



Crl.OP.No.18839 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.09.2024

Pronounced on : 27.09.2024

CORAM : JUSTICE N.SESHASAYEE

Crl.OP.No.18839 of 2024
and Crl.MP.No.11125 of 2024

R.V.Vairavan
Former Inspector of Police
S-10, Pallikaranai Police Station
Now working as Inspector of Police
Tamil Nadu Police Academy
Oonamanchery
Kancheepuram District.

.... Petitioner / Petitioner /
Accused

Vs

STATE
Rep by the Inspector of Police
Vigilance and Anti-Corruption
Chennai City-II
Nandanam, Chennai - 600 035.

.... Respondent / Respondent
/ Complainant



Crl.OP.No.18839 of 2024

WEB COPY

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., 1973 praying to call for the records culminating in the impugned order dated 10.07.2024 passed by the learned Special Judge / Chief Judicial Magistrate Court, Chengalpattu in the Crl.M.P.No.1686 of 2024 in Spl.Case No.3 of 2016, set aside the same and direct the respondent to produce the documents as prayed for in the said Crl.M.P.No.1686 of 2024.

For Petitioner : Mr.Arun Anbumani
for M/s.Arulselvam Associates

For Respondent : Dr.C.E.Pratap
Government Advocate [Crl. Side]

ORDER

1. The present petition is filed seeking a direction to the respondent to furnish the following four documents, which according to the petitioner are material for defending the charges which he faces for offences under Section 13(2) r/w.

13(1)(e) of Prevention of Corruption Act, 1988 :

- i. Preliminary enquiry report / detailed enquiry report with list of witnesses, statements and documents submitted by Mr.S.Saraswathy, Deputy Superintendent of Police, Vigilance and Anti-Corruption,



CrI.OP.No.18839 of 2024

Chennai, to the Director, Vigilance and Anti Corruption on 06.07.2011, prior to the registration of FIR No.5/AC/2012/CC-V dated 18.04.2012 and related documents;

- ii. Memorandum No.DE.11/2020/POL/CC-V dated 11.04.2012, order issued by the Director, Vigilance and Anti Corruption;
- iii. Letter mentioned in FIR Serial No.4 "In the form of letter from DVAC, Chennai-28";
- iv. Letter communication between the Deputy Superintendent of Police, Vigilance and Anti Corruption, Chennai, and Director, Vigilance and Anti Corruption prior to registration of FIR No.5/AC/2012/CC-V dated 18.4.2012.

2. The trial of the case has substantially concluded and P.W.18 is now being cross-examined. P.W.18 was an official who conducted the preliminary enquiry before registration of the FIR.

3. The learned counsel for the petitioner submits that originally a preliminary enquiry had held for a check period from 01.01.2002 to 31.12.2009. The petitioner too had offered his explanation for the same. However, when FIR



Crl.OP.No.18839 of 2024

was registered, the check period had shrunk from eight years to four years.

While paragraph 70 of V & AC Manual provides that a check period should be fixed taking into account the length of service of the public servant, the start of assets acquiring activities, the date of acquisition of the latest immovable property and the date of search, if any. The petitioner herein had put in 29 years of unblemished services and the allegation against him is that he had purchased two immovable properties in the name of his wife, and also had purchased 2 two wheelers, one for himself and the other for his wife.

4. The learned counsel for the petitioner submitted that going by the ratio of the Hon'ble Supreme Court in *Manoj and Others Vs State of Madhya Pradesh* [(2023) 2 SCC 353], the accused is entitled to any material which would aid his defence, which may include even those materials which the prosecution does not rely. In the context of the case of the prosecution, it is not adequately brought on record as to why the investigating agency has reduced the check period from 8 years to 4 years, and why it rejected the explanation offered by the petitioner during the preliminary enquiry held before registration of the FIR.



Crl.OP.No.18839 of 2024

5. The learned Prosecutor would submit that the respondent has no difficulty in sharing document Nos.2 and 3. So far as document No.4 is concerned, it is an internal communication between the officials and that cannot be disclosed. And so far as document No.1 (preliminary enquiry report) is concerned, it is something which the prosecution itself does not rely on.

6. The rival submissions are carefully weighed. Any accused must have optimum access to all information which may be relevant to deflect the needle of accusation which the prosecution focuses on him. Set in the context, this Court holds that the accused might have to be given an opportunity to access the preliminary report whose production he requires (Document No.1). So far as document Nos.2 and 3 are concerned, even the prosecutor made a statement that they can be produced. So far as Document No.4 is concerned, inasmuch as it is only an internal communication, this Court does not consider it appropriate to grant the petitioner an access to the same. After all, an internal official communication in the course of investigation, on its own will hardly have the efficacy to affect the outcome of the case.

7. In conclusion, this petition is partially allowed and the respondent is required



CrI.OP.No.18839 of 2024

to produce the documents Nos.(i) to (iii) listed in paragraph No.1 above.

Consequently, connected miscellaneous petition is closed.

27.09.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order
ds

To:

1.The Special Judge /
Chief Judicial Magistrate Court
Chengalpattu.

2.The Public Prosecutor
High Court, Madras.



WEB COPY



Crl.OP.No.18839 of 2024

N.SESHASAYEE.J.,

ds

Pre-delivery order in
Crl.OP.No.18839 of 2024

27.09.2024