

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Cr1.O.P.No.25222 of 2018

State Represented by,
Inspector of Police,
CBI, ACB, Chennai

... Petitioner

Vs.

1.Shri.M.Tamilarasan,
S/o.Malai Karuppan,
Junior Engineer (Works)
O/o the Deputy Chief Engineer -II(works),
Southern Railway,
Trichirappalli.
R/o.2/241, Anna Salai, III Street,
Kalaish Nagar, Kaatur-204,
Trichirapalli-19.

2.Shri.T.Ravindran,
S/o.T.K.Kumaran
Deputy Chief Engineer (Survey),
Constructions,
Southern Railway (Retired),
R/o.D.No.356/4, 4th Main Road,
Ramnagar, Madipakkam, Chennai-91.

3.Shri.K.Chandraiah,
S/o.K.Sadasiva Reddy,
Executive Engineer (Stores/Construction),
Southern Railway, Chennai(Retired),
R/o.3/1257/2, Thatikondavari Street,
Nawabpet, Nellore-524 002. A.P.

4.M/s.C.T.Ramanathan & Co.,
No.80, Ansari Street, Ramnagar
Coimbatore-9.

5.Shri.R.Adaikalavan,
S/o. Late Ramanathan,
Managing Partner,
M/s.C.T.Ramanathan & Co.,
62/B, Alms Road, Kilpauk, Chennai,
R/o. C-7, Third Floor,
Ceebros Palms Apartments,
No.6, Police Commissioner Office Road,
Egmore, Chennai-8.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to cancel the summons issued under section 91 of Cr.P.C. Dated 13.06.2018 in CrI.MP.89 of 2018 in C.C. No.11 of 2009 pending on the file of the learned Trial court.

For Petitioner : Mr.K.Srinivasan
Spl. Public Prosecutor (for CBI Cases)

For Respondents : M/s.V.S.Venkatesh for R1

O R D E R

The Criminal Original Petition has been filed by the CBI under Section 482 of the Criminal Procedure Code, to cancel the summons issued under section 91 of Cr.P.C. dated 13.06.2018 in CrI.MP.89 of 2018 in C.C. No.11 of 2009 pending on the file of the learned Trial court, wherein, the Trial Court directed the CBI, Chief Administrative Officer, Jabalpur for production of original sanction order statement of witnesses, S.P.'s Report and other related documents on 11.07.2018 and not to depart without leave of the Court. Challenging, the same, the present Petition is filed.

2.The case of the prosecution is that the case in Crime No.RC MA 1 2007 A 0056 was registered on 29.11.2007 on the allegation that Shri T.Ravindran, the then Dy.CE/GC, Villupuram in pursuance of criminal conspiracy with A2 Shri K.Chandraiah, the then EE, GC, Katpadi, A-3 Shri.Tamilarasan, JE(W), GC, Katpadi and A4 M/s.C.T.Ramanathan & Co., cheated Southern Railway by allowing A4 firm to carry out the work of extension of yard facilities upto Vellore Cantonment Reach-I as part of Katpadi-Pakala-Tirupathi GC work Phase-III under agreement under

agreement knowing fully well that A4 firm had used steel rods whose quality is far below the prescribed standards, prepared and passed bills for payment of Rs.12,36,672/- thereby causing wrongful gain to A4 firm and corresponding wrongful loss to Southern Railways.

3.On completion of investigation, a charge sheet was filed against the respondents under Section 120B r/w 420, 468 IPC and Section 13(2) r/w 13(1)(d) of PC Act, 1988 before the learned XIII Additional Special Judge for CBI Cases, Chennai and the Court had taken cognizance vide C.C.No.11/09.

4.The learned Special Public Prosecutor appearing for the petitioner / CBI would submit that the respondents had filed a petition under Section 91 of Cr.P.C. in CrI.M.P.No.89 of 2018 on 05.01.2018. The Trial Court in its order dated 18.05.2018 directed the respondents to produce the statement of witnesses, documents, S.P.'s report and draft sanction order as and when the Sanctioning Authority appears before the Court to let in evidence in respect of Sanction Order. Thereafter, PW28, the Investigating Officer, Shri Rajesh Argal, Chief Administrative Officer, Jabalpur appeared before the Trial Court and the chief and cross examination was over on the same day. Since the prosecution witness did not answer the questions raised by the accused and not produced the Original Sanction Order, the learned XIII Additional Special Judge for CBI Cases issued summons to the respondents for production of document on 12.06.2018. Aggrieved by the said summon, the petitioner preferred this Criminal Original Petition.

