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Crl.O.P.No.27361 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.27361 of 2023
and Crl.M.P.No.18969 of 2023

G.Ramakrishnan

... Petitioner

Vs.

State by,
The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Nagapattinam.

Crime No.5 of 2013

... Respondent

PRAYER : Criminal Original Petition filed under Section 407 of Criminal Procedure Code, pleaded to withdraw the case in Spl.C.C.No.3 of 2015 pending on the file of the learned Chief Judicial Magistrate, Thiruvarur and transfer to any other District Chief Judicial Magistrate.

For Petitioner : Mr.B.Gopalakrishnan

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



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ORDER

This Criminal Original Petition has been filed seeking to withdraw the case in Spl.C.C.No.3 of 2015 pending on the file of the learned Chief Judicial Magistrate, Thiruvarur and transfer the same to any other Chief Judicial Magistrate in the nearby district to pass further orders.

2. The petitioner is a sole accused facing trial in Spl.C.C.No.3 of 2015 pending on the file of the learned Chief Judicial Magistrate, Thiruvarur in connection with Crime No.5 of 2013 registered for the offences under Sections 7, 13 (2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. The case against the petitioner/accused is that the petitioner being the Village Administrative Officer of Edaiyur Village had demanded a sum of Rs.1000/- from the *de facto* complainant/PW2 for forwarding the application seeking financial assistance for marriage and received a sum of Rs.1000/- from him.

3. It is the case of the petitioner that the prosecution has examined PW1 to PW7 and finally examined PW8 on 04.07.2023 and only thereafter, the



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petitioner came to know that PW7 had created a forged Recovery Mahazar (Ex.P7). On coming to know about the same, the petitioner has filed a petition under Section 340 of Cr.P.C seeking to take appropriate action against PW7 for creating a forged Ex.P7, however, the learned Magistrate had refused to accept the petition and returned the same to the petitioner and insisted the petitioner to argue the case and also openly threatened him that he will convict the petitioner and adjourned the case on 05.12.2023. The petitioner has filed the present petition, expressing his concern that the learned Magistrate is prejudiced against him.

4. Mr.Gopalakrishnan, learned counsel representing Mr.B.Kumarasamy, learned counsel for the petitioner submitted that the Trap Laying Officer has been examined as PW7 and through him, Ex.P7 (Recovery Mahazar) has been marked. He further submitted that only after perusing the marked documents, the petitioner was able to see that Ex.P7 was fabricated by the Trap Laying Officer (PW7) and thereby, the petitioner had given a complaint against PW7 under Section 340 of Cr.P.C, whereas, the learned Magistrate returned the same to the petitioner and compelled him to proceed



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with the case and further, threatened him that if he did not proceed with the case, he will convict the petitioner and therefore, apprehending prejudice and bias, the petitioner has filed this present petition seeking to transfer the case to some other district.

5. Per contra, the learned Government Advocate (Crl.Side) submitted that it is the case of the year 2013 and the complaint was lodged by the *de facto* complainant/PW2 on 26.07.2013, pursuant to which, trap was laid by the TLO and the petitioner/accused was caught red handed while receiving bribe from PW2 and was arrested. He also submitted that other than recording the statement of the accused at the time of arrest in due compliance of Rule 47(2) of the DVAC manual, the respondent has not fabricated any document as alleged. The accused has also affixed his signature in the statement. He further submitted that the respondent, after completion of investigation has filed the charge sheet as early as 18.04.2015.

6. He further submitted that the case was taken up on file in Spl.C.C.No.3 of 2015 on 27.04.2015 and after appearance of the accused,



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copies were furnished to the petitioner in compliance of Section 207 Cr.P.C., as early as on 08.06.2015. Copy of document Ex.P7 was also furnished to the petitioner/accused. After initial questioning, charges were framed on 04.09.2015 and examination of the prosecution witnesses, more particularly, P.W.7 (Trap Laying Officer) through whom Ex.P7 was marked, was completed on 04.07.2023. The petitioner has not raised any objection from the month of July 2023 and he has not taken any steps to send the signature for hand writing expert. Thereafter, questioning under Section 313 Cr.P.C., was completed and the complaint under Section 340 Cr.P.C., has been filed only at the stage of arguments. The conduct and the manner in which the petition has been filed would go to expose the ill motive of the petitioner to delay and protract a trial and the petitioner has not come to the Court with clean hands, thereby, he sought for dismissal of the petition.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) for the respondent and perused the materials available on record.



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8. The petitioner is a sole accused facing trial for the offence under

Sections 7, 13 (2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. The occurrence is stated to have happened on 26.07.2013, the final report has been filed on 18.04.2015 and thereby, the trial has been commenced on 27.04.2015. the documents were furnished in compliance with Section 207 of Cr.P.C to the petitioner on 08.06.2015 and subsequently, charges have been framed on 04.09.2015 and after completion of recording of the evidence, all the prosecution witness including PW7 has been completed as early as on 04.07.2023 and after completion of questioning under Section 313 Cr.P.C, when the matter was posted for arguments on 19.12.2023, the petitioner has come out with such a novel complaint under Section 340 Cr.P.C. The conduct, manner and the time of such a complaint is filed would expose the motive of the petitioner.

9. In view of the above, this Court is of the opinion that the complaint under Section 340 Cr.P.C., has been filed only to delay the trial. The trial Court had rightly returned the application and this Court also does not find any irregularity or illegality in the manner the petition has been returned. The



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petition seeking for transfer lacks bonafides and merits and thereby, the petition stands dismissed. However, taking into consideration the conduct of the petitioner, this petition is dismissed with costs of Rs.10,000/-. The cost of Rs.10,000/- shall be paid to the credit of District Legal Services Authority, Thiruvarur. Consequently, connected miscellaneous petition also stands closed.

07.12.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

1. The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Nagapattinam.
2. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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