



CRL.O.P.(MD)No.8381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.8381 of 2024
and
Crl.M.P.(MD)Nos.5715 & 5717 of 2024

T.Nalla Thambi

...Petitioner/Accused No.8

Vs.

1.State rep. By

The Inspector of Police,
Vigilance and Anti Corruption,
Madurai District.

...Respondent/Complainant

2.A.Ambrose Jeyaraja

...Respondent/Defacto Complainant

Prayer : This Criminal Original Petition is filed 482 of Cr.P.C. to call for the records relating to the charge sheet in Spl.S.C.No.2 of 2020 pending before the learned Chief Judicial Magistrate, Madurai and quash the same as against the petitioner.

For Petitioner : Mr.G.Karuppasamy pandiyan

For Respondent : Mr.S.Ravi

Additional Public Prosecutor for R1

ORDER

This petition has been filed to quash the charge sheet in Spl.S.C.No.2 of 2020 pending before the learned Chief Judicial Magistrate, Madurai.



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2. The case of the prosecution is that between the period of 2007 and 2010, A1 being the public servant as Assistant Town Planning Officer in North Zone of Madurai Corporation from 11.08.2005 to 31.10.2011 and also holding the post of Chief Town Planning Officer from 07.12.2005 to 03.08.2001, in connivance with A9, the Commissioner, Corporation of Madurai and one D.J.Dinakaran (since died), who was also being the Commissioner of Madurai Corporation, with marginally noted A-2 to A-8 and R.Thangavelu and P.Muthukumar (since both died) during their respective period, entered into criminal conspiracy with each other and agreed to do the illegal acts by illegal means to commit the offence of cheating, criminal breach of trust so as to get pecuniary advantages for themselves and thus conspired together for such purpose and in pursuance of their conspiracy, each Accused has committed their best to achieve their common design and thereby involved in criminal breach of trust, cheated and causing wrongful loss to the Government to the extent of Rs.18,41,28,623/-, by not collecting the 'T' & 'A' Charges as indicated in G.O. Ms. No.191, dated 01.06.2007 of the Housing and Urban Development Department and that thereby marginally noted A-1 to A-9 have committed the offence of criminal conspiracy punishable under Section 120-B of IPC. A1 being the superior in rank and overall control over the officials of Town



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Planning Section of all Zones in Madurai Corporation, directed A2 to A8 and Thangavelu and Muthukumar (since both died), during their respective period, in a collective manner to propagate and insist the aforesaid building owners to purchase ready mixed concrete from Velsell Ready Mix Company at Madurai owned in the name of his wife, instead of payment of 'T' & 'A' Charges, so as to multiply the revenue for him by the sales of ready mix concrete and thereby involved in criminal breach of trust, cheated and caused wrongful loss to the Government to the extent of Rs.18,41,28,623/- and that thereby A-1 to A-9 have committed the offence of criminal misconduct punishable u/s 13 (2) r/w 13 (1) (c) and 13 (1) (d) of Prevention of Corruption Act, 1988. Therefore, all the Accused A1 to A9 are liable to be punished under Sections 120-B, 420, 406, 409 IPC r/w 109 IPC and 13 (2) r/w 13 (1) (c) and 13 (1) (d) of Prevention of Corruption Act, 1988. Hence, this case.

3. Today, when the matter was taken up for hearing, the learned counsel for the petitioner elaborated his submission. Even though there are some arguable points in this petition, he seeks permission of this Court to raise all the points before the trial Court at the time of trial. He further requested this Court to dispense with the appearance of the petitioner before the trial Court during trial. He also submitted that since this case is pending from 2020 onwards, this



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Court may issue a direction to the trial Court to dispose the case within a time frame.

4. This Court is inclined to accept the request of the petitioner. Hence, this petition is disposed of with the following directions:

1. The learned trial Judge is directed to dispose the case within a period of nine months from the date of receipt of a copy of this order.
2. The petitioner is directed to raise all the points before the trial Court.
3. The appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:

- (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;
- (ii) The date of questioning under Section 313 Cr.P.C;
- (iii) On the date of Judgement.

3.1.The petitioner is directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates.

3.2.The petitioner shall not dispute the identity of the witnesses.

3.3.The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification.



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3.4. If the petitioner adopt any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India in *State of Uttar Pradesh Vs. Shambunath Singh*, reported in 2001 (4) SCC 667.

5. Consequently, the connected Criminal Miscellaneous Petition CrI.M.P(MD)No.5715 of 2024 is closed and CrI.M.P(MD)No.5717 of 2024 is allowed.

18.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR

To

- 1.The learned Chief Judicial Magistrate, Madurai.
- 2.The Inspector of Police,
Vigilance and Anti Corruption,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

RJR

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