



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2017

CORAM :

**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

**WEB COPY** Criminal Original Petition (MD) No.7632 of 2017

G.Thiruvanantham

... Petitioner

Vs.

1.The State rep by its  
Deputy Superintendent of Police,  
Vigilance and Anti Corruption,  
Dindigul District.

2.The State rep by its  
Inspector of Police,  
Vigilance and Anti Corruption,  
Dindigul District.

3.M.Anbuselvan

... Respondents

Petition filed under Section 482 Cr.P.C, to call for the records relating to the proceedings in Crime No.2 of 2017 dated 28.03.2017 on the file of the second respondent police and quash the same.

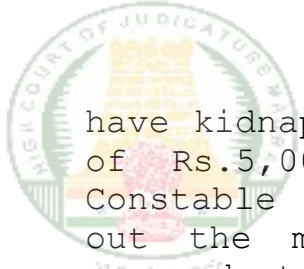
For Petitioner : Mr.T.Antony Arul Raj

For Respondents 1&2 : Mr.C.Mayilvahana Rajendran,  
Additional Public Prosecutor.

For 3<sup>rd</sup> Respondent : Mr.T.C.S.Raja Chockalingam

### ORDER

The petitioner is the first accused in Crime No.2 of 2017 for the offence punishable under Sections 7, 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988. Earlier, the defacto complainant has given a complaint against the petitioner and others alleging that he has engaged in manufacturing small cement hallow block brick wherein some employees belonging to the State of Uttar Pradesh are working. While so, a complaint has been filed by some third party alleging missing of his daughter. During the investigation of the above crime, the petitioner herein who was working as Inspector of Police in Kannivadi Police Station enquired the petitioner and other employees working in the brick unit. By then, the third respondent appeared before the petitioner as and when required for more than 1½ months. Thereafter, the petitioner demanded a sum of Rs.2 lakhs for expenses to trace out the missing girl in the State of Uttar Pradesh suspecting that the employees who are working in the third respondent brick unit might



have kidnapped the girl. The third respondent has also given a sum of Rs.5,000/- to one P.Kamaladoss who was working as Head Constable in the Kannivadi Police Station for expenses to trace out the missing girl. In the above circumstances, the third respondent filed a complaint against the petitioner for his alleged demand of Rs.2 lakhs and the receipt of Rs.5,000/- by P.Kamaladoss, under the provisions of Prevention of Corruption Act, 1988. When the above complaint was not registered, the third respondent has approached this Court by filing CrI.O.P(MD)No.2282 of 2016 seeking direction to register FIR based on the complaint given by the petitioner dated 19.01.2016, and this Court by an order dated 16.03.2017 passed the following order:-

*"9.A bare reading of the above order would go to show that neither the petitioner and his family members nor his employees involved in Cr.No.109 of 2014 with regard to missing girl. The first respondent filed counter affidavit to the effect that already a Government Order in G.O.(2D) No.442, dated 26.09.2016 directing the Director General of Police, Tamil Nadu Chennai, to take departmental disciplinary action against the delinquent police officials. On the other hand the petitioner alleged that under the guise of enquiry with regard to the Crime No.109 of 2014, the petitioner and his family suffered a lot and the petitioner further alleged that a false case has also been foisted against him. The petitioner filed number of documents including phone call list to support his case. Therefore, it is not fair on the part of the police officials, to simply close the complaint of the petitioner without registering a case. For the argument sake, if the allegation of the petitioner is found to be true after enquiry, the initiation of disciplinary action against the delinquent officials alone would not meet the ends of justice.*

*10.In view of the foregoing discussion and reason, the respondent police are directed to register a case on the basis of the complaint given by the petitioner, dated 19.01.2016 and investigate the same on merits and in accordance with law and thereafter, file final report as expeditiously as possible. The criminal original petition is ordered accordingly. It is needless to state that the disciplinary action initiated against the delinquent officers would be decided without influenced by the order of this Court in this petition."*

2.Pursuant to the above said order passed by this Court, the respondent police has registered a case in Crime No.2 of 2017 for offence punishable under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. Challenging the same, the present petition has been filed.

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

3.Learned counsel for the petitioner would submit that based on the complaint given by the petitioner, the Department of



Vigilance and Anti Corruption conducted preliminary enquiry and filed a report stating that the allegation regarding demand of bribe was not substantiated. Apart from that the third respondent's wife has filed similar complaint against the petitioner, the Deputy Superintendent Police, Ottanchathiram and after investigating the complaint, closed the same. Thereafter, the third respondent's wife approached this Court by filing Crl.O.P.(MD)No.677 of 2016 seeking to register the complaint. The said petition has been closed stating that the complaint made by the third respondent's wife has already been closed, after conducting enquiry. In the above circumstances, when the similar complaint given by the third respondent, after conducting enquiry by the Department of Vigilance and Anti Corruption, has been closed and the complaint made by the third respondent's wife was also closed as mistake of fact, the second complaint is not maintainable on the very same set of facts and it is in total abuse of process of law.

4.I have heard Mr.T.Antony Arul Raj, learned counsel for the petitioner, Mr.T.C.S.Raja Chockalingam, learned counsel for the third respondent and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondents 1 and 2.

5.Learned Additional Public Prosecutor would contend that based on the direction issued by this Court a crime has been registered and investigation is going on and the same is yet to be completed and there is a case made out to register a complaint against the petitioner and hence, there is no ground to quash the FIR.

6.So far as the first ground raised by the petitioner that based on the complaint given by the third respondent, a preliminary enquiry has been conducted by the Department of Vigilance and Corruption and it has been closed, merely because the Department of Vigilance and Anti Corruption closed the complaint on a preliminary enquiry, it cannot be a ground to quash the criminal complaint. So far as the second contention of the petitioner that the earlier complaint given by the wife of the third respondent has been closed as mistake of fact and the second complaint is not maintainable, it is a case where a complaint has been filed against the police officials, admittedly, the investigation was done by the Deputy Superintendent of Police, working in the same circle. The earlier complaint filed by the third respondent's wife was closed as mistake of fact by the superior officer working in the same police circle that cannot be a ground to entertain to quash the present complaint. As rightly contended by the learned Additional Public Prosecutor that the case has been registered based on the direction issued by this Court in Crl.O.P.(MD)No.2282 of 2016 wherein this Court has considered the entire materials available on record and after

<https://hccourtservices.madras.gov.in/CaseDetails.aspx?CaseNo=2282>

that there is a prima facie case made out against the petitioner, a positive direction has been issued to register the complaint against him. The above order was not challenged by



the petitioner, now it is not open to him to seek to quash the complaint registered against him.

7. For all the foregoing reasons, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,  
Vigilance and Anti Corruption,  
Dindigul District.

2. The Inspector of Police,  
Vigilance and Anti Corruption,  
Dindigul District.

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

+2cc to Mr.T.C.S.Raja Chokkalingam, Advocate, SR.65205

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SMS

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