



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2017

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P(MD)No.9429 of 2015

and

MP(MD)No.1 of 2015

State rep.by

1.The Director,
Vigilance and Anti Corruption,
Raja Annalاماipuram,
Chennai - 28.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Nagercoil.

.. Petitioners

Vs.

N.J.Selvakumar

.. Respondent/Accused

Criminal Original Petition is filed under section 482 of Cr.P.C praying to set aside the unnumbered order of the Chief Judicial Magistrate Cum Special Judge, Nagercoil dated 14/05/2015 directing to issue summons to the director, DVAC (Defence Witness No.3 in the impugned Order); Inspector of Police (Defence Witness No.1 in the impugned order) and the consequential issue of summons to the Director DVAC as Witness No.1) and to the Inspector of Police as Witness No.3 (Contrary to the serial order mentioned in the impugned order) commanding their presence before the trial court on 03/06/2015.

For Petitioners : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

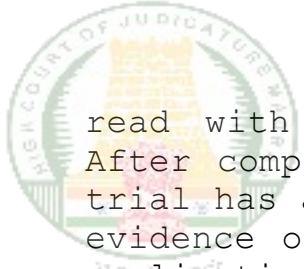
For Respondent : Mr.F.Deepak

ORDER

This Criminal Original Petition has been filed challenging the order allowing the application filed by the respondent/accused, to call for the Director of Vigilance and Anti Corruption to give evidence in the criminal case.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The second petitioner herein has registered a case against the respondent in Crime No.4 of 2003 under Sections 13(2)



read with 13(1)(e) of the Prevention of Corruption Act, 1988. After completion of investigation final report has been filed and trial has also commenced. During the course of trial and after the evidence of prosecution witnesses closed, the respondent filed an application seeking for issuance of witness summons to three persons viz., (1) Hector Dharmaraj, Inspector of Police, V & A.C. (2) Director, Medical and Rural Health Services, Thenampettai, Chennai and (3) Director, Vigilance and Anti Corruption, Chennai and also sought for some documents to be produced from the said witnesses.

3.The Court below has partly allowed the application and thereby issued witness summons to the Inspector of Police viz., G.Hector Dharma Raj and to the Director, Vigilance and Anti Corruption, Chennai and dismissed the application in respect of the Director, Medical and Rural Health Services, Chennai. Challenging the same, the respondents therein have filed the present Petition.

4.Heard Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the petitioners and Mr.F.Deepak, learned counsel for the respondent.

5.The learned Additional Public Prosecutor for the petitioners submitted that the Court below has rejected the request of the petitioner/respondent herein to produce documents from the Inspector of Police viz., G.Hector Dharma Raj and also the Director, Vigilance and Anti Corruption, Chennai. However, without assigning any reason, issued summons to the Director, Vigilance and Anti Corruption, Chennai, to make their appearance before the Court which is not going to serve any purpose and therefore, the order passed by the Court below is liable to be set aside.

6.Per contra, the learned counsel for the respondent submitted that PW35, Investigating Officer has stated in his evidence that he filed a detailed report before the first petitioner with regard to the present case at every stage as per the vigilance manual. Under the said circumstances, it is just and necessary to examine him. Apart from that, another Investigating Officer viz., PW36 has also stated in his evidence that the Director of Vigilance and Anti Corruption has given suitable instructions with regard to investigation of the case and hence, he should also be examined.

7.I have considered the rival submissions made on either side and perused the documents available on record.

8.First of all, the petition filed by the respondent herein do not contain any reason to call for the Director of Vigilance and Anti Corruption as a witness. Even assuming that PWs.35 and 36 have stated in their evidence that they got instructions from the Director of Vigilance and Anti Corruption for conducting investigation, it cannot be a reason to examine the witnesses, since already concerned Investigating Officers were examined in



detail by the defence. It is not known as to why the respondent wants to examine the Director, Vigilance and Anti Corruption/first petitioner herein without any specific reason. The Court below mechanically allowed the petition filed by the respondent and issued summons to the Director of Vigilance and Anti Corruption, however, rejected the plea of the respondent to produce some documents by the witnesses.

9. Considering the above stated circumstances, the impugned order passed by the Court below is liable to be set aside only in respect of issuance of summons to the Director of Vigilance and Anti Corruption, Chennai.

10. In fine, this Criminal Original petition is allowed in part and the order dated 14.05.2015 is set aside only in respect of issuance of summons to the Director of Vigilance and Anti Corruption, Chennai. Since the matter is pending from the year 2007, and examination of prosecution witnesses is already over, the Court below is directed to complete the trial and dispose of Special Case No.3 of 2007 within a period of two months from the date of receipt of a copy of this order. Consequently, MP(MD)No.1 of 2015 is closed.

Sd /-

ASSISTANT REGISTRAR(AE)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Chief Judicial Magistrate Cum Special Judge, Nagercoil.

2. The Director,
Vigilance and Anti Corruption,
Raja Annalaimapuram,
Chennai - 28.

3. The Inspector of Police,
Vigilance and Anti Corruption,
Nagercoil.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC TO MR.F.DEEPAK, ADVOCATE, SR NO.63615

mj

MAS/MR-KKR/SAR2:14.07.2017:3P-6C

Cr1.O.P(MD)No.9429 of 2015
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