

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.23007 of 2019

and

CrI.M.P.No.12029 of 2019

P.Balakrishnan

.. Petitioner

Vs.

The Deputy Superintendent of Police
Vigilance Anti Corruption
Nagapattinam

.. Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in Cr.M.P.No.301/2019 in Special C.C.No.9/2012 dated 18.07.2019 on the file of learned Chief Judicial Magistrate Court at Tiruvarur to set aside the same and allow this CrI.O.P.

For Petitioner : Mr.M.Rajasekar

For Respondent : Mrs.M.Prabavathy
Addl. State P.P.

O R D E R

The Criminal Original Petition has been filed by the petitioner to call for the records in Cr.M.P.No.301/2019 in Special C.C.No.9/2012 dated 18.07.2019 on the file of learned Chief Judicial Magistrate Court at Tiruvarur to set aside the same.

2.The petitioner filed a petition in C.M.P.No.301 of 2019 in Special C.C.No.9 of 2012 dated 18.07.2019 on the file of the learned Chief Judicial Magistrate Court at Tiruvarur to examine 5 persons as court witnesses under Section 311 of Cr.P.C.

3.The case of the prosecution is that the petitioner demanded and accepted the bribe of Rs.2,000/- on 23.05.2011 for processing and putting the file of Natham Patta name transfer in the name of complainant before the RDO Thiruvarur. Hence a case was registered in V&AC Nagapattinam in Crime No.6/2011 u/s.7 of PC Act 1988 and he was charged u/s.7 and 13(3) r/w 13(1)(d) of

Prevention of Corruption Act 1988 and it was taken on file by the Chief Judicial Magistrate / Special Judge, Thiruvarur in Spl.C.C.No.09/2012.

4. On the side of prosecution, they have examined all the witnesses i.e. PW1 to PW15 and the evidence was over and closed on 23.01.2019. Section 313 Cr.P.C. has also been complied on 29.04.2019 and the case was adjourned to 06.05.2019 for defence side evidence. Thereafter, the petitioner filed the statement u/s.243(1) of Cr.P.C. along with the list of defence witnesses u/s.243(2) of Cr.P.C. The learned Chief Judicial Magistrate / Special Judge, allowed the list of witnesses and ordered to issue summon on payment of process fee even though the witnesses are no way connected to the case. In the meanwhile, the petitioner filed C.M.P.No.301 of 2019 u/s.311 Cr.P.C. for examination of 5 witnesses. The Trial Court by its order dated 18.07.2019 had dismissed the same on the ground that the petition has been filed only to protract the case proceedings, against which, the present Criminal Original Petition has been preferred.

5. The learned counsel for the petitioner would submit that the petitioner has been implicated in the offence punishable under Prevention of Corruption Act, 1988. The grievance of the petitioner is that the witnesses are the officials and their evidence are contrary to the facts and also stated against the petitioner. Hence, the petitioner was unable to put forth his case. The learned counsel on instructions would further submit that it would suffice if he is permitted to examine two witnesses alone i.e. Revenue Divisional Officer, Thiruvarur and Zonal Deputy Tahsildar, Valangaiman and he shall give up other witnesses. The learned counsel undertakes that he will not seek further adjournments and will complete the examination of the witnesses on the same day without any delay.

6. The learned Additional State Public Prosecutor would submit that, as the petitioner was not successful before the Trial Court has filed this petition only to protract the entire proceedings and would strongly object to the same. She would submit on further instructions that as a last opportunity, the Revenue Divisional Officer, Thiruvarur and The Zonal Deputy Tahsildar, Valangaiman would be produced on or before 24.09.2019 after payment of batta for the expenditure of the witnesses and the petitioner shall complete the examination of the witnesses on the same day itself.

7. Considering the submissions of the learned counsel for the petitioner and the learned Additional State Public Prosecutor, this Court directs the respondent to produce the Revenue Divisional Officer, Thiruvarur and Zonal Deputy

Tahsildar, Valangaiman on or before 24.09.2019. The petitioner shall examine the witnesses after paying necessary batta. Thereafter, the Trial Court shall complete the trial within a period of one month.

6. With the above direction, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To.

1. The Deputy Superintendent of Police
Vigilance Anti Corruption
Nagapattinam

2. The Chief Judicial Magistrate Court
Tiruvarur

3. The Revenue Divisional Officer,
Thiruvarur.

4. The Zonal Deputy Tahsildar,
Valangaiman.

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Rajasekar, Advocate sr.76637

सत्यमेव जयते

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gj(co)
nr 06/09/2019

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