IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.03.2025
PRONOUNCED ON : 09.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.2014 of 2025 and
Crl.M.P.Nos.1195 & 1198 of 2025

M.Tamil Selvan ... Petitioner

Vs.

State rep. by
Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.
(Crime No.08/2017/AC/CB). ... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records in Spl.C.C.No.01/2024 on the file of the Special Judge, Special Court for cases under the Prevention of Corruption Act, Coimbatore and quash the same.

For Petitioner	:	Mr.V.Krishnamoorthy
For Respondent	:	Mr.S.Udaya Kumar, Government Advocate (Crl. Side)

ORDER

The petitioner/A1 in Special C.C.No.1 of 2014 facing trial for offence under Sections 7, 7 r/w 12, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and Section 109 IPC before the learned Special Judge, Special Court for cases under the Prevention of Corruption Act, Coimbatore, has filed this Quash Petition.

2.Gist of the case is that the petitioner/A1, a public servant was formerly working as Sub Registrar, Mettupalayam and A2/Syed Ibrahim a private person employed by the petitioner to do works deputed by the petitioner. On 04.06.2017, one Gunasekaran/LW6 and his wife Umamaheshwari/LW7 decided to purchase the land measuring about 2,264 sq.ft with RCC terrace roof building door No.4F-1 and 4E-2 for a sale consideration of Rs.18,63,000/- from one Rajamani. The said land was situated at Madhaiyan Layout (West), Mettupalayam Municipality. During the third week of November 2017, Gunasekaran/LW6 approached one Swaminathan/LW5, a document writer and his son Praveen @ Ashwin/LW4 for registration of said property.

3.Gunasekaran/LW6 and Praveen @ Ashwin/LW4 approached the petitioner to verify the guideline of the property and to visit the property to value the construction. On 27.11.2017, petitioner inspected the property and informed Praveen @ Ashwin/LW4 that the property can be registered showing it is within Madhaiyan Layout and not within Madhaiyan Layout (West), so that the guideline value can be reduced. For Madhaiyan Layout, the guideline of the property for 1 sq.mtr is Rs.10,825/- and for Madhaiyan Layout (West), the guideline of the property for 1 sq.mtr is Rs.2,530/-. Hence, Gunasekaram/LW6 can have a benefit of not paying the stamp duty and charges of Rs.1,91,915/- for the registration and a bribe amount of Rs.75,000/- demanded by the petitioner. On 28.11.2017, again the petitioner reiterated his demand to Praveen @ Ashwin/LW4 and on 29.11.2017, Praveen @ Ashwin/LW4 informed that the bribe of Rs.75,000/- could not be paid, hence, the demand reduced to Rs.60,000/-. On the same day, at 02.00 p.m., a draft sale deed prepared, at that time, the petitioner instructed Praveen @ Ashwin/LW4 to bring the bribe amount who in turn instructed Gunasekaran/LW6 to bring bribe amount. Gunasekaran/LW6/purchaser went to his bank and withdrew the amount of Rs.60,000/-. At about 04.00 p.m, Praveen @ Ashwin/LW4 had come to the office of the petitioner with Gunasekaran/LW6 and Umamaheshwari/LW7 for registration of sale deed, at that time, as directed by the petitioner, the bribe handed over to A2. The petitioner agreed to register the sale deed without prior registration and token. A2 received the bribe amount in an unused lunch room in old Sub Registrar Office situated adjacent to the new Sub Registrar Office. This illegal gratification received by A2 on behalf of the petitioner.

4.On the same day (29.11.2017), at 05.00 p.m, the respondent made a surprise check, enquired all the persons present in the Sub Registrar Office. The surprise check was conducted by Deputy Superintendent of Police, Vigilance and Anti Corruption in presence of Sub-Inspector of Survey, Modern Resurvey Office, Goundampalayam, Assistant Professor, Government Arts College, Coimbatore along with the petitioner. The amount of Rs.60,000/- and other documents seized, thereafter FIR in Crime No.8/2017/AC/CB registered on 30.11.2017, on conclusion of investigation, charge sheet filed listing LW1 to LW24 and documents LD1 to LD18 arraying the petitioner and Syed Ibrahim as A1 and A2. During investigation, A2 died. Now the case is pending trial against the petitioner alone in Special C.C.No.1

of 2024. Challenging the same the present Criminal Original Petition filed.

