

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.12.2017

Pronounced on : 18.12.2017

Coram

The Honourable Dr.Justice G.Jayachandran

**Crl.O.P.No.26725 of 2017
and
C.M.P.No.15384 of 2017**

Thota T.Sivakumar

.. Petitioner

/versus/

The State,
represented by
The Inspector of Police,
CBI, ACB, Chennai.

.. Respondent

Criminal Original Petition is filed under Section 482 of the code of Criminal Procedure against the order of the Principal Special Judge for CBI cases/VIII Additional Judge, City Civil Court, Chennai made in Crl.M.P.No.5352 of 2017 in C.C.No.11 of 2014 dated 28.11.2017 and set aside the same and allow the Crl.M.P.No.5352 of 2017 in C.C.No.11 of 2014.

For Appellant :Mr.K.Sridhar

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

ORDER

This petitioner is filed to set aside the order of the Principal Special Judge for CBI cases/VIII Additional Judge, City Civil Court, Chennai made in Crl.M.P.No.5352 of 2017 in C.C.No.11 of 2014 dated 28.11.2017.

2. Brief facts leading to the petition:-

Based on the written complaint dated 07.03.2014 lodged by Mr.L.G.Ravi, First Information Report was registered vide Crime No.RCMA12014A0008. During the course of investigation, a trap was laid observing the legal formalities and the petitioner/accused was caught, while demanding and accepting bribe of Rs.15,000/- from the complainant in the presence of the independent witnesses.

3. On completion of investigation, the final report has been filed under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. The respondent has examined 11 witnesses and the learned counsel also cross examined them.

4. At this juncture, the petitioner has filed Crl.M.P.No.5352 of 2017 to issue summons to Shri S.Vellipandi, SP, CBI/ACB, Shastri Bhavan, Chennai to appear before the trial Court along with the records relating to

preliminary enquiry conducted by the trap laying officer Mr.S.Saravanan and to give evidence. The trial Court, after considering the petition and counter has dismissed the said petition. Aggrieved by the said dismissal order, the present petition is filed.

5. According to the petitioner, there are vital discrepancies in the evidence of the defacto complainant, who was examined as PW-2 and the defacto complainant has deposed that he met a lady Superintendent of Police by name Smt.Roopa at the office of the CBI on 07.03.2014. The Superintendent of Police has directed the trap laying officer to investigate. The evidence of the trap laying officer Shri.K.Saravanan, who was examined as PW-10 and the investigating officer Shri.Murugan, who was examined as PW-11, had deposed that the defacto complainant [L.G.Ravi] met Shri S.Vellaipandi, the Superintendent of Police, who in turn directed the trap laying officer to investigate. He further submits that a false case has been foisted on him and he is being made a scape goat. He also submits that the above discrepancies goes to the very root of the case, as there is dispute to whom the defacto complainant met when he went to lodge the alleged complaint.

6. The crux of the relief in this petition is to fix the identity of the Superintendent of Police, whom the defacto complainant [L.G.Ravi] met on 07.03.2014, when he went to CBI office to give his complaint. The prosecution case as per the evidence of the trap laying officer and the investigating officer, is that it was Shri.S.Vellipandi, Superintendent of Police, whom the defacto complainant met and he in turn directed Shri S.Saravanan, to lay the trap. Whereas the defacto complainant [L.G.Ravi], in his deposition has deposed that he met a lady officer and she directed him to meet the trap laying officer Mr.S.Saravanan, after going through his complaint.

7. The learned counsel appearing for the petitioner pointing out the rubber stamp seal of Roopa. M. IPS, Superintendent of Police, CBI/ACB, Shastri Bhavan, 3rd Floor, No.26, Haddows Road, Chennai 600 006, found in the final report dated 26.05.2014, contended that there was a female Superintendent of Police at CBI, Chennai, during the relevant point of time. Therefore, the trial Court ought not to have dismissed the petition that Roopa. M. IPS, is an invented name by the petitioner.

8. No doubt, the reasoning of the trial Court is factually wrong. But, when the documents of the prosecution reveals that the complaint

was taken up for investigation as per direction of Shri.S.Vellaipandi, now in his evidence, the defacto complainant [L.G.Ravi] has deposed that first he met the lady Superintendent of Police and thereafter, met the trap laying officer. How this will go to the root of the matter is difficult to comprehend, when the said contradiction is in respect of facts prior to registration of the complaint. Whereas the root of the case is to find whether bribe was demanded and accepted by the accused.

9. Further, the relief sought for in the petition is to summon Shri.S.Vellaipandi, Superintendent of Police and direct him to produce the preliminary enquiry report. It could be seen that the relief sought and the reason given are totally dis-joint. Therefore, this petition does not deserve any merit for consideration. Hence, this criminal original petition is liable to be dismissed.

10. Accordingly, this criminal original petition is dismissed. Consequently, connected Miscellaneous Petition is also closed.

18.12.2017

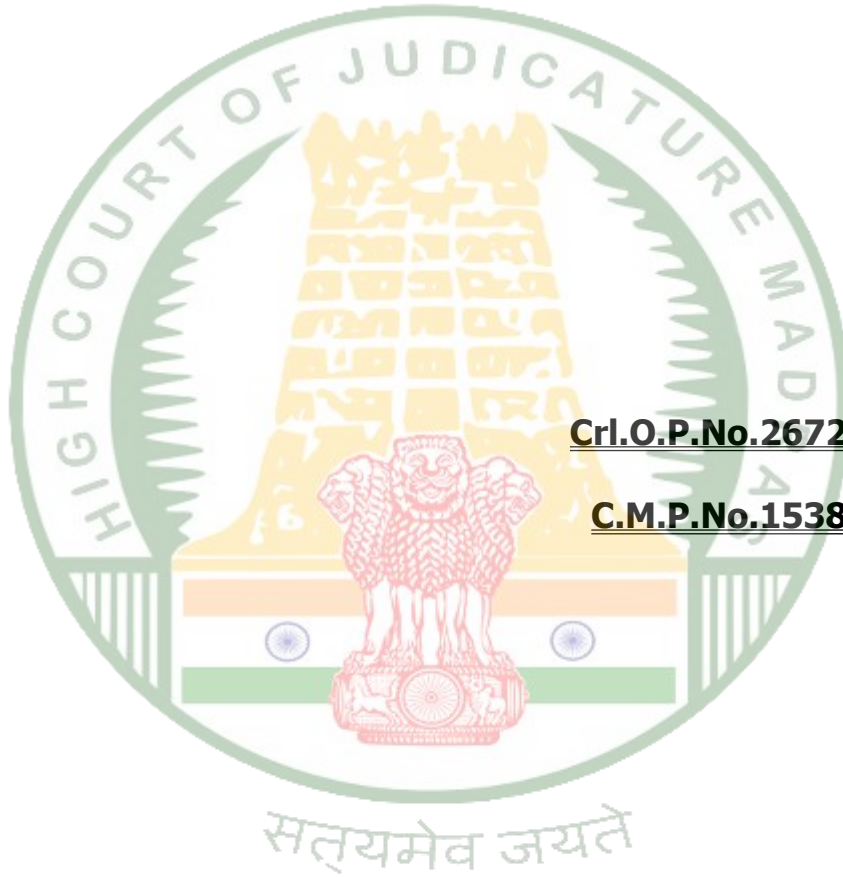
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Dr.G.Jayachandran,J.

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To

- 1.The Inspector of Police, CBI, ACB, Chennai.
- 2.The Special Public Prosecutor for CBI Cases, High Court, Madras.



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