

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.12.2017

Pronounced on : 18.12.2017

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The Honourable Dr.Justice G.Jayachandran

Crl.O.P.No.26727 of 2017

Thota T.Sivakumar

.. Petitioner

/versus/

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

.. Respondent

Criminal Original Petition is filed under Section 482 of the code of Criminal Procedure praying to set aside the order dated 28.11.2017 made in Crl.M.P.No.5354 of 2017 in C.C.No.11 of 2014 on the file of the Principal Special Judge for CBI Cases/VIII Additional Judge, City Civil Court, Chennai and allow Crl.M.P.No.5354 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 petition is filed to set aside the order dated 28.11.2017 made in CrI.M.P.No.5354 of 2017 in C.C.No.11 of 2014 on the file of the Principal Special Judge for CBI Cases/VIII Additional Judge, City Civil Court, Chennai.

2. 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, final report has been filed under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 against the petitioner/accused. The respondent has examined 11 witnesses and his counsel has also cross examined them.

4. At this juncture, the petitioner has filed CrI.M.P.No.5354 of 2017 to issue subpoena to the BSNL mobile to produce the call log for the

mobile number 9444464108 of the defacto complainant L.G.Ravi for the period from 01.03.2014 to 15.03.2014. 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 L.G.Ravi regarding the alleged incident, which occurred on 07.03.2014. The calls made by the defacto complainant from his mobile phone bearing No.9444464108 for the period from 1st March 2014 to 15th March 2014 would establish that the case of the defacto complainant and the prosecution is false.

6. Though the petitioner filed a petition seeking the call log details of the defacto complainant mobile No.9444464108 between 01.03.2014 and 15.03.2014, he does not disclose how the call details is relevant to the case and what the call details will reveal to enhance his defence. When the prosecution case does not have any reference about the mobile conversation, the call details of the defacto complainant is irrelevant. It is an attempt to make roving enquiry. The petition filed, at the fag end of the trial to call for CDR of the year 2014, in the year 2017 without specific particular clearly indicates that the petition is filed with an

ulterior motive. Hence, this petition is liable to be dismissed. Accordingly, this criminal original Petition is dismissed.

18.12.2017

Index:yes/no

Internet:yes/no

Speaking order/non speaking order
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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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Dr.G.Jayachandran,J.

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18.12.2017