



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.06.2021

PRONOUNCED ON : 20.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.R.C. (MD) No.305 of 2021

and

Crl.M.P. (MD) .No.3020 of 2021

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Mr.N.Manivannan
S/o.Nagarathinam

: Revision Petitioner/Respondent/Accused No.4

Vs.

State through the
Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Virudhunagar.

(Cr.No.7 of 2018)

: Respondent/Petitioner/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.M.P.No.13 of 2021 on the file of the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur in Crime No.7 of 2018 on the file of the Respondent Police Station dated 09.01.2021 and set aside the same.

For Petitioner	: Mr.T.Lajapathi Roy
For Respondent	: Mr.T.Senthil Kumar
	Government Advocate (Crl. Side)

ORDER

This Criminal Revision has been filed to set aside the order passed in Crl.M.P.No.13 of 2021 on the file of the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur.

2.The brief facts relevant to the case are as follows:

2(a).The petitioner herein is arrayed as A4 in Cr.No.7 of 2018 on the file of the Vigilance and Anti Corruption Police of Virudhunagar District under Sections 120-B, 167, 465, 468, 420, 471, 477-A of IPC and Sections 13 (1) (c) and (d) r/w. 13 (2) of the Prevention of Corruption Act, 1988 r/w. 109 of IPC.

2(b).It is the case of the prosecution that A-1 Tr.J.Alphones was working as Municipal Engineer and in-charge Commissioner of Aruppukkottai Municipality during the period between 23.07.2011 and 02.06.2013 and A-2, Tr.G.Velmurugan, was working as Inspector of Town Planning, Sivakasi and worked as the Inspector of Town



Planning, Aruppukottai Municipality during the period between June, 2012 and May, 2015 and as such, both A-1 and A-2 are public servants as defined under Section 2 (c) of the Prevention of Corruption Act, 1988. A-3 and A-4 are Private individuals and known persons to A-1 and A-2. It is revealed that in the year of 2013, A-3 Tr.N.Sankarram, S/o. Nagarathinam who was having building in Door No.143, Utchisamy kovil 5th Cross Street, Aruppukottai and was running power looms in the said building which is a residential area. A-4, Tr.Manivannam is the brother of A-3. There was a dispute with a neighbour in running power looms at the above said buildings and a representation was filed by the neighbour. Thereafter A-3 and A-4 sent an application dated 20.05.2013 to the Aruppukkottai Municipality for additional building constructions.

2(c).It is revealed that on 20.05.2013, A-1 and A-2 conspired with A-3 and A-4 to do an illegal act of preparing a forged and false order permitting A-3 for additional constructions without getting even an application and without following the procedures established under law and received gratification other than legal remuneration.

2(d).In pursuance of the above said conspiracy and after receipt of consideration, A-2 visited the building and prepared necessary endorsement for approval and collected necessary fee. The owner of the building has to pay Labour welfare Fund and hence, a sum of Rs.360/- was fixed as the Labour Welfare Fund and instead of receiving the said fund from A-3, A-2 prepared the file in No.122/2013/A, dated 22.05.2013 knowing that the same is incorrect and which may cause injury and recommended for additional building construction and even though it is the duty of A-2 to verify whether the Labour Welfare Fund was paid and instead of verifying the same, he himself made an endorsement as if a sum of Rs.360/- was paid through a Demand Draft No.205458, dated 21.05.2013, knowing that the said Demand Draft was drawn by one Tr.Ponnusamy for a sum of Rs.285/- for his application which is under his dominion and dishonestly misappropriated the same and fraudulently used the same as genuine with intent to commit fraud intending to cheat the municipality and to cause wrongful gain to A-3 for pecuniary advantage for himself and for A-1 and falsified the records in the said municipality.

2(e).In pursuance of the above said conspiracy, A-1 without following the procedures approved the said order on the very same day on 22.05.2013 for pecuniary advantages by abusing his position as a public servant and issued an order in favour of A-3 to run ten power looms knowing that the same was issued without following the procedures and used the seal of the Aruppukottai Municipality for their own benefit.

2(f).The aforesaid facts as revealed in the enquiry provide grounds for suspicion of commission of cognizable offence



which requires registration of a regular case against the above mentioned accused. Hence, the case was registered against the accused. The charge sheet laid by the Deputy Superintendent of Police, Vigilance and Anti corruption before the learned Chief Judicial Magistrate, Virudhunagar.

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2(g).The learned Chief Judicial Magistrate, Virudhunagar had taken cognizance and numbered as Crl.M.P.No.13 of 2021. On perusal of the records, the learned Chief Judicial Magistrate had allowed the petition. As against which, the appellant/accused preferred this revision before this Court.

3.The learned Senior Counsel had fairly conceded one or two rulings are there against him, but still it is his forcible contention that the Revision Petitioner is not an accused before the trial Court, which had ordered comparison of signature and the issue is no more *res integra*, protecting his right. The relevant issue, which is already pending before the bench of this Court, is regarding the potency test in sexual offences case and in that case, the learned Additional Public Prosecutor has also sought time to put forth his arguments. In support of his contentions, relied on various rulings of the Hon'ble Supreme Court as well as the rulings of the various High Courts, which are also as against the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that after registration of the case, A-3 died. A-4 is the brother of A-3. He further submitted that the learned trial Judge had directed the petitioner herein, A-4 to furnish his signature in open Court for the Court to send the records regarding the disputed signature to the Forensic Department and get expert's opinion, since A-4 is alleged to have forged the signature of A-3. Against the order passed by the learned trial Judge, this petition had been filed.