5.The learned counsel for the petitioner submitted that in this case, the informant and Investigating Officer namely Deputy Superintendent of Police, Vigilance and Anti Corruption are one and the same. The Hon'ble Apex Court in "***Mohan Lal v. State of Punjab reported in (2018) 17 SCC 627***" had observed that fair investigation is the foundation of fair trial, necessarily postulates that the informant and investigator must not be the same person and any possibility of bias or predetermined conclusion has to be excluded, otherwise it would infraction of constitutional guarantee of fair investigation. He further submitted that prior to registration of FIR, the Deputy Superintendent of Police Mr.C.Rajesh conducted search in Sub Registrar Office, Mettupalayam, seized the cash and documents, examined the witnesses and others present in the Sub Registrar Office, recorded their statements, conducted substantial part of investigation, thereafter, investigation handed over and charge sheet filed by the Inspector of Police Ms.Ezhilarasi. When the superior officer conducted substantial part of investigation, collected all documents, recorded the statement of witnesses, recorded proceedings, prepared mahazars, thereafter the investigation handed over to his subordinate

Inspector of Police who thereafter cannot conduct independent investigation but to toe the line of the superior officer. Hence, no fair and independent investigation conducted in this case. He further submitted that the sale deed pertaining to the property of Ganansekaran/LW6 would confirm that there was no suppression or false entries made with lesser guideline value causing loss to the Government exchequer. The other allegation is that without prior registration and issuance of token, this document entertained. It is to be seen that it is only Praveen @ Ashwin/LW4, an Advocate who prepared document came, enquired about registration of document but the document not registered at the time of surprise check. It is a practise that the document writer used to show the document prior to registration to avoid any correction or delay.

6.He further submitted that there is no material or evidence to show that the petitioner employed A2 as temporary staff and the petitioner not authorized A2 to collect money on his behalf. As per Annexure-1A, the value of the construction in the property to be valued and the same was done in this case. Further, the Deputy Superintendent of Police records that on receipt of information of cognizable offence, is likely, he visited the Sub Registrar

Office and conducted search. If there is prior information, then the Deputy Superintendent of Police ought to have verified the genuineness of information, registered an FIR, thereafter only proceeded with the investigation, but in this case it is not followed. The Deputy Superintendent of Police not followed the Vigilance Manual either with regard to laying of trap or for conducting joint surprise check. The Vigilance Manual paragraph Nos.41 to 53 listed out the procedures to be followed for laying trap. Likewise, in paragraph No.11, the surprise check procedure given. The document No.8284 of 2017 was presented on 29.11.2017. Since the document submitted after the presentation time, it was not registered on the same day, taken back and only on 30.11.2017, the document registered with the guideline value fixed by the petitioner showing the property situated at Madhaiyan Layout (West). Hence, there is no suppression or loss to the Government exchequer and there is no reason to demand any bribe as alleged.

7.The learned counsel further submitted that A2, from whom the alleged bribe amount said to be seized is no more and there is no evidence or any material to show there was demand by the petitioner, followed by acceptance and recovery of bribe from the petitioner. He further submitted that in this case, drawing of panchnama/proceedings on 29.11.2017 by the Deputy Superintendent of Police recording statement of witnesses is as per Section 162 Cr.P.C and it cannot be taken as admitted piece of evidence as though statements recorded and recoveries were made. For this principle, the learned counsel relied on the decision of ***Vishnu Krishna Belurkar and another v. The State of Maharashtra*** reported in ***1795 CRI. L.J.517*** and ***V.A.Abraham v. Superintendent of Police, Cochin*** reported in ***1988 CRI.L.J.1144*** and ***Miyabhai Pirbhai and others v. The State*** reported in ***1963 (2) CRI. L. J. 141***. Further, he relied on the decision of the Hon'ble Apex Court in ***Santa Singh v. State of Punjab*** reported in ***1956 SCC OnLine SC 47*** for the point that the statements recorded by the Police would be inadmissible under Section 162 of Cr.P.C and utmost it can be used for the purpose to corroborate the previous statement under Section 157 of Indian Evidence Act. In view of the above, the learned counsel for the petitioner prays for quashing.

