



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.06.2018

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.O.P. (MD) No.9839 of 2018

V.Venkatachalapathy

... Petitioner/Accused

Vs.

1. State Represented by
The Inspector of Police,
Vigilance and Anti Corruption,
Madurai.
(Crime No.1 of 2018)

... 1st Respondent/Complainant

2. R.Kannaki

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.1 of 2018, on the file of the 1st respondent police and quash the same as illegal in respect of the petitioners herein.

For Petitioner : Mr.C.Mayil Vahana Rajendran
For Respondents : Mr.M.Chandrasekaran
Additional Public Prosecutor (Crl. Side)
for R1

ORDER

The Petitioner has come up with this Criminal Original Petition, seeking to quash the First Information Report in Crime No.1 of 2018, on the file of the first respondent police. The first respondent police registered the case against the petitioner. He is the sole accused in this case.

2. The case of the prosecution is that the second respondent lodged a complaint before the first respondent police in Crime No.1 of 2018 for the alleged offences under Sections 7, 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988 [for brevity "the Act"]. On 02.01.2018, it is alleged that the *de facto* complainant received an information that the Deputy Registrar and Joint Registrar had received money and new clothes from the employers of the Co-operative Society. It is further alleged that based on the said information, the second respondent conducted surprise check at

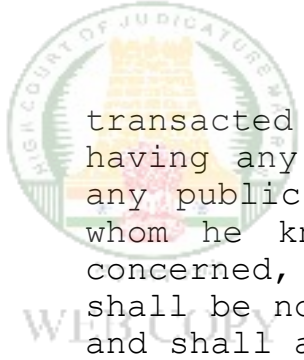


the Joint Registrar of Co-operative Society Office, Chokkikulam on 02.01.2018 and she searched the table of the petitioner and she found a sum of Rs.5,000/- [Rupees five thousand only]. It is further alleged that the petitioner is said to have given a statement that the amount was given to him by one Sathish Kumar and Giritharagopal as New Year Gift. Pursuant to the complaint given by the second respondent, the first respondent registered the case against the petitioner.

3. Heard Mr.C.Mayil Vahana Rajendran, learned counsel appearing for the petitioner and Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the first respondent.

4. On the side of the petitioner, it is stated that a complaint should constitute prima facie information that an offence was being committed and the First Information Report was registered, based on some vague allegation, there is no material to show that the petitioner had demanded and accepted bribe. It is further stated that under Section 7 of the Act, 1988, a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine and thus Section 7 is not made out against the petitioner. Under Section 13 of the Act, if he habitually accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification other than legal remuneration as a motive or reward such as is mentioned in section 7. It is further stated that if at all any offence is made out against the petitioner, he is liable only for a disciplinary action by the department and he cannot be prosecuted under Section 7 and 13(2) r/w 13(1)(d) of the Act and thus, for all the above reasons, it is prayed that the First Information Report is liable to be quashed.

5. On the side of the first respondent, it is stated that the petitioner is an Deputy Registrar of the Co-operative Society and he received valuable things as illegal gratification, which is duly accepted by the petitioner. Under Section 11 of the Act, a public servant, accepts or obtains or agrees to accept or attempts to obtain for himself, or for any other person, any valuable thing without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business



transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine. It is further stated that the case is only in the First Information Report stage and only after the conclusion of the investigation, the first respondent can come to the conclusion as to whether the charge sheet has to be filed against the petitioner.

6. It is stated that the petitioner has accepted the receiving of illegal gratification by way of New Year Gift. In such circumstances, this Court is of the view that a detailed investigation in the matter is necessary and the reasons stated by the petitioner are not sufficient and the petition is devoid of merits.

7. Hence, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Vigilance and Anti Corruption,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.C.MAYIL VAHANA RAJENDRAN, ADVOCATE IN SR No. 68886

SJI

TE/SKN-RSK/SAR-1 : 29/06/2018 : 3P/4C

CrI.O.P. (MD) No.9839 of 2018
19.06.2018