5.The learned Special Public Prosecutor would further submit that during the pendency of this Criminal Original Petition, this court directed the prosecution witness to appear before the Trial Court for effective cross examination of the respondents. Accordingly, prosecution witness appeared before the Trial Court and answered all the questions raised by the respondents and in particular the questions as stated below:

"Q.After 12.06.2018 did you peruse the original sanction order file.

A.I tried to get original sanction order file from Chennai Office, however could not get the same.

Q.I put is to you that on 12.06.2018 process application was taken before this Court in compliance with orders pass by this court CrI.M.P.No.89/2018 which was forwarded to your department on 14.06.2018 through the CBI and the summons yet to be returned to this Court that is why you have neither been given access to the original sanction order file nor produced

original sanction order file before this Court.

A.I am not aware of above developments.

6.The learned Special Public Prosecutor would further submit that since the prosecution witness was not able to secure the records from the Chennai Office, thereby, the original Sanction Order was not produced before the Trial Court. The respondents / accused have all the rights to take a defence in the defence witness during the trial.

7.The learned counsel appearing for the respondents would submit that the respondent effectively cross examined the witnesses. Since, the Original sanction order was not produced before the Trial court, the respondents are not in a position to take the defence and cross examine the prosecution witness. Unless the original order is produced it is not possible for the accused / respondents to complete the cross examination. Accordingly, prays for appropriate orders.

8.Heard the learned Special Public Prosecutor appearing for the petitioner / CBI and the learned counsel for the respondents.

9.Considering the above submissions that the prosecution witness is not able to secure the original records from the competent authority, it is for the Trial Court to decide the same at the time of arguments whether original sanction order is necessary or not. Since the prosecution witness had already been appeared before the Trial Court and answered the questions posed by the Trial Court and the cross examination has already been completed, the summons issued by the Trial Court has now become infructuous.

9.Accordingly, this Criminal Original Petition stands closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
CBI, ACB, Chennai.

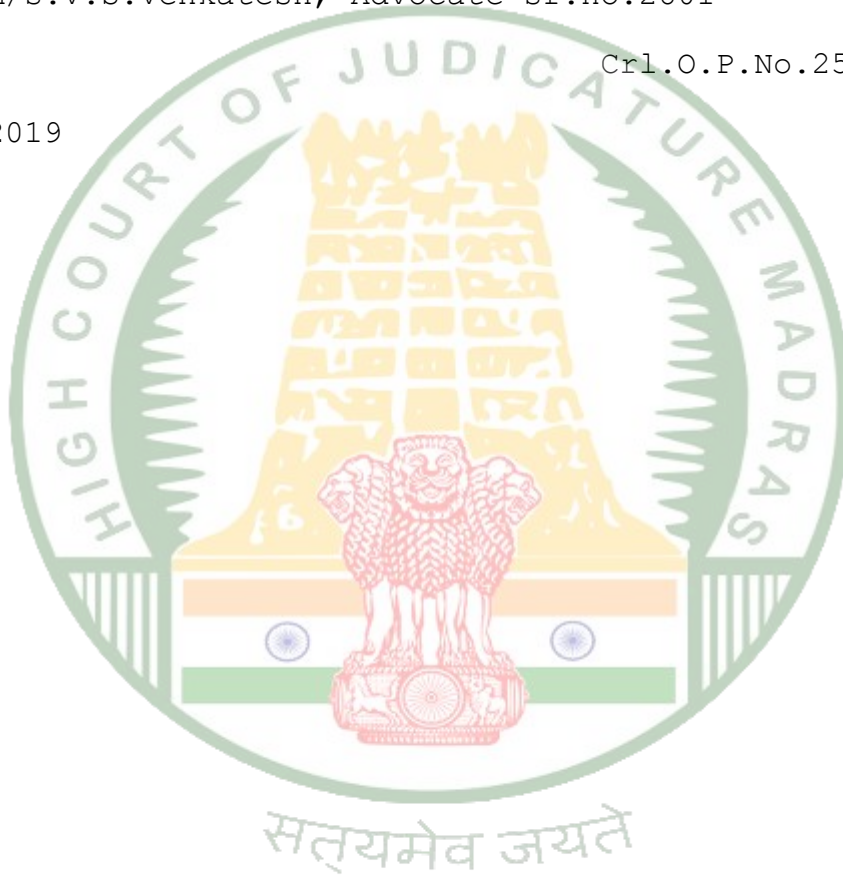
2.The 13th Additional Special Judge
for CBI Cases
Chennai.

3.The Public Prosecutor
High Court of Madras

+2cc to M/s.V.S.Venkatesh, Advocate sr.no.2801

Crl.O.P.No.25222 of 2018

nr 06/02/2019



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