8.The learned Government Advocate (Crl. Side) appearing for the respondent filed counter and submitted that the property situated at door No.4F-1 and 4E-2 for a sale consideration of Rs.18,63,000/- was intended to be purchased by Gunasekaran/LW6. Praveen @ Ashwin/LW4, an Advocate prepared draft sale deed, met the petitioner to confirm the guideline value of the property. The petitioner informed that if the property is registered showing it is within Madhaiyan Layout, the guideline for 1 sq.mtr is Rs.10,825/- and at the same time, if the property is shown situated at Madhaiyan Layout (West), the guideline value is Rs.2,530/- and further, the petitioner informed that if the property is shown as Madhaiyan Layout, the party has to pay an excessive amount of Rs.1,91,915/- towards guideline value and registration fees, hence, to adopt lesser guideline value to the property, the petitioner demanded bribe amount of Rs.75,000/-. The petitioner visited the property since there was a construction in the property, thereafter, he reiterated his demand on 28.11.2017. Since Praveen @ Ashwin/LW4 expressed his inability, the petitioner reduced the bribe amount to Rs.60,000/-. On 29.11.2017 at 02.00 p.m, Gunasekaran/LW6, his wife Umamaheshwari/LW7 and Praveen @ Ashwin/LW4 and vendor of the property all went to the office of the petitioner, at that time, the petitioner again reiterated the bribe amount and informed that unless the bribe amount is paid, the property will not be registered. Thereafter, Gunasekaran/LW6 had gone to the bank and withdrew the bribe amount. On the instructions of the petitioner, the bribe amount of Rs.60,000/- handed over to A2 at unused lunch room situated at old Sub

Registrar Office. During that time, surprise check was conducted by the Deputy Superintendent of Police along with his team. Everyone present in the office including the staffs searched and the amount of Rs.60,000/- recovered from A2 who admitted amount received by him on the instructions of the petitioner. Further, on that day, a proceedings drawn between 05.00 p.m and 11.30 p.m, in which, the amount possessed by each one recorded and registers and documents verified including temporary Cash Register, issuance of token for registration of document register verified and it was found that 72 tokens issued for the day, of which, for 49 tokens documents registered; for 5 tokens documents kept pending for taking photographs; 3 tokens namely 43, 44, 45, parties not appeared for registration; for 17 documents tokens issued but not taken for registration and one document found without any token number. This document pertains to Gunasekaran/LW6 and Umamaheshwari/LW7 which was prepared for registration by Praveen @ Ashwin/LW4 and the bribe amount of Rs.60,000/- received by the petitioner through A2 as speed money to admit the document out of turn.

9.He further submitted that during drawing of proceedings, all staffs present in the Sub Registrar Office enquired, their statements recorded, documents seized in presence of 8 persons including the petitioner and the copy of the proceedings handed over to the petitioner, thereafter, FIR registered, investigation conducted by another Investigating Officer. After completion of investigation, sanctioning authority namely Inspection General of Registration accorded sanction for prosecution and thereafter, charge sheet filed.

10.It is further submitted by the learned Government Advocate (Crl. Side) that the Hon'ble Apex Court in ***Mohan Lal*** case (cited above) held that the informant and the Investigating Officer not to be one and the same person. In this case, the Deputy Superintendent of Police conducted the surprise check, recorded the proceedings in the office of the Sub Registrar Office in presence of the independent witnesses, finding cognizable offence made out, FIR registered, thereafter further investigation conducted by the Inspector of Police Ms.Ezhilarasi. Hence, the Informant and the Investigating Officer are not the same person. The Hon'ble Apex Court in ***State v. V.Jayapaul*** reported in ***(2004) 5 SCC 223*** held that there is no statutory bar against the Police officer to register the FIR on the basis of the information received taking up the investigation. In this case, the petitioner not shown, what is the bias and how prejudice is caused to the petitioner. In the absence of any bias, the petitioner's contention cannot be entertained. He further submitted that bias is a factual aspect which can be decided only during trial.

