

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.29742 of 2019 &
CrI.M.P.No.16042 of 2019

R. Krishnamurthy

... Petitioner

Vs.

The State of Tamilnadu,
represented by Inspector of
Police, V & AC, Dharmapuri
Cr.No.2/AC/2015,
Dharmapuri.

... Respondent

PRAYER:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the order dated 13.08.2019 made in CMP.No.530 of 2019 in Spl.C.C. Number 2 of 2019 on the file of learned Special Judge/Chief Judicial Magistrate, Dharmapuri and set aside the same.

For Petitioner : Mr. M. Devaraj

For Respondents : Mrs. M.Prabhavathi

Addl. Public Prosecutor for R1

ORDER

The petitioner is arrayed as A2 in Spl.C.C.No.2 of 2019 before the Chief Judicial Magistrate/Special Judge, Dharmapuri. The petitioner is charged for the offences punishable under section 120(B) r/w.167, 409, 419, 420, 467, 468, 471, 477-A IPC and u/s.7, 13(2) r/w.13(1)(c) & (d) of Prevention of Corruption Act, 1988.

2. The trial Court by order dated 13.08.2019, rejected the plea of the petitioner and dismissed the petition, against which, the present Criminal Original Petition is filed.

3. The case of the prosecution is that the petitioner was working as an Union Engineer, Office of Block Development Officer, Harur Union, Dharmapuri District. During the year 2010, a scheme viz., Kalaighar Veedu Vazhangum Scheme was launched. The scheme is designed to enable Below poverty Line (BPL) households identified by Grama Sabhas to build their houses,

upgrade their dialapdated houses or get housesites with financial and technical assistance from the Government. Under IAY, a shelterless family is given assistance of Rs.75,000/-. This has to be shared by Central Government and State Government at the ratio of 75:25.

4. The petitioner is responsible for all project works implemeted by the Department of Rural Developement. Further he should check, measure the works measured by Overseer serving under his technical control.

5. Some of the beneficiaries of the Scheme had not taken up any construction and at the same time, false entries and measurements were made in the Registers and in the M-Book and thereafter payment have been shown to be made to them, thereby all the accused have fradulently misappropriated the Government funds. Hence the case came to be registered. Further there was an allegation of demand and acceptance of Bribe.

6. In this case, charge sheet has been filed with statement of witnesses LW1 to LW22 and documents LD1 to LD36 have been annexed.

7. The contention of the petitioner is that the petitioner was served with copies under section 207 Cr.P.C. On receipt of the same, the petitioner found that the copies listed as documents LD 17 to LD 24 were not served to him. The petitioner filed a memo on 27.6.2019 and copy application on 28.6.2019. The memo was rejected and copy application was returned for rectifying certain defects. After rectifying the defects, another copy application was re-submitted on 3.7.2019 in Copy Application No.256 of 2019, that was also returned with the reason to note the correct particulars. Thereafter the petitioner filed Crl.O.P.No.22379 of 2019 seeking direction to the trial court to take up the copy application on file and issue certified copies. This petition was dismissed as withdrawn on 21.08.2019 with a liberty to represent the copy application.

8. Thereafter the petitioner filed a petition under section 339 of Criminal Rules of Practice in Crl.M.P.No.530 of 2019 submitting that the petitioner is ready to pay necessary copying charges to get the certified copies of the above documents. It is further submitted that without getting these copies, the petitioner would be handicapped to answer the charges. The petitioner had also filed a fresh copy application in C.A.No.267 of 2019 dated 9.7.2019.

9. Learned counsel for the petitioner, in support of his contentions had relied upon the decisions of this Court reported in (i) MANU/TN/0650/2009 (Rev.Samuel D.Stephens and others Vs. Pastor A.Samuel Ramasamy) (ii) an order passed by a learned Single Judge of this Court dated 11.6.2015 in Crl.O.P.No.14184 of 2015 (A.Leo Charles Vs. M.Vijayakumar). The citations referred pertains to entries made for docket order and on a case of private complaint where the procedure adopted are different . The facts of the above cases, are not applicable to the facts and circumstances of the present case.

10. Learned Additional Public prosecutor submits that the documents listed in the charges sheet under serial numbers 17 to 24 are as follows;

'17. Cement Stock Register for the year 2010-2011 of Harur union, Dharmapuri District - Containing pages 1 to 456 used pages 2 to 357 and unused pages 358 to 456.

18. Estimate and Allotment Register for the year 2010-2011 of Harur Union, Dharmapuri District (Containing pages 1 to 101)

19. Grama Sabha Register of Periyappatty Panchayat for the period from 02.10.2010 to 15.08.2013 - pages used 1 to 257 and unused 209-256.

20. Measurement Book No.793/2010-11 in the name of Chinnasamy, S/o.Nattar - Total pages 1 to 28 used 1 to 17 and unused 18 to 28.

21. Cash book for the year 2011-2012 of Periyappatty Panchayat, Harur Union, Dharmapuri District - Containing pages 1 to 100 used 1 to 64 and unused 65 to 100.

22. Cash book for the year 2012-2013 of Periyappatty Panchayat, Harur Union, Dharmapuri District - Containing pages 1 to 100 used 1 to 78 and unused 79 to 100.

23. Cash book for the year 2014-2015 of Periyappatty Panchayat, Harur Union, Dharmapuri District - Containing pages 1 to 100 used 1 to 33 and unused 34 to 100.

24. Steel Stock Register for the year 2010-11 of Harur Panchayat Union, Dharmapuri District - Containing pages 1 to 279.'

11. It is seen that these documents are registers pertaining to stock allotment etc and all the documents runs to several 100 pages. In view of the same, as per section 207 Cr.P.C., proviso to clause v, the lower court could not furnish the documents. The relevant portion of the proviso to clause v, 207 Cr.P.C., reads as under;

'207. Supply to the accused of copy of police report and other documents..

PROVIDED FURTHER that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in court.'

12. It is seen that the documents are voluminous and hence the petitioner could not be furnished with the same. Further the trial court had rightly rejected the same and this court finds no reason to interfere with it. In view of the petitioner's specific plea that he needs the copy of documents and non furnishing would greatly cause prejudice to the petitioner in answering the charges and to defend his case, the petitioner shall peruse the voluminous documents and specify the pages of the necessary documents. On such specification, copies of that pages alone has to be furnished to him. The petitioner shall make a copy application to that effect. It is made clear that only specific pages sought by the petitioner has to be furnished to him on payment of necessary fees.

13. With the above direction, the petition is disposed of.

Sd/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr
To

1. The Inspector of
Police, V & AC, Dharmapuri,
Dharmapuri.

2.The Public Prosecutor,
High Court, Madras.

+lcc to Mr. M. Devaraj, Advocate sr.92300

Crl.O.P.No.29742 of 2019 &
Crl.M.P.No.16042 of 2019

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nr 12/11/2019



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