



Crl.R.C.(MD) No.86 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD) No.86 of 2024
and Crl.M.P. (MD) Nos.1109 and 1110 of 2024

B.Meenakshi Sundaram

...Petitioner/

4th Accused

Vs.

The Deputy Superintendent of Police,
CCIW, CID, Salem.

...Respondent/
Complainant

PRAYER : Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order passed in C.M.P.No.1580 of 201 in C.C.No. Dated 10.11.2021 on the file of on the file of the learned Judicial Magistrate No.1, Karur and set aside the same insofar as the petitioner is concerned.

For Petitioner : Mr.Mr.K.P.S.Palanivel Rajan
Senior Counsel for Mr.K.Prabakaran
for M/s.K.P.S.Law Associate



Crl.R.C.(MD) No.86 of 2024

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed against the impugned order dated 10.11.2021 passed in C.M.P.No.1580 of 2017 in C.C.No.358 of 2016 on the file of the learned Judicial Magistrate No.1, Karur.

2. According to the prosecution, the revision petitioner after becoming a member of TANFED had entered into a criminal conspiracy with accused 1 and 2 in the matter of procuring fertilizer, which is beyond his territorial jurisdiction in recommending fertilizer for A1 and A2. The Enquiry Officer appointed under Section 81 of the Tamil Nadu Cooperative Societies Act had elaborately stated in his statement as well as in his report about the involvement of the petitioner/accused in passing orders without territorial jurisdiction. However, stating that none of the witnesses have spoken about any specific role as alleged against the petitioner, the petitioner has filed a discharge petition under Section 239 of Cr.P.C. before the learned Judicial Magistrate No.I, Karur, on the ground that the question



Crl.R.C.(MD) No.86 of 2024

WEB COPY

of obtaining previous sanction under Section 197 of Cr.P.C. can be raised at any stage of the proceedings, however, the trial Court has dismissed the petition opining that the prosecution has filed the prima facie evidence for presuming that the petitioner has committed the offence. Aggrieved over the same, the present revision case has been filed by the petitioner.

3. Learned Senior Counsel appearing for the petitioner submits that there is no *prima facie* evidence filed on the part of the prosecution that the petitioner has conspired with A1 and A2 and committed the offence. The main contention of the learned Senior Counsel appearing for the petitioner is that the petitioner is a public servant appointed by the order of the Governor of Tamil Nadu and further, there is no demarcation of jurisdiction and as such for discharge of his official duty sanction under Section 197 of Cr.P.C. is mandatory and therefore, the same has not been obtained in the present case. In this regard, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***A.Srinivasulu v. The State Rep. by the Inspector of Police***, reported in 2023 LiveLaw (SC) 485 wherein the Apex Court has held as follows:-



Crl.R.C.(MD) No.86 of 2024

WEB COPY

“29. There is no dispute about the fact that A-1 to A-4, being officers of a company coming within the description contained in the Twelfth item of Section 21 of the IPC, were ‘public servants’ within the definition of the said expression under Section 21 of the IPC. A-1 to A-4 were also public servants within the meaning of the expression under Section 2(c)(iii) of the PC Act. Therefore, there is a requirement of previous sanction both under Section 197(1) of the Code and under Section 19(1) of the PC Act, for prosecuting A-1 to A-4 for the offences punishable under the IPC and the PC Act.

30. Until the amendment to the PC Act under the Prevention of Corruption (Amendment) Act, 2018 (Act 16 of 2018), with effect from 26.07.2018, the requirement of a previous sanction under Section 19(1)(a) was confined only to a person “who is employed”. On the contrary, Section 197(1) made the requirement of previous sanction necessary, both in respect of “any person who is” and in respect of “any person who was” employed. By the amendment under Act 16 of 2018, Section 19(1)(a) of the PC Act was suitably amended so that previous sanction became necessary even in respect of a person who “was employed at the time of commission of the offence”.

31. The case on hand arose before the coming into force of the Prevention of Corruption (Amendment) Act, 2018 (Act 16 of 2018). Therefore, no previous sanction under Section 19(1) of the PC Act was necessary insofar as A-1 was concerned, as he had retired by the time a final report was filed. He actually retired on 31.08.1997, after 7 months of registration of the FIR



Crl.R.C.(MD) No.86 of 2024

WEB COPY

(31.01.1997) and 5 years before the filing of the final report (16.07.2002) and 6 years before the Special Court took cognizance (04.07.2003). But previous sanction under Section 19(1) of the PC Act was required in respect of A-3 and A-4, as they were in service at the time of the Special Court taking cognizance. Therefore, the Agency sought sanction, but the Management of BHEL refused to grant sanction not once but twice, insofar as A-3 and A-4 are concerned.”

