



Crl.O.P.No.26375 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.26375 of 2023
and Crl.M.P.No.18329 of 2023

V.Manoharan ... Petitioner

Vs.

The State represented by,
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Mayiladuthurai. ... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleased to call for the records in Spl.C.C.No.04 of 2023 on the file of the learned Chief Judicial Magistrate, Mayiladuthurai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.P.Karthikeyan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



Crl.O.P.No.26375 of 2023

ORDER

This Criminal Original Petition has been filed seeking to call for the records in Spl.C.C.No.04 of 2023 on the file of the learned Chief Judicial Magistrate, Mayiladuthuai and quash the same in respect of the petitioner.

2. The case of the prosecution is that the petitioner (A5), who is a Contractor, along with the accused 1 to 4, who were Junior Engineers and Assistant Executive Engineers respectively in PWD/WRO, Cauvery Basin Sub-Division (East), Mayiladuthurai, without doing the actual work, have inflated the bills and cheated the Government.

3. Learned counsel for the petitioner submitted that the petitioner other than being the contractor has not committed any offence. He further submitted that only after the approval of the accused 1 to 4, the bills have been passed, for which the petitioner cannot be held responsible.

4. Per contra, the learned Government Advocate (Crl.Side) submitted that it is the case where the petitioner had conspired with other accused and by



CrI.O.P.No.26375 of 2023

fabricating the invoices and by raising inflated bills, had cheated the Government to the tune of Rs.57,71,904/-. He also submitted that there are ample materials to show the collusion between the petitioner and other accused. He further submitted that the trial has been commenced and the case stands posted on 07.12.2023.

5. At this juncture, the learned counsel appearing for the petitioner sought permission of this Court to withdraw the petition and also prayed that the petitioner may be permitted to raise all the grounds before the trial Court. He further submitted that the petitioner is aged about 71 years and thereby, he prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present before the trial Court on initial questioning, reply to charges and at the time of framing charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.



CrI.O.P.No.26375 of 2023

7. The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial Judge for the purpose of identification or progress in trial. If the petitioner adopts any dilatorial tactics, it is open to the trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Hon'ble Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

8. In view of the endorsement made by the learned counsel appearing for the petitioner, this Criminal Original Petition stands dismissed as withdrawn with the above directions. Consequently, connected miscellaneous petition is closed.

21.11.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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4/6



CrI.O.P.No.26375 of 2023

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1. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Mayiladuthurai.
2. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.26375 of 2023

A.D.JAGADISH CHANDIRA, J.

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