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CRL.O.P.No.23775 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23775 of 2022 and CrI.M.P.No.15136 of 2022

Balaji

... Petitioner

Versus

1.The Inspector of Police,
Vigilance and Anti Corruption,
Chennai City IV,
Chennai – 600 016.

2.State rep. by
The Inspector of Police,
CBCID, Chennai District.

3.C.Karthick

4.S.Deepan Chakaravarthi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the final report filed by the first respondent before the Chief Judicial Magistrate cum Special Judge, Thiruvallur without assigning notice to the petitioner/defacto complainant after dropping the name of accused No.1 arrayed in F.I.R in Crime No.7 of 2019 from the final report.



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For Petitioner : Mr.R.Chitti Babu
For Respondents : Mr.S.Udayakumar,
Government Advocate (Crl.Side)
for R1 and R2

ORDER

This petition is filed to quash the final report, filed by the Inspector of Police, Vigilance and Anti-Corruption, Chennai, the first respondent herein before the Chief Judicial Magistrate cum Special Judge, Thiruvallur.

2.Pursuant to the earlier order dated 10.10.2022 passed by this Court, Ms.C.Jansi Rani, the Inspector of Police, Chennai City-IV, Vigilance and Anti Corruption, Chennai had filed her explanation, wherein, it is seen that after taken up the investigation on 06.05.2019, she had examined 15 witnesses and collected 39 documents and also obtained legal opinion and finding prima facie case to prosecute A1, namely, C.Karthick, the third respondent herein, Motor Vehicle Inspector Grade II under Section 7 of Prevention of Corruption (Amendment) Act 2018 read with 201 I.P.C. and A2, namely, Deepan Chakravarthi, the



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fourth respondent herein, who is a private individual under Section 7A and 12 of the above Act, she prepared draft final report and submitted the same before the Director, DVAC along with legal opinion, draft charge sheet and model sanction order with recommendation to prosecute A1 and A2 before the competent Court of law. It is further seen from explanation that clarification was sought for from the above Director, DVAC regarding the evidences available on record to connect A1 and A2 in this case. Though their record would reveal that Fitness Certificate was renewed on 14.03.2019 itself, when the complainant met A1 on 26.03.2019, he warned him not to come and meet him directly and instructed to meet A2, who acted as an agent for A1. The explanation further reveals that based on her draft final report, Senior Officer, Head Quarters had taken decision to place A1 before the Tribunal for disciplinary proceedings due to insufficient evidences to prosecute him. After getting approval from the Deputy Legal Advisor, she had filed charge sheet before the concerned Court against A2. Since accusations were levelled as against A1 and A2 attracting provisions of Sections 7 and 7A of Prevention of Corruption (Amended) Act 2018, a case has



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been registered against both A1 and A2 by one Arunasree, the Inspector of Police, Vigilance and Anti Corruption, CC-II Unit in Crime No.7/2019/AC/Cc-II.

3.Pursuant to the above direction, Ms.P.Lakshmi, Special Public Prosecutor/Additional Public Prosecutor/DLA, Vigilance, Thiruvallur District also filed her Explanation stating that after consulting the Legal Advisor in the Head Quarters, it was found that there is no substantive evidence against A1. Since the averments made by the petitioner shows that only A2 demanded and accepted undue advantage to influence a public servant, the Investigating Officer has come to the conclusion that A2 was charged for the offence under Section 78-A of the above Act and she worked in the DVAC as DLA only from 04.12.2020 to 04.01.2021. Thereafter, based on the available materials and evidences, she approved the charge sheet as against A2 since the commission of an offence under Section 7-A of the above Act only against A2. Hence there is no warrant act of filing final complaint and final report before two places. She further submitted that now invoking Section 173(8) Cr.PC., charge sheet



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was filed including A1 in this case and therefore, A1 and A2 to be prosecuted before the Chief Judicial Magistrate, Thiruvallur.

4.This Court heard the learned counsel for the petitioner and the learned Government Advocate and perused the explanation given by Ms.C.Jansi Rani, the Inspector of Police, Chennai City-IV, Vigilance and Anti Corruption, Chennai and Ms.P.Lakshmi, Special Public Prosecutor/ Additional Public Prosecutor/DLA, Vigilance, Thiruvallur and also the legal opinion sheet.

5.It is not in dispute that A1, who is the authority to issue the fitness certificate to the petitioner, have demanded bribe on four occasions through A2. The petitioner, who was unable to bear the same, lodged a complaint dated 28.03.2019. Though the beneficiary of the bribe amount is A1, splitting up the case between A1 and A2 cannot be done. Under these circumstances, the act of A1 and A2 are inseparable as



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they acted with common intention. For getting the bribe amount from the petitioner/ defacto complainant, they acted as conspirators in furtherance to common act and the same is clearly proved from the Entrustment Mahazar and all the other documents, which show the numbers of the currency notes seized from A2.

6.Now finding that further investigation report filed and A1, the Motor Vehicle Inspector, Grade II to be prosecuted under Section 7 of Prevention of Corruption Act 1988 read with 201 I.P.C., no specific order is required in this petition.

7.It is made clear that the observations made herein are only for the disposal of the above petition. The innocence or otherwise of both A1 and A2 to be decided by the Trial Court independently only on the materials and evidences produced before it.



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8. With the above observation and direction, this petition stands disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

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Index: Yes/No

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