4. Contrarily, the learned Additional Public Prosecutor appearing for the respondent Police submitted that this is the third round of litigation before this Court. Earlier, the petitioner has submitted Crl.O.P.(MD) No. 6038 of 2013 challenging the charge sheet in C.C.No.67 of 2012 on the file of the learned Judicial Magistrate No.1, kulithalai and this Court, dismissed the same on merits on 20.11.2013. Challenging the said order, the petitioner has preferred an appeal before the Hon'ble Supreme Court and the same was dismissed on the ground of delay as well as on merits. However, leaving all the questions open, the Hon'ble Apex Court directed the petitioner to agitate before the appropriate forum. Thereafter, the petitioner has filed the second quash petition in Crl.O.P.(MD) No.1589 of 2014 and this Court, allowed the original petition and quashed the



Crl.R.C.(MD) No.86 of 2024

proceedings in C.C.No.67 of 2012 on 25.07.2014 and the same was challenged by the respondent Police in Criminal Appeal No.1216 of 2016 before the Hon'ble Supreme Court and again, the Hon'ble Apex Court by its order dated 09.12.2016, disposed of the same by setting aside the order dated 25.07.2014 and directed the trial Court to proceed in accordance with law. Learned Additional Public Prosecutor further submitted that as per the directions of the Hon'ble Apex Court, the trial Court has commenced the trial and examination of the witnesses in the present case and therefore, he prayed this Court to direct the petitioner to face the trial in accordance with law.

5. At this stage, the learned counsel for the petitioner submitted that the petitioner is ready to face the trial and it would suffice, if a direction is issued to the Court below to expedite the trial and to dispose of the same within a time frame as fixed by this Court.

6. Heard the learned Senior counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent police.



Crl.R.C.(MD) No.86 of 2024

WEB COPY

7. Considering the rival submissions of the learned counsel for the petitioner as well as the learned Additional Public Prosecutor and by following the direction of the Hon'ble Supreme Court vide its order dated 09.12.2016, without going into the merits of the case, this matter is remanded to the trial Court with a direction to the learned Judicial Magistrate No.1, Karur, to conclude the trial and pass a fresh order within a period of one month from the date of receipt of a copy of this order.

8. This criminal revision is disposed of on the above terms. Consequently, the connected criminal miscellaneous petitions are closed.

05.02.2024

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

PKN



Crl.R.C.(MD) No.86 of 2024

WEB COPY

To

1. The Deputy Superintendent of Police,
CCIW, CID, Salem.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD) No.86 of 2024

VIVEK KUMAR SINGH, J.

PKN

Crl.R.C.(MD) No.86 of 2024

05.02.2024



Crl.R.C.(MD) No.86 of 2024

Crl.RC.(MD) No.86 of 2024

WEB COPY

VIVEK KUMAR SINGH, J.

This matter is listed today under the caption 'for being mentioned' at the instance of the learned Senior Counsel for the petitioner.

2. The learned Senior Counsel for the petitioner submitted that inadvertently it has been mentioned as “At this stage, the learned counsel for the petitioner submitted that the petitioner is ready to face the trial and it would suffice, if a direction is issued to the Court below to expedite the trial and to dispose of the same within a time frame as fixed by this Court” in paragraph No.5 and “Considering the rival submissions of the learned counsel for the petitioner as well as the learned Additional Public Prosecutor and by following the direction of the Hon'ble Supreme Court vide its order dated 09.12.2016, without going into the merits of the case, this matter is remanded to the trial Court with a direction to the learned Judicial Magistrate No.1, Karur, to conclude the trial and pass a fresh order within a period of one month from the date of receipt of a copy of this



Crl.R.C.(MD) No.86 of 2024

order” in paragraph No.7 of the order dated 05.02.2024 and therefore, requested this Court to make the necessary correction in the order.

3. Considering the submissions of the learned Senior Counsel appearing for the petitioner, Registry is directed to substitute the paragraph Nos.5 and 7 of the order as stated below:-

“5.At this stage, the learned Senior Counsel for the petitioner submitted that it would suffice, if a direction is issued to the Court below to reconsider the discharge petition afresh and dispose of the same within a time frame as fixed by this Court.

7.Considering the rival submissions of the learned counsel for the petitioner as well as the learned Additional Public Prosecutor, without going into the merits of the case, this matter is remanded back to the trial Court with a direction to the learned Judicial Magistrate No.1, Karur, to reconsider the discharge petition on its own merits and in



WEB COPY



Crl.R.C.(MD) No.86 of 2024

accordance with law untrammelled by this order and pass a fresh order within a period of one month from the date of receipt of a copy of this order.”

13.02.2024

PKN

Note:

***Issue amended copy
of the order on 14.02.2024.***



WEB COPY



CrI.R.C.(MD) No.86 of 2024

VIVEK KUMAR SINGH, J.

PKN

CrI.RC.(MD) No.86 of 2024

13.02.2024