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Crl.OP.No.29536 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.29536 of 2022
and
Crl.M.P.Nos.18092 and 18093 of 2022

T.Rajashekaran

... Petitioner

Vs.

1. State rep by Inspector of Police,
Vigilance and Anti Corruption,
Vellore-1, Vellore District.

2. R.Ganesh

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for records in Spl.CC.No.4 of 2022 on the file of the learned Chief Judicial Magistrate, Vellore to quash the same.

For Petitioner : Mr.K.S.Rajagopalan

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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ORDER

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The petitioner herein is a private person who is arrayed as A2 in the case registered by Vigilance and Anti Corruption Department on 16.09.2019 for aiding public servant A1, who was Deputy Director of Town and Country Planning Department, Vellore for receiving Rs.2,00,000/- (Rupees Two lakhs only) from the defacto complainant.

2. This petition is filed for quash on the ground that the petitioner is a retired staff of Town and Country Planning Department used to attend office of Deputy Director to assist the Deputy Director and on the date of trap, when he was present, the defacto complainant came and gave a sum of Rs.2,00,000/- to A1, the Deputy Director. On the instructions of the Deputy Director, the petitioner herein has received the money from the defacto complainant, counted it and kept in the table drawer of A1. Except receiving the money from the defacto complainant and counting it and also kept it in the table drawer of A1, the petitioner had no knowledge what for the money given by the defacto complainant and his innocent participation in counting the currency will not attract the provisions under IPC about abetting or under Section 12 of Prevention of Corruption Act.



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3. Further, the learned counsel for the petitioner submitted that in this case, after completion of investigation, final report was filed on 01.08.2022. However, the public servant died on 30.08.2022, charges so far not framed. The petitioner being an accused of abetting the public servant and since public servant himself is no more, charges of abetment doesn't survive. This Court is unable to countenance the said statement. The plea of abatement, on the death of A1, will not arise in this case, since receipt of illegal gratification by the public servant alone will get abated in view of his death, whereas, Section 12 of Prevention of Corruption Act is distinct offence and if the facts that the petitioner herein received the money from the defacto complainant, knowing well that it is a illegal gratification for A1 is proved Section 12 of Prevention of Corruption Act will get attracted.

4. In any event, this can be ascertained only after examination of defacto complainant and the shadow witness. Hence, the petition for quash is dismissed. Consequently, connected miscellaneous petitions are closed.

5. The learned Government Advocate (Crl.Side) states that already summons has been issued to the witness and the case is posted to 17.08.2023.



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6. In this case, in view of the death of A1 a public servant, it is appropriate to examine the defacto complainant, the shadow witness immediately and thereafter if necessary, proceed further. Hence, the learned Government Advocate (Crl.Side) is directed to instruct his counterpart in the trial court to act accordingly to complete the trial as expeditiously as possible.

20.07.2023

Index: Yes/No

Speaking / Non Speaking Order

Vv

To

1. The learned Chief Judicial Magistrate,
Vellore.
2. The Inspector of Police,
Vigilance and Anti Corruption,
Vellore-1, Vellore District.



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Dr.G.JAYACHANDRAN, J

Vv

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