



Crl.O.P.No.4424 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

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THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.4424 of 2024

P.Soundararajan

... Petitioner/Accused

Vs.

State represented by,
The Inspector of Police,
Vigilance and Anti Corruption,
Special Investigation Cell,
Chennai.
(Cr.No.23/Ac/2011)
...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed by the learned Special Judge and Chief Judicial Magistrate, Chengalpattu in Crl.M.P.No.2332 of 2024 in Spl case No.09 of 2013 dated 13.02.2024.

For Petitioner : Mr.P.Ezhinilavan

For Respondent : Mr.S.Santhosh



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Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to set aside the order passed by the Special Judge and Chief Judicial Magistrate, Chengalpattu, in crime No.232 of 2024 in Spl.Case No.09 of 2013, dismissing the petition filed under Section 91 Cr.P.C to issue summon to the Inspector of Police, Adambakkam, to produce the following documents:

- (i) visitor's register maintained at the Adambakkam Police Station pertaining to the month of November 2021 more particularly dated 21.11.2011;
- (ii) C.S.R. maintained in the Police station right from the month of January 2011 to November 2011 and
- (iii) General diary maintained in the Police Station for the month of November 2011.

2. The petitioner is the accused facing trial in respect of Spl.Case No.09 of 2013 on the file of the trial Court for offenses under Sections 7, 13(2) r/w 13(1)(d) of PC Act.



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3. In this case, the prosecution in brief is that the petitioner has demanded and accepted bribe for not registering the case against the *de facto* complainant. In the said criminal case trial is going on. The prosecution has examined nine witnesses and all the witnesses were also cross examined. Now, the case is posted for examination of P.W9 the Investigating Officer. At this stage, the petitioner has filed an application under Section 91 Cr.P.C. seeking to produce the above said documents.

3. It is the case of the petitioner that the documents as mentioned above, if provided will falsify the prosecution case and the said documents will strengthen the defense case.

4. The petitioner had relied upon the evidence of P.W4 wherein P.W4 had stated that from January 2011 to November 2011 the CSR's have been issued to the complainants who lodged complaints regarding the missing of gas cylinders from their houses and against the accused Inspector. P.W5 and P.W7 have stated in their evidence about the visitors register maintained at



Adambakkam Police Station and entries made in the same about the details of the persons who visited the police station. Further the general diary is also maintained in the Police Station with regard to the day to day activities of the Police Station and hence, sought for those documents.

5. The respondent has filed counter affidavit stating that the documents mentioned in the petition was not seized during the trap proceedings and further, during the investigation it was not collected. Hence, it was not available before the concerned police station.

6. The trial Court considering the fact that the documents pertains to the year 2011, i.e, 12 years old and as stated in the counter affidavit the documents were not seized during the trap proceedings and were also not collected during the investigation and thus taking into consideration these facts dismissed the petition against which the present application has been filed.

7. The learned counsel for the petitioner would submit that these documents are necessary for proving the defense of the petitioner and thereby



necessary to be produced before the concerned Court.

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8. This Court on the earlier hearing directed the Government Advocate (Crl.side) to verify as to whether the copies of the documents sought by the petitioner are available at Adambakkam Police Station (Crime)

9. The learned Government Advocated (Crl.side) on verification submitted that the documents are not available in the Adambakkam Police Station. He would further submit that as per the Police standing order 224, time period for retention of records claimed by the petitioner in the Adambakkam Police Station have been lapsed and there is no need for the respondent Police Station to maintain them.

10. The learned Government Advocated (Crl.side) has submitted an affidavit filed by P.C.Shivakumar , Inspector of Police, Adambakkam Police Station (Crime), Chennai. In the said affidavit it has been stated that after checking the entire available records in the Adambakkam Police Station the above mentioned documents are not available in the said Police Station.



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11. The learned Government Advocated (Crl.side) further submitted that the witnesses have been cross examined during the year 2019 and the petition has also been filed belatedly at the stage of examining the Investigation Officer.

12. The respondent has taken a specific view that the documents sought by the petitioner is not available in Adambakkam Police Station. When the said documents are not available there would be any purpose for directing/compelling the respondents to produce the above said documents. It is left open to the petitioner to cross examine the Investigating Officer with regard to the same.

In view of the same, this Criminal Original Petition stands disposed of.

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Index : Yes / No

Speaking / Non-speaking

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Neutral Citation : Yes / No

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The Inspector of Police,
Vigilance and Anti Corruption,
Special Investigation Cell,
Chennai.



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