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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2018

CORAM:

THE HON'BLE MR.JUSTICE G. JAYACHANDRAN

Crl.R.C.No.54 of 2018

Jayaprakash

..Petitioner/7th Accused

Versus

1. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Chennai City-II,
Chennai-600 035.
2. K.Sampath Kumar, IAS (Rtd.),
Formerly Commissioner of Stationary and
Printing Department,
No.110, Anna Salai, Chennai.
3. G.Ragupathy
4. M.Sridharan
5. A.Srinivasan
6. P.Damodaran
7. Deenadayalan

..Respondents/ Respondents/
Complainant

Criminal Revision Case filed under Section 397 and 401 of the Criminal Procedure Code praying to set aside the order in Crl.M.P.No.745 of 2015 in C.C.No.11 of 2014 dated 23.09.2016 passed by the Special Court for Prevention and Corruption Act, Chennai.

For Petitioner : Mr. G.Thangavel

For Respondent 1 : Mr. P.Govindarajan
Additional Public Prosecutor

O R D E R

This Criminal Revision Case has been filed to set aside the order in Crl.M.P.No.745 of 2015 in C.C.No.11 of 2014 dated 23.09.2016 passed by the Special Court for Prevention and Corruption Act at Chennai.

2. The case of the prosecution is that the petitioner, along with others, as a member of the Purchase Committee, had wantonly, to make unlawful gain to themselves and others, had



ordered 320 metric tonnes of Azurelaid watermark security paper over and above the actual necessity for the Government. Furthermore, while the procurement is to be in rolling sheet, after confirmation of tender, they have changed the actual requirement into A3 sheets which has caused greater loss to the Government, since it did not meet the specific requirement of the Government to print FIR, mark sheet, etc.

3. However, the petitioner contends that he was serving as Assistant Superintendent of Stamps, Chennai, till 13.11.2006. He was issued with transfer order to take charge as Treasury Officer, Chennai. He took charge as Chief Accounts Officer of Stationery and Printing from 16.11.2006 and he was holding the post till 03.04.2008, whereas, the final report filed against him indicates that during the year 2006-2007, a Purchase Committee was formed headed by A1 and A2 to A7 were the members of the said Purchase Committee, (which is factually wrong). And A1 to A7 met on 14.03.2006, conspired together to do an illegal act or legal act by illegal means and abruptly increased the requirement of 90 metric tonnes to 120 metric tonnes and again, to 320 metric tonnes and thereby, committed offence of criminal conspiracy under Section 120-B IPC. Further, in pursuance of the said criminal conspiracy, A1 to A7 who were entrusted with the Government money and were having dominion over the money in their capacity of public servants, dishonestly used the same by violating the provision of law prescribing the mode which is touching upon such trust and thereby committed criminal breach of trust.

4. According to the learned counsel for the petitioner, the petitioner who is arrayed as A7, was not a member of the Purchase Committee during the said period and he did not meet the other accused on 14.03.2006, since he took charge as Chief Accounts Officer only on 16.11.2006.

5. The learned Additional Public Prosecutor refute the document relied upon petitioner wherein it reveals that the Purchase Committee had decided to purchase 320 metric tonnes of Azurelaid watermark security paper; and the petitioner was not a member of the Committee which decided to purchase 320 MT of Azurelaid paper.

6. Initially, the Committee has approved to purchase 90 metric tonnes, but, increased the quantity to 320 metric tonnes in the meeting held on 14.03.2006. It is true that the petitioner was not a member of the Committee which has taken the decision to increase the procurement of watermark paper of 90 metric tonnes to 320 metric tonnes, whereas, the document relied by the prosecution reveals that the decision to purchase A3 size sheets instead watermark sheet in roll has been taken when the



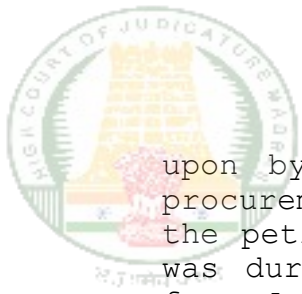
petitioner herein was the Chief Accounts Officer and also a member of the Purchase Committee. This decision has been taken on 26.03.2007. The office note dated 26.03.2007 signed by the petitioner indicates that M/s. Sri Raicko Enterprises has not supplied 18 metric tonnes of Azurelaid Watermark security paper and they have only 30 metric tonnes paper stock which they want to supply in the form of A3 sheet instead of Azurelaid watermark security paper and the petitioner herein, as a member of the Purchase Committee and Chief Accounts Officer, has prepared the note and got approval of the same. The second limb of the charge against the petitioner is that the conversion of paper from Azurelaid watermark security paper to A3 sheet has caused monetary loss to the Government, since it did not satisfy the requirement for which the paper was supposed to be purchased. In these circumstances, there cannot be a plea to discharge the petitioner on the ground that there is no material against him to frame a charge and try.

7. The learned counsel for the petitioner, referring to the judgment of the Supreme Court in State of Maharashtra Vs. Priya Sharan and others [AIR 1997 SUPREME COURT 2041] wherein it has been held as under:-

" 8. The law on the subject is now well-settled, as pointed out in Niranjana Singh Punjabi v. Jitendra Bijaya, (1990) 4 SCC 76 : (AIR 1990 SC 1962), that at Sections 227 and 228 stage the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The Court may, for this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case. Therefore, at the stage of framing of the charge the Court has to consider the material with a view to find out if there is ground for presuming that the accused has committed the offence or that there is not sufficient ground for proceeding against him and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction."

He submitted that on evaluating the materials and documents on records, even if it is taken on the face value, there are no ingredients to frame a charge against the petitioner.

8. It is found that the document which has now been relied



upon by the prosecution indicates that though the process of procurement of Azurelaid watermark security paper started before the petitioner joined the Printing and Stationery Department, it was during his period, the decision to convert the procurement from Azurelaid watermark security paper to A3 sheet has been taken. Therefore, there are materials to frame charge in respect of the second limb of the offences alleged against the petitioner.

9. In such perspective of the matter, this Court is of the opinion that when there is a prima facie material to proceed with the trial against the petitioner on framing charge, his exoneration during the departmental proceedings will not enure to his advantage to seek discharge from the criminal prosecution.

10. In view of the foregoing discussion, this Court finds that this Criminal Revision Case is liable to be dismissed. Accordingly, this Criminal Revision Case stands dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court for Prevention and Corruption Act,
Chennai.
2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Chennai City-II,
Chennai-600 035.
3. The Public Prosecutor
High Court, Madras.

CrI.R.C.No.54 of 2018

NRJK(CO)
RRK(14/02/2018)