BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.08.2017

CORAM
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN
Crl.R.C(MD).No.198 of 2016

Jothindra Geeth Prakash ... Petitioner/Accused No.1

-Vs-

State rep. by
The Inspector of Police,
Vigilance & Anti-Corruption,
Nagercoil,
Kanyakumari District Detachment,
(In Cr.No.3 of 2014) ... Respondent/complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.614 of 2015, dated 01.03.2016 pending in Special Case No.4 of 2014 on the file of the Special Judge Cum Chief Judicial Magistrate, Nagercoil in Cr.No.3 of 2014 on the file of the respondent herein.

For Petitioner : Mr.K.Palmurugan for Mr.N.Mohideen Basha

For Respondents : Mr.C.Mayilvahana Rajendran Addl. Public Prosecutor

O R D E R

Challenging the order dismissing the petitioner's application to discharge him from the charges, the present criminal revision case has been filed.

2.The case of the petitioner in brief is as follows:

The petitioner is A-1 in Special Case No.4 of 2014, on the file of the learned Special Judge Cum Chief Judicial Magistrate, Nagercoil. He stood charged for an offence under Sections 120(B), 465, 466, 468, 471, 420 I.P.C and Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988. The allegation against the petitioner was that the petitioner was a group B Officer in the District Adi Dravidar Welfare Office in Kanyakumari District and for the purpose of purchasing wooden furniture for the Adi Dravidar students at various schools, he has called for tenders. A-2, who was working as the Vice President of one Kovilpatti Carpentry and Blacksmithy Workers Co-operative Cottage Industrial Society Limited, Pudukkottai, which was defunct, said to have applied and the petitioner, in collusion with A-2, awarded the contract in favour of A-2/Society. As per the tender conditions, even though the tender was called for for supply of Teak wood furnitures, the wooden articles were made out of Neem tree and Plywood and thereby, the petitioner caused loss to the tune of Rs.90,065/-. Hence, a crime has been registered and after investigation, a final report has been filed and the petitioner was charged for the above said offence. Thereafter, the petitioner filed a petition to discharge him from the charges. The trial court dismissed the same. Challenging the same, the present Criminal Revision Case has been filed.

3.I have heard Mr.K.Pal Murugan, learned counsel appearing for the petitioner, Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor, appearing for the respondent and perused the records carefully.

4.The learned counsel appearing for the petitioner/A-1 submits that the petitioner was working only as a Group B Officer and tenders were called for for the purpose of purchasing wooden furnitures, in which, four tenders were received. A-2 was the lowest tenderer and hence, tender has been awarded to him. The petitioner has only acted as per the relevant Act and Rules. Sofar as the supply of the furniture, the petitioner has no obligation to verify whether the furniture were made up of neem or teak tree. Absolutely, there is no material to show that the petitioner conspired with A-2, thereby intentionally accepted the tender, knowing fully well that the society is a defunct one. There is no prima facie material against the petitioner to proceed with the case. The court below, without considering the materials available on record, in proper perspective, has dismissed the petition.

5.Per contra, the learned Additional Government Pleader appearing for the respondent submitted that there are sufficient materials on record to show that the petitioner has committed the offence in collusion with A-2, who was the Vice President of the defunct society and thereby caused loss to the exchequer for more than Rs.90,000/-. During the course of investigation, the Special Officer of the A-2 Co-operative Society has stated that the A-2 society has been defunct during the year 2001-2009 and during that period, the society has not applied for tenders and no cheques were encashed by the society. From the above material, it is clear that A-2 in collusion with A-1 has applied for tender in the name of a defunct society. Even though the Special Officer is functioning for the Co-operative Society, the petitioner issued the cheque in the name of A-2 and A-2 has also opened a separate bank account in his name to encash the cheque. After considering all the materials available on record, the trial court, dismissed the discharge petition filed by the petitioner.

6.I have considered the rival submissions and carefully gone through the materials available on record.

7. From the materials available on record, it could be seen that on the date of issuance of cheque, the Co-operative Society was defunct; A-2, who was the erstwhile Vice President of the Co-operative Society, fraudulently applied tender in collusion with A-1, tender has been awarded in favour of the Society and thereafter, A-2 has received the cheque from A-1 and opened a bank account in his name, encashed the cheque. From the evidence of the Special Officer of the Co-operative Society, it could be seen that during the year 2001-2009, the Society did not apply for any tender, no cheque has been encashed by the society. In the above circumstances, there is prima facie material available on record against the petitioner to proceed with the case and the court below also, after considering the materials, has rightly dismissed the petition. I find no illegality or irregularity in the order passed by the court below.

8.In the result, I find no reason to interfere with the order passed by the court below. Hence, this Criminal Revision Case is dismissed. Since the trial court has posted this case on 31.08.2017 for framing of charges, the trial court is directed to proceed with the case and complete the trial within a period of 9 months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Special Judge Cum Chief Judicial Magistrate,
Nagercoil.
2.The Inspector of Police,
Vigilance & Anti-Corruption,
Nagercoil,
Kanyakumari District Detachment
3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
+1cc to Mr.N.MOHIDEEN BASHA,Advocate,SR.75250

Crl.R.C(MD) No.198 of 2016
29.08.2017

VS
KK/SKN RSK/SAR 1/12.09.2017/ 3P- 5C