



WEB COPY



Crl.O.P.No.14426 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.07.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.14426 of 2023

and

Crl.M.P.Nos.9053 & 9055 of 2023

R.Sridharan

.. Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Vigilance & Anti Corruption,
Cuddalore.

2.A.K.Poomalai

..Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to call for entire records and to quash the proceeding now pending in Spl.C.C.No.7 of 2022 on the file of the Special Judge and Chief Judicial Magistrate, Cuddalore.

For Petitioner : Mr.M.Aravind Subramani
Senior Counsel
For Mr.N.Manikandan

For R1 : Mr.S.Udayakumar
Government Advocate (Crl.Side)



WEB COPY



Crl.O.P.No.14426 of 2023

ORDER

Based on the complaint given by one A.K.Poomalai S/o. Kaliyaperumal against the petitioner, the respondent police has registered the First Information Report on 25.09.2018.

2. The sum and substance of the First Information Report is that on 21.08.2018 at about 13.00 hours, the petitioner, who is the Tahsildar of Virudhachalam Taluk, and his assistant on seeing the tipper lorry bearing Registration No.TN 07 F 4270 on Aladi Road, Virudhachalam, intercepted it and took the vehicle to Taluk Office, Virudhachalam. The vehicle was driven by one Sivakumar. The petitioner has found that the vehicle carrying river sand illegally, hence the vehicle was seized. To release the vehicle, when the defacto complainant approached the petitioner, it is alleged that the petitioner demanded Rs.15,000/- as bribe. Based on this complaint, the respondent police has arranged for a trap. Admittedly they could not succeed even after three attempts made by the defacto complainant to meet the accused and give money. However, for making a demand of illegal gratification to release



CrI.O.P.No.14426 of 2023

the vehicle, final report has been filed after obtaining sanction to prosecute the petitioner. The District Collector, Cuddalore, who is the competent authority to accord sanction, had passed the proceedings to grant sanction. The trial Court has taken the final report on file and assigned Spl.C.C.No.7 of 2022

3. Stating that the case emanates from the malicious intention of the defacto complainant, who suffered seizure of the vehicle by the law enforcing officer, the final report however taken on file by the trial Court without proper appreciation of the material placed by the Investigating Agency. The alleged statements of witnesses even proved no offence could be made out against the petitioner to punish him under Section 7 of Prevention of Corruption Act as amended in 2018.

4. The learned counsel appearing for the petitioner, after reading the statement of the defacto complainant and the statement of the shadow witness, who has accompanied the defacto complainant to oversee the transaction between the defacto complainant and the Tahsildar/the petitioner herein, submitted that admittedly after



Crl.O.P.No.14426 of 2023

registration of the FIR, the defacto complainant had never met the petitioner and all his three attempts to meet him ended in futile. The tainted currency entrusted to the defacto complainant at the time of pre trap proceedings was taken back by the Trap Laying Officer. While so, to attract Section 7 of P.C.Act, except the complaint and the statement of the defacto complainant, there is no other material evidence to prove the demand of Rs.15,000/- by the petitioner as illegal gratification to release the vehicle. However strong the suspicious, the statement of witnesses even if taken as proved, it will not be a sufficient to convict the petitioner for the offence under Section 7 of P.C.Act. Hence the learned counsel for the petitioner prayed to quash the Spl.C.C.No.7 of 2022.

5. The learned Government Advocate (Crl.Side) appearing for the State submitted that the petitioner/accused who seized the vehicle for the alleged illegal transport of river sand on 21.08.2018 neither returned it to the lawful owner nor commenced the proceedings to confiscate. Expecting illegal gratification, he has kept the file without taking action for more than 50 days. When the defacto complainant approached him



Crl.O.P.No.14426 of 2023

for return of vehicle, he demanded Rs.15,000/-. Though the trap failed, the material collected during the investigation had satisfied the sanction authority to accord sanction to prosecute. As a consequence, final report has been filed after obtaining sanction order dated 13.12.2019.

6. This Court, on perusing the sanction order dated 13.12.2019, finds that except the inaction on the part of the petitioner after seizing the vehicle on 21.08.2018, there is no other material to infer that he has kept the file for more than 50 days without initiating any further action in the matter expecting bribe. The subjective satisfaction of the sanctioning authority appears to be baseless. While the statement of the witness on the face of it being inadequate to arrive a prima facie satisfaction to prosecute the petitioner under Section 7 of P.C.Act. Sanction to prosecute has been granted without proper appreciation of records. The wisdom of authority normally cannot be questioned or interfered by the Court. In this case, this Court finds palpable misapplication of mind which warrants interference. Accordingly, the criminal prosecution against the petitioner herein stands quashed.



Crl.O.P.No.14426 of 2023

WEB COPY

7. In the result, this Criminal Original Petition is allowed.

Consequently, the connected Criminal Miscellaneous Petitions are closed.

12.07.2023

Internet : Yes/No

Index: Yes/No

rpl

To

1.The Special Judge and Chief Judicial Magistrate, Cuddalore.

2.The Inspector of Police,
Vigilance & Anti Corruption,
Cuddalore.

3.The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



Crl.O.P.No.14426 of 2023

Dr.G.JAYACHANDRAN, J.

rpl

Crl.O.P.No.14426 of 2023

12.07.2023