



Crl.R.C(MD).No.714 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 29.07.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.714 of 2024

G.Arunkumar

... Petitioner

Vs.

State rep. By
Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Theni.

... Respondent

PRAYER: Criminal Revision Petition has been filed under Sections 397 & 401 of Cr.P.C r/w 27 of Prevention of Corruption Act, 1988, to call for the records in Cr.M.P.No.1704 of 2023 in Spl.Case No.3 of 2022 order dated 27.06.2024 passed by the learned Special Judge for Prevention and Anti Corruption/Chief Judicial Magistrate, Theni and set aside the same and consequently discharge the petitioner by allowing this petition.

For Petitioner : Mr.A.Rajendran
For Respondent : Mr.R.Ravi,
Additional Public Prosecutor



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ORDER

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The Criminal Revision Case has been filed to call for the records in Cr.M.P.No.1704 of 2023 in Spl.Case No.3 of 2022 order dated 27.06.2024 passed by the learned Special Judge for Prevention and Anti Corruption/Chief Judicial Magistrate, Theni and set aside the same and consequently discharge the petitioner by allowing this petition.

2.The petitioner is said to have committed the offence under Section 7 of the Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act 2018. According to the prosecution, he is said to have demanded a sum of Rs.5000/- as illegal gratification and accepted the same. The petitioner demanded the said amount to issue the selection grade order to the defacto complainant. The investigating agency has successfully entrapped the petitioner and filed the final report before the learned Special Judge, in C.C.No.3 of 2022 and during the pendency, he filed the discharge petition and the same was dismissed, by passing the impugned order dated 27.06.2024. Challenging the same, he filed this revision case.



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3. The learned counsel for the petitioner submitted that on 16.09.2021 and 17.09.2021, the defacto complainant tried his best to give money to the petitioner/accused. But the petitioner/accused refused to accept the same. On 29.09.2021 also, the petitioner/accused refused to accept the money. Then the defacto complainant forcibly inserted the money in his pocket, without his consent. Thereafter, the respondent police recovered the said amount and after completion of investigation final report was filed before the concerned Court and the same was taken on file in Spl.Case No.3 of 2022. He filed the discharge petition in Cr.M.P.No.1704 of 2023 in Spl.Case No.3 of 2022 before the learned Special Judge for Prevention and Anti Corruption/Chief Judicial Magistrate, Theni.

4. The learned counsel for the petitioner submitted that the amount was inserted into the petitioner's pocket without his consent and the same was recorded in the Video. He further submitted that there was no sufficient materials to frame the charges against the petitioner and therefore, he filed a discharge petition. The learned trial Judge without considering the entire facts of the case, dismissed the above petition. Challenging the same, the present petition has been filed.



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5. The learned Additional Public Prosecutor appearing for the respondent police on instructions submitted that in this case demand and acceptance were proved and the investigation agency also collected sufficient materials against the petitioner and the investigation agency also produced the recovery magazer. Hence, the learned trial Judge rightly dismissed the above petition. Therefore, he prayed for dismissal of this petition.

6. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

7.The defence of the petitioner that the amount was thrust into his pocket which is seen in the video recording could be considered during the course of the trial. The Hon'ble Supreme Court reiterated the principle that during the course of the discharge petition, this Court has no power to consider the defence of the accused. Apart from that, according to the learned Additional Public Prosecutor, the investigating agency has collected lot of materials to prove the demand and acceptance of the bribe amount. Therefore, this Court finds no merit in the contention of the petitioner to discharge the petitioner.



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7.1.The learned trial Judge correctly held that the points raised by the petitioner/accused could be determined only after conducting elaborate trial. The Hon'ble Apex Court in various decisions have held that at this stage, probative value of the materials can not be gone into and the Court is not expected to go deep into the matter and hold that the materials were not enough to warrant a conviction.

8. A perusal of report shows that learned trial Judge appreciated all the statements and the materials collected by the investigation agency. In this case, *prima facie* evidence is available through the witnesses to show that the petitioner received bribe amount from the defacto complainant. Accordingly, this Criminal Revision Case is dismissed, granting liberty to the petitioner to raise all the points before the trial Judge at the time of trial.

29.07.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
tta/sbn



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To

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1. Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Theni.
2. The Special Court for Prevention and Anti Corruption
/Chief Judicial Magistrate, Theni.
3. The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

tta/sbn

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