

Crl.O.P.(MD) No.5260 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD). No.5260 of 2024

and

Crl.M.P(MD).No.4123 of 2024

P.Selvasivalingam

... Petitioner/Accused

Vs.

The Inspector of Police,
Vigilance and Anti-Corruption,
Thoothukudi District.
(Crime No.1/2008)

... Respondent/Complainant

PRAYER: Criminal Original Petition has filed under Section 482 Cr.P.C.
praying to set aside the impugned order pertaining to the order passed in
Cr.M.P.No.13480 of 2023 in Spl.C.C.No.6 of 2008 dated 28.02.2024 on
the file of the Chief Judicial Magistrate/Special Court for Trial under the
Prevention of Corruption Act, 1988, Tuticorin.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



Crl.O.P.(MD) No.5260 of 2024

ORDER

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The petitioner is a sole accused filed this petition to set aside the impugned order passed in Cr.M.P.No.13480 of 2023 in Spl.C.C.No.6 of 2008, dated 28.02.2024, by the learned Chief Judicial Magistrate/Special Court for Trial under the Prevention of Corruption Act, 1988, Thoothukudi.

2.The petitioner was working as Office Assistant, Office of the Assistant Director of Fisheries (Marine), Thoothukudi. On 20.02.2008, at about 16.30 hours, the petitioner is said to have demanded illegal gratification of Rs.1,500/- from the defacto complainant, for giving the diesel permit books of his father to the defacto complainant. Thereafter, the defacto complainant made a complaint before the respondent Police and the same was registered in Crime No.1 of 2008. On the basis of the complaint, a trap was made and the same was conducted on 21.02.2008 and thereafter, the accused was arrested and released on bail and the investigation was completed by the respondent Police and final report was also filed and the same was taken on file in Spl.C.C.No.6 of 2008 by the learned Chief Judicial Magistrate/Special Court for Trial under the Prevention of Corruption Act, 1988, Thoothukudi. After examining P.W.1



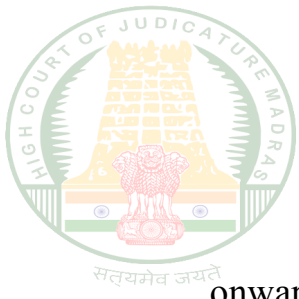
Crl.O.P.(MD) No.5260 of 2024

WEB COPY

to P.W.5, the evidence of prosecution was closed on 13.11.2019. Thereafter, the petitioner filed a petition in Cr.M.P.No.12225 of 2022 to recall the witnesses P.Ws.2, 3 and 5 and the same was dismissed by order dated 05.06.2023. Thereafter, he filed another petition in Cr.M.P.No. 13480 of 2023 under Section 311 to recall the very same witnesses namely P.Ws.2, 3 and 5. The same was dismissed by the by the learned Chief Judicial Magistrate/Special Court for Trial under the Prevention of Corruption Act, 1988, Thoothukudi, dated 28.02.2024. Challenging the same, the petitioner has filed this present revision before this Court.

3.The learned counsel appearing for the petitioner submitted that the dismissal of the earlier order is not a bar for filing the second petition on the ground that the accused has right for fair trial to recall the witnesses to prove his defence. Hence, the petition filed under Section 311 Cr.P.C., by the petitioner to put question relating to the motive aspect. Hence, he seeks for allowing this petition.

4.The learned Additional Public Prosecutor on instructions, submitted that apart from the dismissal of the petition, the witnesses on the side of prosecution was closed on 13.11.2019. From the said date



Crl.O.P.(MD) No.5260 of 2024

WEB COPY

onwards, this case is being posted for further proceedings. Further, the case was registered in the year 2008 and Spl.C.C.No.6 of 2008 was assigned before the Chief Judicial Magistrate/Special Court for Trial Under the Prevention of Corruption Act, 1988, Thoothukudi, in the year 2008. Since the inception of the case there was no bona fide intention on the part of the petitioner to complete the trial. Hence, he seeks for dismissal of this petition.

5.This Court considered the rival submission made on either side and perused the records and the impugned order and the final report filed by the respondent Police.

6.The petitioner is said to have received bribe on 21.02.2008 and FIR was registered in Crime No.1 of 2008 and final report was filed and same was taken on file in Spl.C.C.No.6 of 2008 and the evidence on the side of the prosecution was closed on 13.11.2019.Subsequently, the petitioner filed a petition in Cr.M.P.No.12225 of 2022 seeking to recall the witnesses P.W.2, P.W.3 and P.W.5 and the same was dismissed on 05.06.2023. Without challenging the same, against the petitioner filed second petition with the same relief in Cr.M.P.No.13480 of 2023. The



Crl.O.P.(MD) No.5260 of 2024

WEB COPY

learned trial Judge in the considered opinion of this Court has correctly dismissed the petition by passing the impugned order. This Court perused the deposition of P.W.2, P.W.3 and P.W.5 and they have been subjected to lengthy cross examination and this petition is filed with same relief as claimed in the Crl.M.P.No.12225 of 2022. The conduct of the petitioner to file applications one after another for the same relief without any cause of action amounts to abuse of process of law and hence, this Court finds no merits to entertain this Criminal Original Petition.

7. Accordingly, this Criminal Original Petition is dismissed. Apart from that, the case is pending before the Court below from the year 2008. Hence, the learned Chief Judicial Magistrate/Special Court for Trial under the Prevention of Corruption Act, 1988, Thoothukudi, is directed to dispose of the case in Spl.C.C.No.6 of 2008 within a period of three months from the date of receipt of a copy of this order. Consequently, the connected criminal miscellaneous petition is closed.

04.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vsg



Crl.O.P.(MD) No.5260 of 2024

WEB COPY To

1. The Chief Judicial Magistrate/Special Court for Trial
Under the Prevention of Corruption Act, 1988,
Thoothukudi.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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Crl.O.P.(MD) No.5260 of 2024

K.K.RAMAKRISHNAN, J.

vsg/sbn

Crl.O.P(MD). No.5260 of 2024
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04.04.2024