5.The petitioner herein had already filed Criminal Original Petition seeking to quash the FIR before this Bench in Crl.O.P.(MD). No.13775 of 2018 and the same was closed on the ground that the investigation had been completed and charge sheet also laid before the Court of the learned Judicial Magistrate. It is the contention of the learned counsel for the petitioner that he was not at all arrested by the Vigilance and Anti Corruption Department. At this stage, summons were issued to the petitioner herein to furnish his signature to enable the Vigilance and Anti corruption Police to complete the investigation to its logical end. The learned Judicial Magistrate had passed orders in Crl.M.P.No.13 of 2021 filed by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Virudhunagar. The contention of the learned counsel for the Revision Petitioner cannot at all be accepted in the light of the ruling of the Hon'ble Supreme Court reported in **(2019) 8 SCC 1 in**



the case of Ritesh Sinha Vs. State of Uttar Pradesh.

6.The case was registered in the year 2018. Based on the petition filed before the learned trial Judge, by the Investigating Officer, summon was sent to the accused directing to appear before the trial Court and furnish signature in open Court and also to furnish documents relating to admitted signatures. Subsequently, after filing of this petition, the petitioner herein had protracted the proceedings and thereby, delaying the investigation successfully for a period of two years.

7.Heard the learned counsel for the Revision Petitioner and the learned Government Advocate (Crl. Side) for the respondent.

8.Point for consideration:

Whether the order of the learned Judicial Magistrate directing the petitioner herein to furnish his signature to enable the Investigation Officer to proceed with the investigation is to be set aside as perverse?

9.Perused the following rulings cited by the learned counsel for the Revision Petitioner:

- (i) **Amrit Singh -vs- State of Punjab [(2006) 12 SCC 79]**
- (ii) **State of Bombay -vs- Kathi Kalu Oghad [1961 (2) Crl.LJ 856]**
- (iii) **Ritesh Sinha -vs- State of UP [(2013) 2 SCC 357]**
- (iv) **State of Uttar Pradesh -vs- Ram Babu Misra [(1980) 2 SCC 343]**
- (v) **Ritesh Sinha -vs- State of Uttar Pradesh [(2019) 8 SCC 1]**
- (vi) **Judgment of this Court in Crl. R.C. (MD) .Nos.829 and 843 of 2015, dated 15.10.2015.**

10.Section 311-A of Cr.P.C. had been introduced by the Parliament on the recommendation of the Law Commission and the Judgment of the Hon'ble Supreme Court reported in **(1980) 2 SCC 343** in the case of State of **Uttar Pradesh Vs. Ram Babu Misra**, which is in aid of the Investigation Officer just like the Provision under Section 5 of Identification of Prisoners Act.

11.The learned Judicial Magistrate had allowed the petition only under Section 311 - A of Cr.P.C., to aid the Investigation Officer to proceed with the investigation.

12.By allowing this petition, the Revision Petitioner herein has to furnish his signatures to aid the Investigation Officer regarding admitted signatures and disputed signatures.

13.By furnishing the signature of the Revision Petitioner, it will not amount to violation of Article 20 of the Constitution of India. Not only that, in all the above rulings, it had been



specifically stated by furnishing signatures alone, it will not amount to evidence as to be let in by the witness before the court. The petitioner herein is not examined as a witness, but he is also expected to furnish the signatures only after the completion of investigation. The purpose of furnishing the signatures to the Investigation Officer through the Court will help the Investigation Officer to proceed with the investigation to its logical conclusion. If the Revision Petitioner herein is not examined as a witness, he is unable to furnish his signatures. Therefore, the contention of the learned counsel for the Revision Petitioner that the order of the learned Judicial Magistrate directing the Revision Petitioner to furnish his signatures in open Court to aid the Investigation Officer will be utilized by the Investigation Officer to incriminate the accused, to implicate the accused in a different case cannot at all be accepted.

14.The order of the learned Judicial Magistrate directing the Revision Petitioner to furnish the signatures to aid the Investigation Officer, under Section 311-A Cr.P.C., can always be utilized by the accused as a defence if at all he is implicated as an accused in any other case. For the present, the investigation would not be hampered and the investigation is to proceed to a logical conclusion. Therefore if the petition is not allowed the investigation cannot proceed to its logical conclusion. In the light of the same, the contention of the learned counsel for the Revision Petitioner is rejected on the basis of the very same ruling stated on his behalf. The arguments put forth by the learned Government Advocate (Crl. Side) relied on the very same ruling in support of the stand of the prosecution is accepted and the contention of the learned counsel for the Revision Petitioner is rejected. In the light of the above discussion, the order of the learned Judicial Magistrate directing the petitioner herein to furnish his signature to enable the Investigation Officer to proceed with the investigation is not found perverse. The point for consideration is answered in favour of the prosecution and against the accused.

In the result, this Criminal Revision is dismissed. The order dated 09.01.2021 passed in Crl.M.P.No.13 of 2021 by the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur is confirmed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

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Sub Assistant Registrar(CS)



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To

1.The Chief Judicial Magistrate,
Virudhunagar District, Srivilliputhur.

2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Virudhunagar.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-29712[F] dated
21/09/2021)

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20.09.2021

NSN(CO)/RS (08.10.2021) 6P 5C