



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.692 of 2020 and

CRL.M.P.(MD)No.7245 of 220

WEB COPY

B.Rajendiran

.. Petitioner/Petitioner/
2nd Accused

Vs.

State rep. by,
The Inspector of Police,
Vigilance and Anti Corruption,
Tirunelveli.
(Crime No.9 of 2017)

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records relating to the order dated 07.03.2020 in Crl.M.P.(MD)No.459 of 2019 in Special C.No.2 of 2019 on the file of the Special Court for Trial of Cases under the Prevention of Corruption Act, Tirunelveli and set aside the same and allow the criminal revision case as prayed for.

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel,
for Ms.AL.Gandhimathi.

For Respondent : Mr.A.Robinson,
Government Advocate(Crl.Side).

ORDER

Heard the learned Senior counsel appearing for the revision petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent.

2. This revision petition is directed against the order dated 07.03.2020 passed by the Special Judge for Trial for Cases under Prevention of Corruption Act, Tirunelveli, dismissing the discharge petition filed by the petitioner herein.

3. The petitioner herein is figuring as accused No.2. Though the learned counsel endeavoured to persuade this Court that the petitioner is innocent and he ought not to be made to face the trial, I am afraid that the I am not in a position to consider the contentions urged by the learned Senior counsel appearing for the petitioner. As rightly pointed out by the learned Government Advocate(Crl.Side), the name of the petitioner figures in the



original complaint itself. In the First Information Report, the petitioner is figuring as accused No.2. The petitioner is said to have told the defacto complainant that he had given all the relevant instructions to the clerk Seetharaman and the complainant should act on the instructions. Of course the trap was successful against the other accused. As pointed out by the learned Senior counsel appearing for the petitioner, the evidence of the defacto complainant would require corroboration. But this aspect of the matter has to be necessarily gone into only in the main trial. This cannot be considered at this stage.

4. It has been repeatedly held that at this stage, the Court cannot appreciate the evidence projected by the petitioner and hold that the prosecution case is not maintainable. What the Court to see is whether there is *prima facie* case against the petitioner. I am of the view that there is *prima facie* case against the petitioner herein. Therefore, I am constrained to dismiss the revision petition filed by the petitioner herein.

5. This criminal revision case is dismissed accordingly. All the defences and the contentions of the petitioner are left open. The dismissal of this petition will not cast any cloud on the defence of the petitioner herein.

6. Considering the circumstances projected by the learned Senior counsel, the personal appearance of the petitioner before the Court below is dispensed with. The learned Special Judge shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through his counsel. If the counsel fails to appear before the trial Court, this benefit will be vacated automatically. The petitioner will file an affidavit that he will not dispute the identity of the witnesses. Consequently, connected miscellaneous petition is closed.

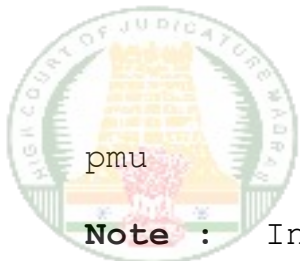
Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judge, Special Court for Trial of Cases
under the Prevention of Corruption Act,
Tirunelveli.
2. The Inspector of Police,
Vigilance and Anti Corruption,
Tirunelveli.
3. The Section Officer-2 copies
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

Crl. R.C. (MD) No. 692 of 2020
17.12.2020

KM (19.01.2021) 3P 5C