



Crl.R.C.No.546 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 09.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.R.C.No.546 of 2025

and

Crl.M.P.No.8175 of 2025

D.Gnanadoss

S/o.T.Dhamodaran (Late)

Proprietor of M/s.Jehovah Jiveh Freight System,

Tuticorin and Resident No. 24/32,

Vishnupuri, 2nd Street, Karthivel Nagar,

Tuticorin – 626 003.

... Petitioner

Vs.

The State rep.by,

The Inspector of Police,

CBI/ACB/Chennai,

RCMAI 2017 A009, Chennai.

... Respondent

PRAYER: Criminal Revision Case has been filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the order dated 13.12.2024 passed in Crl.M.P.No.7059/23 in C.C.No. 4 of 2020 by the IX Additional Special Judge for CBI Cases at Chennai.

For Petitioner : Mr.K.M.Balaji for Mr.K.B.Sudarsan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor



Crl.R.C.No.546 of 2025

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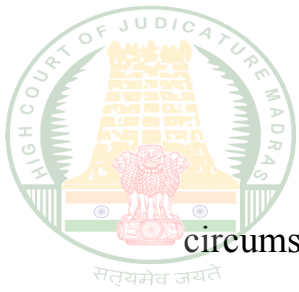
ORDER

The revision is filed against the order dated 13.12.2024 made in Crl.M.P. No. 7059 of 2023 in C.C. No. 4 of 2020 by the learned IX Additional Special Judge for CBI Cases, Chennai. By the said order, the discharge application filed by the petitioner was dismissed by the trial Court.

2. Heard the learned counsel for the petitioner.

3. The learned counsel appearing for the petitioner submitted that this is a case where A1 and A2 were intercepted at Chennai Airport on charges of receiving bribe amounts and bribe articles such as cashew nuts, liquor bottles, etc., and everything was seized only from them.

4. It is the case of the prosecution that A1 and A2, being higher officials, were involved with wood imported by various importers, namely *Populus Nigra*, which is used in the match industry. The wood had to be fumigated and free of bark. However, A1 and A2, at the instance of the importers, directed A4 (who has since been discharged in the case) to release the consignments without fumigation and also along with bark. Under these



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circumstances, the group of consignees invited A1 and A2 to Tuticorin and booked a hotel room for them, where they made a plea to strictly instruct A4 to release all their consignments and also made a representation to the said accused to remove the said wood from Schedule VI to Schedule VII so that import with the bark would be made easier. Following the meeting, it is the case of the prosecution that A1 and A2 insisted on submitting a representation in that regard and they also carried the copies of the representation and the bribe amount. On their way back, they were intercepted and caught red-handed at Chennai Airport.

5. The learned counsel appearing for the petitioner submitted that in this entire episode, the petitioner, who is in the clearing and forwarding business at Tuticorin Port, had no involvement. The only allegation made in the final report is that he cleared the hotel charges. It can be seen that the petitioner's brother was the one who booked the room. Ultimately, when the persons who stayed, being the officials, were intercepted and arrested at Chennai Airport, the hotel owner insisted on payment. The petitioner had no other option than to pay the charges. That alone cannot be put against the petitioner. Even assuming that the petitioner paid the charges, none of the offences would be made out against him. The mere fact that copies of the representations were

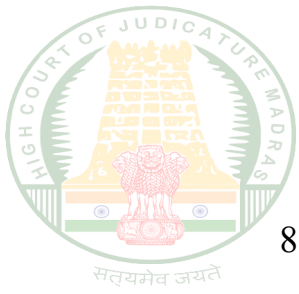


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recovered from the petitioner also will not make out any material, as consignees or traders will always be representing to the Government to remove the wood to a particular schedule, which would be more convenient for the traders to import. The mere submission of a representation itself would not amount to criminal conspiracy.

6. This is a case where there is no material to show that the petitioner paid any amount to A1 and A2 and it is not the case that A1 and A2 received the amount on behalf of A7. Since A7 is neither the beneficiary of the bribe amount nor the payer, no ingredient of the offence under Section 120B or the offences under the Prevention of Corruption Act, including Section 13, is made out against the petitioner, who is not a public servant. Since A4, who was similarly situated and had no role to play, was discharged, this petitioner should also be discharged.

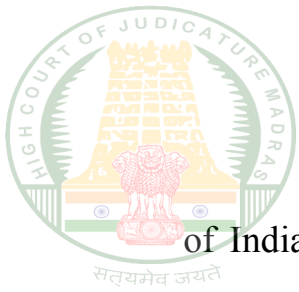
7. Per contra, the learned Special Public Prosecutor appearing on behalf of the respondent-complainant took this Court through the counter affidavit filed, enumerating the various materials collected against this petitioner, who is arrayed as A7, would submit that there is ample material to proceed further.



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8. The learned Special Public Prosecutor appearing for the respondent would submit that apart from the fact that A7 is the person who cleared the hotel bill, it can be seen that even before the interception, it was the petitioner's brother who had made the booking on behalf of the petitioner's concerned, who occupied the hotel room. The petitioner cleared the hotel rent through his cheque. Further, it can be seen that prior to the instant transactions, as many as 45 consignments belonging to the petitioner's client, which were imported through the petitioner, were cleared with bark and without fumigation. All this was allegedly done as part of the conspiracy between A7 and A1. The relevant excerpts of the telephonic conversations, etc., are part of the materials placed before the trial Court. Unlike A4, A7 is a beneficiary in the sense that he is in the business of importing this particular wood, and the misconduct of A1 in directing A4 to release the consignment without fumigation and with bark directly benefited A7. Therefore, he has rightly been arrayed as an accused. The other available materials, including the statements of other witnesses who have spoken about A7, are all mentioned in the counter.

9. The learned Special Public Prosecutor appearing for the respondent-complainant, therefore relied on the judgment of the Hon'ble Supreme Court



of India in ***Amit Kapoor v. Ramesh Chander and Another, (2012) 9 SCC***

460, more specifically paragraphs 17 to 19, to contend that at the stage of framing of charge, even if two views are possible, the view that supports framing of the charge should be taken, while it would be converse at the time of considering the final arguments in the case relating to acquittal.

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. In the instant case, it is not the booking of the hotel which is the sole material on which the petitioner is implicated. The excerpts of various telephonic conversations that are produced before the trial Court, starting from page 87 onwards, are also placed on record. It can be seen from pages 92 and 93 of the paper book filed by the petitioner himself that there are various telephonic conversations between A7 and A1 *Manickam*, whereby he informs A1 to clear various his consignments and request him to instruct the appropriate officer to clear the same.

12. It can be seen that the materials point out that A1 was in conversation with all the importers who insisted clearance in violation of the



Crl.R.C.No.546 of 2025

law, and pursuant to these conversations, a meeting was held, and thereafter

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it is not as if the petitioner is arrayed based on one isolated piece of material.

In the instant case, I am unable to accept the contention of the learned counsel

that A7 is arrayed without any material at all. There are materials against A7

and therefore, the trial Court has rightly considered them and dismissed the

discharge application.

13. Finding no merit, the Criminal Revision stands dismissed. Needless to state that the other contentions based on merits are kept open for the petitioner to raise at the time of trial. Consequently, connected miscellaneous petition is closed. No costs.

09.06.2025

Neutral Citation: Yes/No
nsl

To

1. The Inspector of Police,
CBI/ACB/Chennai, RCMAI 2017 A009, Chennai.
2. IX Additional Special Judge for CBI Cases, Chennai
3. The Special Public Prosecutor (CBI), High Court, Madras

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D.BHARATHA CHAKRAVARTHY, J.

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