



**Crl.O.P.(MD) No.10158 of 2024**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 18.07.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE B.PUGALENDHI**

**CRL.O.P (MD) No.10158 of 2024**

Venkatesan

...Petitioner

**Vs.**

1.The Deputy Superintendent of Police,  
Manapparai Sub Division,  
Trichy District.

2.The Inspector of Police,  
Valanadu Police Station,  
Trichy District.  
Crime No.105 of 2024.

3.Mookan

4.The Inspector of Police,  
Vigilance and Anti-Corruption Department,  
Trichy District.

...Respondents

***(\*R4 suo-motu impleaded by this Court,  
vide order dated 09.07.2024)***

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C,  
praying to direct the learned First Additional Sessions Court (PCR) Trichy,  
to consider the bail application on the surrender of the petitioner in



**Crl.O.P.(MD) No.10158 of 2024**

connection with case in crime No.105 of 2024, dated 06.07.2024, pending investigation on the file of the second respondent police on merits on the same day.

For Petitioner : Mr.A.Joel Paul Antony  
For R1, R2 : Mr.M.Sakthi Kumar  
& R4 Government Advocate (Crl.Side)  
For R3 : Mr.M.Pitchai Muthu

### **ORDER**

The petitioner is an accused in Crime No.105 of 2024 on the file of the respondent police. The said case was registered for the offence under Section 126, 296(b), 351(2) BNS r/w Section 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2.The learned Counsel appearing for the petitioner submits that the petitioner is the Panchayat President of Valanadu, Marunkapuri Taluk, Trichy District. The petitioner has taken action as against the son-in-law of the second respondent. Therefore, this case has been foisted as against the petitioner.



**Crl.O.P.(MD) No.10158 of 2024**

WEB COPY

3.The learned Counsel appearing for the third respondent submits that it is not a foisted case. The petitioner has committed misappropriation to the tune of Rs.31,00,000/- from the Panchayat fund. Therefore, the Inspector of Police, the Vigilance and Anti Corruption Department, Trichy, has also been added as a party in this petition and the newly impleaded respondent has also conducted a detailed enquiry and found that a *prima facie* case has been made out as against the petitioner. Therefore, for prosecuting the petitioner a prior approval under Section 17 A of the Prevention of Corruption Act, 2018 was sought for from the concerned official.

4.This Court earlier has directed the newly impleaded respondent to offer his reply for the objections raised by the petitioner.

5.The learned Government Advocate (Crl.Side) on instructions from the Vigilance and Anti Corruption Department, Trichy, submits that they have conducted a detailed enquiry as against the petitioner and found that there is a misappropriation of the panchayat funds to the tune of Rs.



**CrI.O.P.(MD) No.10158 of 2024**

31,00,000/-. He further submits that they have also made a request for approval to prosecute the petitioner under Section 17 A of the Prevention of Corruption Act, 2018. He has also produced the proceedings of the Vigilance and Anti Corruption Department, before this Court.

6.It appears that the Vigilance and Anti Corruption Department has made this request for formal approval under Section 17 A of the Prevention of Corruption Act, 2018, which has not been provided to the Vigilance and Anti Corruption Department and therefore, the prosecution against the petitioner has been prevented. Section 17 A of the Prevention of Corruption Act, 2018, has now been used as a shield by the corrupt officials for escaping the accused from the clutches of law. Section 17 A of the Prevention of Corruption Act, 2018, is extracted hereunder:

*17A. [Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties. [Inserted by Act No. 16 of 2018, dated 26.7.2018.]*

*(1)No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged*



**CrI.O.P.(MD) No.10158 of 2024**

WEB COPY

*offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval-*

*(a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;*

*(b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;*

*(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:*

*Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:*

*Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.*

7.The second proviso of Section 17 A of the Prevention of Corruption Act, 2018, mandates the concerned authority to convey its decision within a period of three months, which may, for reasons to be recorded by the authority, the same shall be extended for further period of one months.



**Crl.O.P.(MD) No.10158 of 2024**

WEB COPY

8. In this case it appears that the request for sanction under Section 17 A of the Prevention of Corruption Act, 2018 was made on 10.10.2023 and a reminder was also sent on 27.12.2023. A sanction as required under Section 17 A of the Prevention of Corruption Act, 2018 has not been provided till date. Therefore, the concerned authority, who is expected to give consent under Section 17 A of the Prevention of Corruption Act, 2018 is retaining the papers in order to help the accused. Therefore, this Court feels that whoever protects the accused and prevents the prosecution is liable to be prosecuted under Section 201 IPC.

9. Considering the manner, in which, the prosecution has been stalled as against the petitioner and the allegation levelled as against the petitioner, this Court is not inclined to grant the relief as sought for in this petition. This Court directs the Inspector of Police, the Vigilance and Anti Corruption Department, Trichy, to initiate prosecution as against the concerned officer, who has failed to give consent for initiating prosecution under Section 17 A of the Prevention of Corruption Act, 2018, beyond the period of three months.



**Crl.O.P.(MD) No.10158 of 2024**

WEB COPY

10. Accordingly, this criminal original petition is dismissed.

**18.07.2024**

NCC : Yes/No  
Internet: Yes/No  
Index: Yes/No  
LR

- To
1. The Deputy Superintendent of Police,  
Manapparai Sub Division,  
Trichy District.
  2. The Inspector of Police,  
Valanadu Police Station,  
Trichy District.  
Crime No.105 of 2024.
  3. The Inspector of Police,  
Vigilance and Anti-Corruption Department,  
Trichy District.
  4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



**Crl.O.P.(MD) No.10158 of 2024**

**B.PUGALENDHI, J.**

LR

**CRL.O.P (MD) No.10158 of 2024**

**18.07.2024**