

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 20.11.2017	Date of Pronouncing Judgment 12.12.2017
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CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRANCrl O.P.No: 26890 of 2016

G.Ragupathy

...Petitioner

Versus

1. State represented by
The Deputy Superintendent of Police
Vigilance & Anti-Corruption
Chennai City-IV
Chennai-600 035.

2. A Sukumar
Deputy Works Manager (Retd)
Stationary and Printing Department
(Government of Tamil nadu)

... Respondents

PRAYER: Criminal Original Petitions is filed under Section 482 of Criminal Procedure Code, to call for the entire records, quash charge sheet in C.C.No. 10 of 2014, learned Special Judge for Prevention of Corruption Act.

For Petitioner

: Mr. K. Shanker

For Respondent

: Mr. P.Govindarajan
Additional Public Prosecutor
(Criminal Side)

ORDER

The petitioner herein earlier filed petition before the trial Court to discharge him from C.C.No.10 of 2017 on the file of Special Judge for cases under Prevention of Corruption Act, but was unsuccessful. Therefore he has preferred the present Original Petition under Section 482 of Cr.P.C to call for the records and quash the final report.

2. The Contention of the petitioner herein is that while he was holding the office of work Manager in the Stationary and Printing Department purchased 5 MT of S.S. Maplitho paper from M/s. Asia Traders Chennai, which was in dire need to met out the demand of Government Department. However, based on the complaint given by an estranged employee action was initiated, the police has taken up the investigation and has filed final report without considering the factual and legal scenario.

3. According to the petitioner, the purchase of 5 MT S.S.Maplitho paper made by him from M/s. Asia Traders, Chennai does not require any tender process since the purchase value was below 5 lakhs rupees and same was purchased as per the instruction of the Director. Further what was purchased is not for an higher price but for the very same price of earlier procurement. The said paper was purchased to print

important material for A.G's Office which was to be completed before 04.09.2006. Therefore urgency emerged to purchase 5 MT of S.S Maplitho Papers from M/s. Asia Traders. Since the action taken by the petitioner was in good faith and there was no culpability, he cannot be prosecuted. The Trial Court without considering the facts properly had accepted the final report and taken cognizance. Hence it has to be quashed.

4. The learned Additional Public Prosecutor per contra submitted that, as the General Manager in Stationery and Printing Department, the petitioner sent a letter of intent to the Directorate, requesting for 5 MT of S.S. Maplitho Paper on 01.09.2006, but even before getting any instructions from the Directorate and without following open tender process under two cover system as mandated under the law, the petitioner went ahead and purchased 5 MT of S.S. Maplitho Paper from M/s. Asian Traders, Chennai on the very next day (i.e.) on 02.09.2006. After accepting the supply, he dishonestly concealing the facts initiated tender process as if the printing department requires 5 MT of S.S. Maplitho Paper for its future consumption. When four parties participated in the tender pursuant to the fake tender process initiated by the petitioner, the tender of M/s. Asia Traders Chennai was confirmed by the petitioner since the supply was already made by them and kept in suspense account. Later when the bill was not passed, M/s.

Asia trader come out with the true facts through letter dated 06.06.2008 wherein he has also confessed about the manipulation in the labelling to reduce excise duty and to avoid octroi levy duty. Thus material collected during the investigation reveals, the petitioner herein who had domain over the Government money in his capacity as public servant dishonestly used the same and committed criminal misconduct punishable under Section 13(2) r/w 13(1)(d) and also for criminal breach of trust punishable under Section 409 of I.P.C

5. The materials placed by the prosecution, more particularly the communication of M/s. Asia Traders and the statement of Sugumaran LW.1 and the tender process initiated by the petitioner after procuring and utilisation of 5 MT of S.S Maplitho papers clearly goes to show that the act of the petitioner herein is liable to be prosecuted. Since sufficient material disclose the breach of trust and misconduct, this court is not inclined to entertain the petition to quash. Accordingly, this petition is dismissed as devoid of merits.

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12.12.2017

speaking/non speaking

Index:Yes/No

Internet:Yes/No

bsm

DR.G.JAYACHANDRAN.J,

bsm

To

The Deputy Superintendent of Police
Vigilance & Anti-Corruption
Chennai City-IV
Chennai-600 035.



Pre-delivery Judgment in
Crl O.P.No: 26890 of 2016

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