



1 *Crl.O.P.(MD) No.22633 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.22633 of 2024

and

Crl.M.P(MD).Nos.14136 and 14137 of 2024

V.Saravanan

... Petitioner/Petitioner

Vs.

The State of Tamilnadu represented by its,
The Inspector of Police,
CBI, ACB Madurai,
Madurai-625 007.
FIR No.RC.229 2020 A006

... Respondent/Respondent

PRAYER: Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita-BNSS, to call for the records of the case in C.C.No.6 of 2022 dated 28.12.2021 on the file of the 2nd Additional District Judge for CBI, Madurai, and quash the proceedings.

For Petitioner : Mr.Naveen Kumar Murthi
for K.Shanmuga Sundaram

For Respondent : Mr.C.Muthusaravanan
Special Public Prosecutor for CBI Cases



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ORDER

This petition has been filed to quash the proceedings in C.C.No.6 of 2022 on the file of the 2nd Additional District Judge for CBI, Madurai.

2.The case of the prosecution is that the petitioner was working as The Deputy General Manager cum Project Director in the National Highways Authority of India, Project Implementation Unit (PIU), Madurai, from 16.09.2016 to 17.02.2021 and was also holding the additional charge of NHAI, PIU, Karaikudi, Tamil Nadu from 07.04.2017 to 05.08.2017 and from 26.09.2017 to 14.03.2018 in the capacity of public servant. Now, he is working as Divisional Engineer in Highways Department, Tamilnadu. The petitioner and the other accused entered into criminal conspiracy and in pursuance of the conspiracy, the Public Servants abusing their official position accepted illegal gratification for giving favour to the contractor in the matter of allowing excess claim under the head of contingency expenses and thereby caused loss to the National Highway Authority of India (NHAI). The Public Servants of NHAI received pecuniary advantage as illegal gratification to the tune of Rs.35 lakhs from Shri Karmegam, the Proprietor of M/s.Rakshi Construction



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for making excess payments under the head of Contingency Expenses and to extend other favours. Therefore, the respondent registered a case in FIR No.RC.229 2020 A006 for the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act. After investigation, the first respondent filed a final report before the 2nd Additional District Judge for CBI, Madurai and the same was taken on file in C.C.No.6 of 2022. Challenging the same, the present criminal original petition has been filed.

3.The learned counsel for the petitioner made a submission relating to the applicability of amended provision of 7 of the Prevention and Corruption Act, 2018. Even though, there are some arguable points in this petition, the learned counsel for the petitioner 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.

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



4.1. The petitioner is directed to raise all the points before the trial Court including the applicability of amended provision of 7 of the Prevention and Corruption Act, 2018.

4.2. The learned Judge is directed to consider all the points independently without influenced by the disposal of this quash petition.

4.3. Considering the age of the petitioner and as he is working in National Highway Authority of India (NHAI), the appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:

4.3.1. The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;

4.3.2. The date of questioning under Section 313 Cr.P.C;

4.3.3. On the date of Judgement.

4.4. 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.

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

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



4.7. If the petitioner adopts 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.

Consequently, connected miscellaneous petitions are closed.

19.12.2024

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

To

1. The 2nd Additional District Judge for CBI,
Madurai.
2. The Inspector of Police,
CBI, ACB Madurai,
Madurai-625 007.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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