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Crl.R.C.No.219 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.219 of 2025 and
Crl.M.P.Nos.1674 & 1677 of 2025

K.Manikandan

... Petitioner

Vs.

State by:
Superintendent of Police,
SPE:CBI:ACB, Chennai.

... Respondent

PRAYER: Criminal Revision Case is filed under Sections 438 & 442 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.04/2022 and set aside the order dated 27/12/2024 passed by the learned XIII Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No.11266 of 2023 in C.C.No.04/2022.

For Petitioner : Mr.Manoj Sreevalsan

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor for CBI Cases



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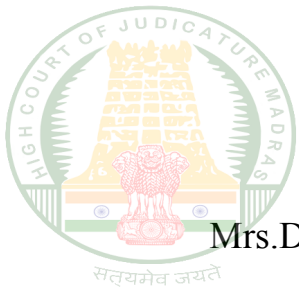
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ORDER

The petitioner/A2 in C.C.No.4 of 2022 has filed a discharge petition under Section 239 of Cr.P.C in CrI.M.P.No.11266 of 2023 in C.C.No.4 of 2022 before the learned XIII Additional Special Judge for CBI Cases, Chennai (trial Court). The trial Court by impugned order, dated 27.12.2024 dismissed the petition, against which, the present revision is filed.

2.The case of the prosecution is as follows:

(i)A case in RC.MA1 2020 A 0009 CBI/ACB was registered by the respondent against Mr.R.Ellavarasan/A1, Superintending Engineer, Regional Office, Ministry of Road Transport & Highways (In short “MoRTH”), Mr.K.Manikandan/A2, Contractor, M/s.MJD Constructions & Engineering Contractors Private Limited Nagercoil, Kanyakumari District/petitioner, Mr.S.Ovu Reddy/A3, Managing Director, M/s.JR Consultancy Services Private Limited, Madurai, Mr.O.Saravanakumar/A4, Proprietor, M/s.Saravana Constructions and Traders, Madurai and M/s.MJD Constructions & Engineering Contractors Private Limited/A5 represented by its Managing Director



Mrs.D.Janaka Jebangelin for offence under Sections 7, 7A, 8 & 12 of Prevention of Corruption Act, 1988 (Amended in 2018) on 25.09.2020.

(ii)M/s.MJD Constructions & Engineering Contractors Private Limited is represented by its Managing Director Mrs.D.Janaka Jebangelin, wife of the petitioner and his family members Directors Ms.K.Jebamani and Ms.M.J.Difi. The wife of the petitioner Mrs.D.Janaka Jebangelin is just a signing authority of M/s.MJD Constructions & Engineering Contractors Private Limited/A5 and it is the petitioner who takes care of its day to day administration and takes all decisions. M/s.MJD Constructions & Engineering Contractors Private Limited/A5 was awarded five contract works by the Regional Office, MoRTH, Chennai. With respect to the works, two bills dated 21.10.2019 and 07.02.2020 worth of Rs.62,30,162/- and Rs.2,39,76,208/- were processed at MoRTH by A1. One Mr.Jagan Mohan/LW7 was the Divisional Engineer, Nagercoil and the bills for these two projects were submitted from his office to the Regional Office, Chennai for payment. There was a demand of 0.2% of the contract value by A1 to the petitioner/A2 during the telephonic talk with Mr.Jagan Mohan/LW7 on 06.02.2020 for processing the bills. Further, during the said



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conversation, A1 informed Mr.Jagan Mohan/LW7 that the petitioner was present in front of him in his office at Besant Nagar, Chennai. Following the same, the petitioner had discussion with A3 informed demand was on higher side and unreasonable, A3 replied he would sort out. Thereafter, the petitioner informed A1 he would arrange for the amount and asked A1 to process the bills. The petitioner contacted A3 and asked him the bank details where the amount to be deposited. A3 in turn called his son/A4 collected the account details. The petitioner called his staff/LW17, instructed to call A3 and to collect the bank details. Thereafter, pending bills were processed on 07.02.2020.

(iii)The above two bills came to MoRTH Office which was to be forwarded for payment and A1 demanded and accepted the bribe of Rs.5 lakhs and Rs.10 lakhs on 06.02.2020 through A3. Thus, the demand and acceptance of bribe amount proved by the telephonic conversation recordings and in 164 Cr.P.C statements of Mr.Michael Selvaraj/LW16 and Ms.S.S.Ani/LW17. On completion of investigation, the respondent filed charge sheet before the trial Court listing 50 witnesses and 75 documents.



3.The primary contention of the learned counsel for the petitioner

is that the petitioner is a private person, a contract work awarded to M/s.MJD Constructions & Engineering Contractors Private Limited and the petitioner has nothing to do with its business. The petitioner's wife is the Managing Director and family members are Directors of M/s.MJD Constructions & Engineering Contractors Private Limited/A5, for that reason, on illusion, the petitioner is arrayed as accused in this case. The presence of the petitioner on the relevant date is not confirmed and proved. The petitioner has transactions with the other accused who are Contractors in the same field. As business entity, there can be transactions between them for whatsoever reasons it may be, which cannot be projected as speed money/bribe amount. The learned counsel further submitted that Mr.Jagan Mohan/PW7 in his statement states about the tender, bill scrutiny only and not anything against the petitioner. Further, the case projected is that A1 informed Mr.Jagan Mohan/LW7 about the presence of the petitioner with regard to processing of bills which is on illusion and imaginary. In this case, LW7 not identified the petitioner's voice. Further, LW8, LW9 & LW10, the Assistant Engineer, Assistant Divisional Engineer and Divisional Accountant of Kanyakumari Division not spoken against the petitioner



and M/s.MJD Constructions & Engineering Contractors Private

WEB COPY Limited/A5.

