IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

The Honourable Dr.Justice G.JAYACHANDRAN

Criminal Revision Petition No: 603 of 2018
and Crl.M.P.No.6989 of 2018

A.Chinnasamy
Formerly Tahsildar,
Vazhapadi Taluk, Salem District ... Petitioner/Accused

/versus/

The State of Tamil Nadu
Rep. by The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Dharmapuri, Salem District.
(V & AC. Cr.No.12/AC/2010) ... Respondent/Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C, to call for and set aside the order dated 04.04.2018 in Crl.M.P.No.887 of 2016 in Special C.C.No. 2 of 2015 on the file of Special Judge, (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem and the consequential proceedings in Special C.C.No.2 of 2015 on the file of Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.K.Prabakar,
Additional Public Prosecutor

O R D E R

This Revision Petition is directed against the dismissal of the petition filed to discharge the accused from the prosecution. The trial Court considering the materials placed by the prosecution had felt enough material available to frame charge and rejected the plea of the accused. Aggrieved by the order of the trial Court, the present Revision petition is filed by the accused.

2. Brief facts of the case is as follows:

Based on the complaint of Vellaiyan, the Salem Vigilance and Anti Corruption Wing registered a case against this petitioner on 29.12.2010 for demanding bribe to permit him to take red soil from the Patta land for manufacturing bricks.

3. Based on the complaint given by the Vellaiyan, trap was organized by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Salem. The defacto complainant along with accompanying witness T.V.Ramachandran went to the office of the petitioner on 30.12.2010 at about 11.15 hours. On demand of the bribe money, the tainted currency was given to the petitioner and his associate J.Dharmarajan. The tainted money was recovered from the Axis Bank located near Taluk Office since on instruction of the petitioner, J.Dharmarajan had exchanged the tainted money at Axis Bank.

4. After completion of the investigation, the prosecution has filed a final report before the trial Court and the trial Court has taken the report on file and has assigned Special C.C.No.2 of 2015.

5. The petitioner herein had filed a petition to discharge on the ground that he is an honest officer taking strict action against the illicit miners. Aggrieved by his action, the police particularly K.Nachiappan and S.Chandramouli, who were Deputy Superintendent of Police, Vigilance and Anti Corruption, had set up one Vellaiyan to fix him under Prevention of Corruption Act and therefore, with a false allegation as if he has demanded illegal gratification from Vellaiyan on 22.12.2010 and 27.12.2010, complaint has been registered and on 30.12.2010 at about 5.45pm, when he was leaving his office to attend the meeting conducted by the District Collector, Salem. S.Chandramouli, Deputy Superintendent of Police, Vigilance and Anti Corruption Wing, Salem along with the defacto complainant Vellaiyan and J.Dharmarajan entered his office and arrested him on the false allegation that J.Dharmarajan has received Rs.10,000/- from the defacto Vellaiyan on the instruction of the petitioner herein.

6. It is contended by the learned counsel for the petitioner that his co-accused J.Dharmarajan arrayed as A2 has been taken as an approver and two final report have been filed by investigation officer by altering the dates of demand and other material particulars in violation of DV&AC Manual. The

petitioner has also challenged the sanction accorded by the District Collector, Salem to prosecute him. The respondent police has filed a detailed counter in the discharge petition before the trial Court wherein it has been contended that the petitioner was trapped while receiving illegal gratification of Rs.10,000/- on 30.12.2010. Pending investigation the petitioner/accused approached the Hon'ble High Court to quash the First information report which was dismissed on 19.03.2015. Thereafter, on completion of investigation, final report was filed wherein the investigation has placed material sufficient to convict the petitioner for the demand and receipt of illegal gratification.

7. The learned Additional Public Prosecutor would further submit that upon the complaint preferred by Vellaiyan the trap laying office in compliance of all the provisions contemplated under the DV&AC manual and law had organised the trap. Two independent official witnesses namely T.V.Ramachandran and S.Gunasegaran were requested to witness the trap proceedings. On 30.12.2010, the petitioner demanded bribe and received a sum of Rs.10,000/- from the defacto complainant through his accomplice J.Dharamrajan. As instructed by the petition Dharmarajan convert the Twenty 500/- Rupees currencies into Ten 1000/- Rupees currencies from the nearby Axis Bank. The trap laying Officer on the discovery of fact from the statement of the petitioner was able to recover the tainted money from the cashier of Axis Bank, Valapadi soon after the occurance.

8. After completion of the trap proceedings, investigation commenced and the statement of witnesses have been recorded. In the course of investigation, the said J.Dharmarajan who had received the tainted money on behalf of the petitioner had confessed his role in the crime and had been treated as approver by the prosecution, after complying all the relevant legal formalities. In the light of overwhelming material collected in the course of investigation, the petition to discharge deservers dismissal and rightly dismissed by the trial Court.

9. Heard both sides. Records perused. The trial Court, after considering the materials placed by the prosecution and the grounds raised by the petitioner herein to discharge held that a close scrutiny of the material available on record clearly indicates that the material submitted by the prosecution along with the final report primafacilely discloses the commission of alleged offence by the petitioner and therefore, he cannot be discharged. Aggrieved by the dismissal order

reiterating the points canvassed before the trial Court, the present revision petition is filed.

10. A detailed counter has been filed to highlight the conduct of the petitioner herein, who had been dragging on the proceedings filing petition after petition ever since the registration of F.I.R and being caught during the trap proceedings on 30.10.2010. The list of petitions filed by this revision petitioner herein to torpedo the trial is also been extracted in the counter.

