitan Magistrate at Egmore, Chennai.
- 2.The Inspector of Police, Central Bureau of Investigation, ACB, Chennai.
- 3.The Special Public Prosecutor for CBI Cases, High Court, Madras.

WEB COPY

Dr.G.Jayachandran,J.

ari



Crl.O.P.No.26624 of 2017
and
Crl.M.P.No.15316 of 2017

WEB COPY

05.12.2017