4.The learned counsel further submitted that on entire reading of statements of witnesses and materials produced, there is nothing to connect the petitioner in routing the illegal gratification to A1 in this case. It is only a fanciful imagination, not supported by any cogent or tangible materials against the petitioner. Added to it, the prosecution case is shrouded with mystery and surmises. Thus, taking the case as a whole, the uncontroverted statements and materials, then to no case made against the petitioner, and the petitioner is only attempted to be proceeded on surmises and conjectures. The trial Court failed to look into these aspects and acted as a mere post office, not considering the evidence on its own merits, and dismissed the discharge petition.

5.The learned Special Public Prosecutor for CBI Cases filed counter and submitted that there are adequate oral and documentary evidence in this case to prove the charges against the petitioner and other accused. The petitioner along with other accused hatched criminal conspiracy and committed the offence. Further, there are sufficient



evidence to prove that the petitioner met A1 in his office at Besant

Nagar, Chennai on 06.02.2020 and A1 demanded 0.2% of contract value

as bribe. A1 contacted Mr.Jagan Mohan/LW7, Divisional Engineer to

get 0.2% of sanctioned value from the petitioner for processing the two

bills. The oral evidence of Mr.Jagan Mohan/LW7 coupled with the

telephonic recordings dated 06.02.2020 proves this fact. Further, there

are sufficient materials to show that the petitioner's wife, who is the

Managing Director of M/s.MJD Constructions & Engineering

Contractors Private Limited. The petitioner's wife is only a namesake

person and all the matters relating to M/s.MJD Constructions &

Engineering Contractors Private Limited and its day to day functions are

carried out by the petitioner. There are statements of witnesses *viz.*,

LW8, LW9 and LW10 to prove these facts. Further on 06.02.2020, the

petitioner contacted A3 and informed the demand of bribe by A1 seems

to be on higher side, unreasonable. A3 replied that he would come and

sort out the issue. After the discussion, as per the instructions of the

petitioner, his staff Ms.S.S.Ani/LW17 contacted A3 for bank account

details. A3 called his son/A4 and asked him to send bank account details

to M/s.S.S.Ani/LW17. Thereafter, the amount of Rs.10 lakhs transacted

and the bills processed. This is proved by documentary evidence. In this



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case, there are sufficient materials to prove that the petitioner/A2 was the active person taking care of entire business of A5 which is confirmed by LW15, LW16, LW17, LW18, LW19 and LW20.

6.It is further submitted that the telephonic conversation recordings between the petitioner and other accused and the witnesses, all intercepted, recorded following due process of law and the voice test conducted. The scientific evidence confirms that it is the voice of the petitioner in the telephonic conversation. Further, in this case, two persons (LW16 & LW17) gave 164 Cr.P.C statement which *ex facie* cannot be discarded. On completion of investigation, charge sheet filed before the trial Court listing 50 witnesses and 75 documents. The trial Court on satisfying *prima facie* case made out, took charge sheet on file. The points raised by the petitioner are factual which has to be decided during trial. Hence, he strongly opposed the petitioner's contention and prayed for dismissal of the revision.

7.This Court considered the rival submissions and perused the materials available on record.



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8.In this case, Mr.Jagan Mohan/LW7, Divisional Engineer is the person who processed the two bills of A5. The Managing Director of M/s.MJD Constructions & Engineering Contractors Private Limited is none other than the petitioner's wife and other Directors are family members of the petitioner. The petitioner visited the office of A1 on 06.02.2020 with regard to processing of bills. At that time, A1 called Mr.Jagan Mohan/LW7 in presence of the petitioner, which is confirmed through the telephonic conversation. After the discussion, the petitioner contacted his staff Ms.S.S.Ani/LW17 to collect bank details from A3. LW17 contacted A3 for bank account details, who in turn contacted his son/A4. Then, A4 sent the bank account details to LW17. Thereafter, the bribe amount transferred from A5's account to the account identified by A4. The witnesses from A5 namely LW14 to LW20 confirmed the active role played by the petitioner in this transaction. The bank witnesses confirms the same. LW8, LW9 & LW10, the Assistant Engineer, Assistant Divisional Engineer and Divisional Accountant of Kanyakumari Sub Division confirmed pendency of bills of A5 for sanction. Apart from it, 164 Cr.P.C statements of Mr.Michael Selvaraj and Ms.S.S.Ani (LW16 & LW17) available. Mr.Jagan Mohan/LW7 confirms the entire transaction, pendency of bills and processing of bills



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after an agreement between the petitioner and A1. Further, there are sufficient evidence available to prove that the petitioner looked after the day to day affairs of A5 including payments and purchases.

9.In view of the above, in this case, there are *prima facie* materials available to proceed against the petitioner, whose veracity or otherwise has to be necessarily decided during trial, not at this stage.

10.In the result, this Criminal Revision Case stands dismissed affirming the impugned order, dated 27.12.2024 in Crl.M.P.No.11266 of 2023 in C.C.No.4 of 2022 passed by the learned XIII Additional Special Judge for CBI Cases, Chennai. The trial Court to proceed with the trial on its own merits and in accordance with law. Consequently, connected Criminal Miscellaneous Petitions are closed.

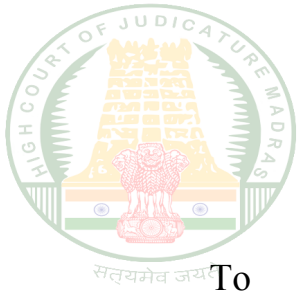
17.04.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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To
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- 1.The XIII Additional Special Judge for CBI Cases,
Chennai.
- 2.The Superintendent of Police,
SPE:CBI:ACB, Chennai.
- 3.The Special Public Prosecutor for CBI Cases,
Madras High Court.



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M.NIRMAL KUMAR, J.

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