11.He further submitted that the above case came to be registered on a surprise check conducted as per guidelines of Vigilance Manual. The Vigilance Manual is only Directory not Mandatory. In ***G.Mohanasundaram v. State represented by the Inspector of Police, DVAC and others, Chennai in Crl.O.P.No.20882 of 2014, dated 01.04.2015***, this Court observed that non following of procedures laid down in DVAC manual is not fatal. In ***Duraimurugan v. Deputy Superintendent of Police, V & AC Vellore in W.P.No.13788 of 2017, dated 26.06.2012***, this Court held that Vigilance Manual and guidelines issued by the authorities is only directory and not mandatory. In ***State of Tamil Nadu v. N.Suresh Ragan and others*** reported in ***(2014) 11 SCC 709,*** the Hon'ble Apex Court held that the probative value of the material has to be taken on its face value and the Court is not expected to go deep into the matter. Further held that based on the materials produced it is to be seen that the accused might have committed the offence and the Court shall not delve deep further and the law does not permit a mini trial at this stage. The Hon'ble Apex Court in ***Sheroj Singh Ahalwat v. State of U.P & another*** reported in ***AIR 2013 SC 52*** and in ***Rajesh Bajaj v. State NCT Delhi & others*** reported in ***(1991) 31 SCC 259*** had held that the Magistrate are not supposed to adopt a strict hyper technical approach to sieve the complainant through a cull under or finest gauging of testing the ingredients of offence with which the accused is charged while entertaining discharge or quash petition at the initial stage. In ***Sajjan Kumar v. Central Bureau of Investigation*** reported in ***(2010) 9 SCC 368*** the Hon'ble Apex Court had held that where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceedings with the trial. In view of the above, the points raised by the learned counsel for the petitioner are all factual which has to be decided only during trial and not in this quash petition. Added to it, there are sufficient materials to proceed with the trial against the petitioner. Hence, he sought for dismissal.

12.This Court considered the rial submissions and perused the materials available on record.

13.In this case, a surprise check was conducted by the Deputy Superintendent of Police, Vigilance and Anti Corruption on 29.11.2017 along with independent officials namely Sub-Inspector of Survey, Modern Resurvey Office, Goundampalayam, Assistant Professor, Government Arts College, Coimbatore. The Deputy Superintendent of Police entered the office at about 05.00 p.m, as per the surprise check procedure, the officials and public who are present in the office all enquired, searched, office records verified. During search, it was also found A2 with cash of Rs.60,000/-. A2 could not give any justifiable reason or explanation for the cash and for what reason he was present in the office of the Sub Registrar Office with such huge amount. A2 disclosed that at the instance of the petitioner, he received the amount of Rs.60,000/- from Praveen @ Ashwin/LW4 who was directed to handover the bribe money to A2, on the instructions of the petitioner, A2 collected the bribe money in a secluded place *i.e.,* unused lunch room situated at old building of Sub Registrar Office. A2 admitted he was temporarily appointed in the Sub

Registrar Office having all the office keys. In presence of witnesses, cash, office keys all recovered from A2. The keys of locker, safety room, document room all with A2. This is confirmed by the staffs of Sub Registrar Office. The statement of witnesses recorded and the documents verified and seized. It was found that 72 tokens issued for the day, of which, for 49 tokens documents registered; for 5 tokens documents kept pending at the stage of taking photographs; for 3 tokens namely 43, 44, 45, the parties not appeared for registration; for 17 tokens issued documents not taken up for registration and one document found without any token number. For the document submitted by Gnanasekaran/LW6 and Umamaheshwari/PW7, no token issued and no reference in any of the registers of Sub Registrar Office leading to inference that Rs.60,000/- was the bribe amount collected for adopting lesser guideline value and as speed money to register the document out of turn. During investigation, the witnesses examined confirmed that this document alone was entertained out of turn.

14.The contention of the petitioner that the vigilance manual not adopted in this case both for a trap proceedings and for surprise check cannot be accepted in view of this Court time and again holding that vigilance manual is only directory not mandatory. Likewise, in this case, the informant and the Investigation Officer are not one and the same. If there is any violation of guideline or any anomaly in the investigation, it has to be confronted with the witnesses, brought in evidence during trial and not in a quash petition. More so these are disputed facts which has to be necessarily decided during trial.

15.The contention of the learned counsel for the petitioner that the panchnama/proceedings recorded on 29.11.2017 can be used as a previous statement and nothing more is correct and proper. The surprise check proceedings and all other connected materials cannot be straight away taken in evidence, it has to be proved in the manner known to law.

16.In view of the above, this Court comes to the conclusion that the contention of the petitioner does not merit consideration to quash the proceedings against the petitioner. Hence, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition stands dismissed.

17.It is made clear that the observations made herein is only to the limited purpose for disposal of the present quash petition. The trial Court to proceed with the trial independently on the materials and evidence produced before it. Connected Criminal Miscellaneous Petitions are closed.

09.09.2025

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No
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To

1.The Special Judge,
Special Court for cases under the Prevention of Corruption Act,
Coimbatore.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.

3.The Public Prosecutor,
Madras High Court.

M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
Crl.O.P.No.2014 of 2025

09.09.2025