11. It is suffices to point out that the petitioner herein immediately after registration of F.I.R sought for quashing of F.I.R in Crl.O.P.22428 of 2011 which was dismissed by this Court 19.03.2015. Later, he filed a petition to transfer the investigation to CBI and the said petition in Crl.O.P.7155 of 2015 was withdrawn. He filed another petition to quash the charges in Crl.O.P.No.1024 of 2016. This petition was dismissed on 03.10.2016. On the same day another petition to quash the supplementary charge sheet in Crl.O.P.No.5585 of 2016 was also dismissed by this Court. This Court vide order dated 03.10.2016 in Crl.O.P.No.1024 of 2016 and Crl.O.P.No.5585 of 2016 had in detail discussed about this case and had rejected the plea of the petitioner herein to quash and while dismissing the petition, this Court has made a specific observation in paragraph 56 of the judgment as under;

> 56. In view of the foregoings, both the Criminal Original Petitions are dismissed. However, this Court makes it clear that the dismissal of the Original Petitions will not preclude the Petitioner to raise all factual and legal pleas [including the aspects of 'Validity of Sanction Order' and 'Alibi'] before the trial Court in C.C.No.2 of 2015 at the time of final hearing of the case and to seek appropriate remedy if he so desires/advised."

12. The petitioner herein instead of submitting himself for the trial, had filed another petition before this Court to transfer the case to some other Court making allegations against the Presiding Officer. This Court, after making discret enquiry about the allegation found that they are false and only to harass the Presiding Officer, the petitioner has made such wild allegations. Therefore, Crl.O.P.No.23882 of 2017 filed by this petitioner was dismissed by this Court with cost of Rs.1,000/- to be paid to the District Legal Service Authority, Salem and to produce the receipt to the trial Court within 30 days. Though

this order was passed on 22.11.2017, it is brought to the notice of this Court by the learned Additional Public Prosecutor that the petitioner has not paid the cost.

13. After dismissal of his petition to quash the FIR, transfer the investigation to C.B.I, transfer the case to some other Court, the petitioner has filed a petition before trial Court to examine him as witness before commencement of examination of prosecution witness. The petition was dismissed then again he approached this Court challenging the dismissal of the petition seeking leave of the trial Court to examine him as a witness, pending discharge petition. This Revision Petition in Crl.R.C.No.209 of 2018 was dismissed as withdrawn on 15.02.2016. In the said scenario, his discharge petition was dismissed by the Trial Court after taking note of the materials placed by the prosecution and the law governing discharge of the accused person in a criminal prosecution. This Court find no merit in this revision, the finding of the trial Court is based on materials and in consonance to the Apex Court ruling. Hence the Revision Petition is dismissed.

14. Beside dismissal of the Review Petition, this Court is constrained to observed and add further in view of certain facts brought to the notice of this Court. The learned Additional Public Prosecutor would further add that the petitioner herein has fabricated certain documents which are filed as typed set of papers in support of the petition.

15. It is also contended by the prosecution that the petitioner herein ever since being caught for receiving illegal gratification is creating documents with anti date to stall the proceedings and relying upon those fabricated documents.

16. It is also submitted by the learned Additional Public Prosecutor that the trial Court has posted the matter for examination of witnesses on 21.06.2018 and the petitioner herein till date had not paid the cost by order of this Court passed in Crl.O.P.No.23882 of 2017 on 22.11.2017.

17. In reply leaned counsel appearing for the petitioner herein would submit that, against the order passed in Crl.O.P.No.23882 of 2017, the petitioner herein has preferred SLP before the Hon'ble Supreme Court, pending this petition, he did not pay the cost as directed by this Court within 30 days. Now, after dismissal of the SLP by Hon’ble Supreme Court on 13.04.2018, he tendered the cost to the Legal Service Authority,

Salem but they refused to receive it, since the time stipulated for payment as expired.

18. The learned counsel for the petitioner has also furnished a copy of the letter of the petitioner dated 18.04.2018, tendering the cost to the Legal Service Authority which carries the endorsement of Legal Service Authority returning the petition citing delay and absence of condonation by the High Court which imposed cost and prescribed time for payment. It is to be pointed out that, the petitioner has not approached this Court for extension of time till date, though the Secretary of District Legal Service Authority in his letter dated 18.04.2018 had indicated him to get extension of time and tender the cost.

19. The learned Additional Public Prosecutor had pointed out the manipulation made in the documents placed before this Court by the petitioner, and sought leave of this Court to prosecute the petitioner for perjury and to remand the petitioner for tampering evidence. It is needless to give any leave to the prosecution as prayed. If there is any primafacie material that the petitioner has fabricated documents and caused perjury, it is always open to the prosecution to proceed against him. Likewise to cancel the bail for tampering evidence if the prosecution files any petition for arrest of the petitioner, for tampering the witnesses or perjury, it is open to the trial Court to consider those petitions in fair and open mind and proceed further.

20. With these above observations, the Criminal Revision Petition No.603 of 2018 is dismissed. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

bsm

To

1. The learned Special Judge, [Prevention of Corruption Cases] Salem.

2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Dharmapuri, Salem District.

3. The Additional Public Prosecutor, High Court, Madras.

+1 CC to Mr.K. Selvaraj, Advocate sr 36923.

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CA(CO)
SP(02/07/2018)