THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2018

CORAM:
THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.981 of 2018
and
Crl.M.P.11367 of 2018

S.Parthiban ... Petitioner / Accused-2

-Vs-

State Rep by:
The Inspector of Police
Vigilance and anti Corruption
Special Investigation Cell
Chennai. ... Respondent / Complainant

PRAYER: Criminal Revision Case filed under sections 401 r/w 397 of Cr.P.C., to call for the entire records in respect of the order passed by the learned Chief Judicial Magistrate, Thiruvallur dated 18.07.2018 in CMP No.2157/2015 in special Case No.5/2014 and set aside the same and discharge the petitioner from the case.

For Petitioner : R.Rekha

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

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ORDER

This Criminal Revision Case has been filed by the petitioner/A-2 against order passed by the learned Chief Judicial Magistrate, Thiruvallur in CMP No.2157/2015 in special Case No.5/2014 dated 18.07.2018, dismissing the discharge petition filed by the petitioner/A-2.

2. The learned counsel appearing for the petitioner/A-2 would submit that the petitioner is arrayed as A2 in this case. She would further submit that there is no averments in the charge sheet that this petitioner abetted A-1 to commit the offence and would submit that in the absence of the averments, filing of the charge sheet for the offence under section 10 of Prevention of Corruption Act against petitioner/A-2 is not

legally sustainable. She would also submit that there is no substance to frame the charge as against the petitioner/A-2. She would further submit that even as per the final report the allegation against the petitioner/A-2 is that he only allowed A1, a private individual to collect bribe and it is also not the case of the prosecution that the bribe amount was collected by A1 on behalf of petitioner/A2 on the inducement of A2 and she would submit that therefore, the charge sheet filed as against the petitioner/A-2 is not sustainable. The learned counsel would also submit that there is absolutely no evidence to show the association between A1 and A2 with regard to the illegal demand. She would further submit that no material is there on record to connect A1 and A2 and thereby, the trial court cannot frame charges against the petitioner/accused. She would also submit that the petitioner/accused is a permanent resident of Kalinjur, Vellore and that on 18.03.1983 he was appointed as a surveyor cum Draughtsman on consolidated basis and posted at Cheyyar and that during the year 1989 his service was regularised and posted at Kanchipuram District and thereafter, he had been periodically promoted. She would also submit that the petitioner/A-2 had been working in the Revenue Department for the past 31 years without any adverse remarks. While so, the de-facto complainant had given an application for transfer of Patta before the Tahsildar, Madavaram and the said application was forwarded to the petitioner/A-2 for area inspection. She would submit that the petitioner/A-2 inspected the place and filed a report before the Deputy Tashildar and on the basis of the report given by the petitioner/A-2, the Deputy Tashildar passed a sanction order.

3. The learned counsel for the petitioner/A-2 would further submit that while facts being so, Durai approached the petitioner/A-2 and demanded the Patta for which, the petitioner/A-2 had informed the said Durai that his job was over and it is the duty of the Tahsildar to issue the Patta. Being not satisfied with the reply given by the petitioner/A-2 the said Durai had lodged a complaint before the Vigilance and Anti Corruption Department on 03.01.2013, making the allegation against the petitioner/A-2 and one Ravikumar stating that the said Ravikumar demanded a bribe of Rs.3,000/- to process and issue of individual Patta and that based on the complaint given by the said Durai the respondent registered a case as against the said Ravikumar for the offence under Section 8 of the Prevention of Corruption Act alleging that the said Ravikumar claiming to be the Assistant of the petitioner/A-2 herein demanded the bribe for issuance of individual Patta. Subsequently, the respondent organized a trap and registered a case as against the said Ravikumar. After investigation the respondent herein filed the final report as against the said Ravikumar and the petitioner/A-2 for offences under sections 8 and 10 of the Prevention of Corruption Act. The learned counsel

would further submit that contents of the charge sheet against the petitioner/A-2 is that the petitioner/A-2 knowing fully well that A1/Ravikumar private individual is abusing his official position paved the way obtain gratification by corrupt or illegal means and continuously allowed A1/Ravikumar the private individual and being a public servant by abusing his official position abetted A1/Ravikumar to receive the bribe amount to do an official Act which is supposed to be done by petitioner/A2 and thereby, the allegation against the petitioner/A2 for having committed an offence under section 10 of the Provision Corruption Act. The learned counsel would further submit that the learned trial judge in the absence of legal material against the petitioner/A-2 ought to have discharged the petitioner/A-2.

4. The learned Additional Public Prosecutor would submit that the charge sheet has been filed against A1 / Ravikumar for offence under section 8 of the Prevention of Corruption Act and against the petitioner/A-2 for offence under section 10 of the Prevention of Corruption Act. He would further submit that the case of the respondent is that petitioner/A-2 allowed A1 individual person to take gratification by corrupt or illegal means to public servant and the allegation against the petitioner/A-2 is that he had abetted A1 to commit the offence punishable under section 8 of the Prevention Corruption Act. He would also submit that there are enough materials to show that A1 is an Assistant of the petitioner/A-2 herein and from and through him the petitioner/A-2 used to collect the bribe. He would further submit that the complainant who is cited as LW2 has stated that A1 had been introduced as the Assistant of the petitioner/A-2 and that on 11.12.2012 both of them have conducted the survey and that both of them have informed LW5 who is the wife of LW2 to come to their office along with the original documents and thereafter, A1 had on 31.05.2012 demanded an amount of Rs.3,000/- on behalf of the officials and had stated that if only the amount was paid he would obtain Patta from the Taluk office and hand over to him. Further, LW5, who is the wife of LW2, has also stated that on 11.12.2012 she had seen both the accused who came together to her house in an Auto Rickshaw and that they have taken an amount of Rs.200/- for their Auto charges. Further, LW3 the witness during the trap proceedings had also stated that A1 at the time of the trap proceedings had stated that he was working as an Assistant under the petitioner/A2 herein and that he had been abetted by the petitioner/A-2 to obtain illegal gratification in respect of grant of Patta and that for grant of every Patta he used to collect Rs.3,000/- out of which an amount of Rs.1,000/- was given to him by the petitioner/A-2. and would submit that when prima facie materials are available for framing charges the trial had rightly dismissed the application for discharge. Further, learned Additional Public Prosecutor would submit that pending this Criminal Revision, charges have also been framed

by the trial court on 27.08.2018 and the case posted on 01.10.2018 for examination of witness.

5. Heard both sides.

6. The learned trial Judge while dismissing the application for discharge had taken into consideration that there are prima facie material against the petitioner/A-2.

7. I have consciously gone through the charge sheet and the materials filed along with the petition. This Court finds that there are prima facie materials for framing charges against the petitioner/A-2. The trial Court has rightly framed charges. This Court finds no grounds for interference with the order of the trial Court.

8. In view of the above, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate,
Thiruvallur.

2.The Inspector of Police
Vigilance and anti Corruption
Special Investigation Cell, Chennai.

3.The Public Prosecutor,
High Court of Madras.

Crl.R.C.No.981 of 2018
and
Crl.M.P.11367 of 2018

PA(CO)

rrs 05/10/2018

12.09.2018