

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Original Petition No.23766 of 2015

K.K.Balasubramanian

...Petitioner/Accused No.4

Vs.

The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Namakkal,
Crime No.3/2007/AC/SL/SLP/Namakkal. ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the entire records in Spl.C.C.No.97 of 2014 pending on the file of the learned Special Judge, Salem (Special Court for Prevention of Corruption Act), Salem and to quash the entire proceedings against the petitioner including the final report of the respondent.

For Petitioner : Mr.Ganesh
for M/s.Lakshmipriya Associates

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

O R D E R

The original petition has been filed to call for the records in Spl.C.C.No.97 of 2014 pending on the file of the learned Special Judge, (Special Court for Prevention of Corruption Act), Salem and also to quash the entire proceedings against the petitioner, including the final report of the respondent.

2. The learned counsel for the petitioner would submit that the petitioner along with A1 was charged for the offence under Sections 120-B r/w 167, 467, 468, 419, 471, 477-A, 409 and 420 IPC (2 counts) and under Section 13(2) r/w 13(1)(c) &(d) of Prevention of Corruption Act, 1988 and r/w Section 109 of IPC. He would further submit that the petitioner is a practising Advocate and that the allegation against him is that he entered

into a criminal conspiracy with the other accused by committing forgery, impersonation and fabrication of documents and misappropriated the amounts which were intended to the beneficiaries and misused the amount. He would submit that the petitioner appeared as counsel and represented the case of his client till getting the compensation amounts by way of Demand Drafts from the Tribunal and that the Demand Drafts have been encashed at Primary Agricultural Co-Operative Branch, Siluvampatty. He would further submit that this Court by order dated 30.03.2015 in CrI.OP.No.17327 of 2014 quashed the proceedings against A1, who is a Government Servant and thereby charges against the petitioner for the offence under Sections 13 (2) r/w 13(1) (c)&(d) of Prevention of Corruption Act, cannot be sustained and the case cannot be tried before the Special Court.

3. When the matter is taken up for hearing the learned Additional Public Prosecutor appearing for the respondent would submit that trial has commenced and that eight witnesses have been examined in chief, so far. He would further submit that the very specific evidence of P.W.1 is that the petitioner had taken him to the office of the Deputy Commissioner of Labour, Salem, obtained his signatures in certain forms and informed him that he would receive the amount whereas the petitioner had cheated him and misappropriated the amounts awarded as compensation and that he has been examined in chief and since, the trial has commenced and examination of witnesses have been done in chief, this Court shall not interfere at this stage.

4. The learned Additional Public Prosecutor would submit that the petitioner is not only the person, who abetted the Government Servants, but, also committed acts of forgery, cheating, criminal breach of trust and also misappropriated the amounts by impersonation. He would also submit that apart from the provisions of Prevention of Corruption Act, the petitioner along with other accused have been charged for having opened the account falsely in the names of beneficiaries by impersonation and by committing criminal breach of trust, fabrication of documents and falsification of accounts. He would further submit that trial has already commenced and eight witnesses have been examined in chief. He would also submit that this Court has taken into consideration and finding that A1 was not involved in the offence, quashed the proceedings against A1, whereas, there are ample and enough materials as against the petitioner.

5. I have gone through the materials available on record, the trial has commenced and eight witnesses have been examined in chief so far. P.W.1 has spoken about the involvement of the petitioner. This Court is of the opinion that all the grounds can be raised in defence before the trial Court at appropriate stage. The petitioner can very well refute the allegation by cross examining the witnesses. There is no merit in the petition

to quash. Accordingly, the criminal original petition is dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

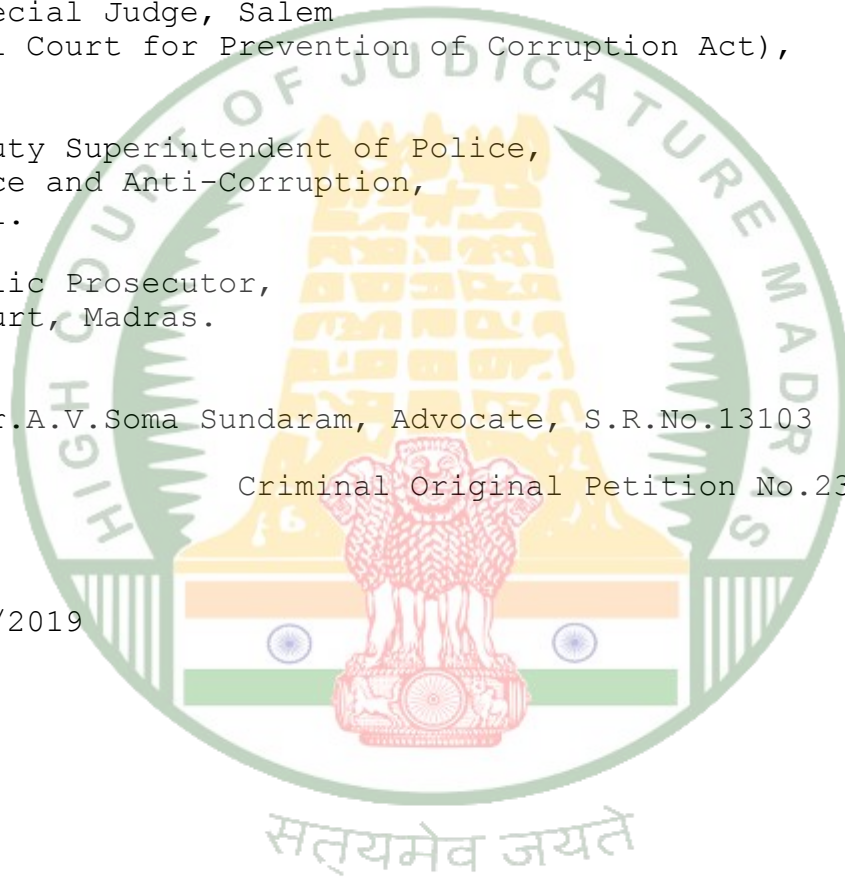
- 1.The Special Judge, Salem
(Special Court for Prevention of Corruption Act),
Salem.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Namakkal.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.V.Soma Sundaram, Advocate, S.R.No.13103

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PVS (CO)

rrs 22/03/2019



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