



Crl.O.P.No.11006 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.11006 of 2025 and
Crl.M.P.No.7287 of 2025

C.Samuel Johnson,
Joint Sub Registrar (In Charge),
O/o.Original Registration Branch,
North Chennai, Chennai-1.

... Petitioner

Vs.

The State Rep by
The Inspector of Police,
City Special Unit-I,
Vigilance and Anti Corruption,
Chennai.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records in pursuant to the Crl.M.P.No.767 of 2024 in C.C.No.13 of 2014 on the file of the Special Court for the cases under the Prevention of Corruption Act at Chennai vide order dated 18.03.2025 and set aside the same.

For Petitioner : Mr.M.Chandrasekaran

For Respondent : Mr.S.Udayakumar,
Government Advocate (Crl. Side)



ORDER

WEB COPY The petitioner, who is facing trial in C.C.No.13 of 2014 for offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, filed a petition under Section 311 Cr.P.C in CrI.M.P.No.767 of 2024 in C.C.No.13 of 2014 before the learned Special Judge, Special Court for the cases under PC Act, Chennai (Trial Court), to reopen and recall the evidence of PW7/Trap Laying Officer. The Trial Court, by order, dated 18.03.2025 dismissed the said petition, against which, the present Criminal Original Petition is filed.

2.The learned counsel for the petitioner submitted that a trap case has been foisted against the petitioner as though the petitioner demanded Rs.200/- from the defacto complainant/PW2. In fact, in this case, the trap amount recovered from the table, not from the petitioner. The trap amount tainted with phenolphthalein powder, the petitioner forcibly made to handle the same and trap projected. In these circumstances, the petitioner cross examined PW2/decoy, PW3/accompanying witness in detail. PW7 is the Trap Laying Officer, he was also cross examined on that line. PW7 admitted in his evidence that the demand made on 22.01.2014 and followed by 23.01.2014. PW2 admits he visiting the



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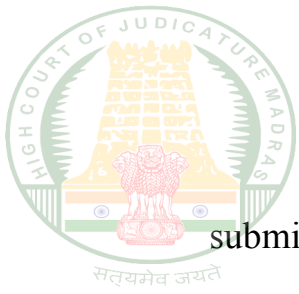
Vigilance Office much before lodging the complaint. For that reason, the petitioner filed a petition in CrI.M.P.No.730 of 2024 in C.C.No.13 of 2014 to summon extracts of General Diary maintained in the respondent office on 22.01.2014, 23.01.2014, 21.05.2014 and 03.11.2014 to expose pre-dating the documents and facts in this case. The Trial Court, by order, dated 21.11.2024 dismissed the petition, against which, the petitioner filed revision before this Court in CrI.RC.No.2239 of 2024 and this Court, by order, dated 10.12.2024 disposed the revision with observations that the Trial Court to satisfy with regard to the entries made in the General Diary and cross examination of the Trap Laying Officer/PW7 to be completed. Thereafter, the petitioner filed CrI.MP.No.767 of 2024 in C.C.No.13 of 2014 seeking recall of Trap Laying Officer/PW7 but the Trial Court passed an interim order on 29.01.2025 directing the respondent to produce entries of General Diary as sought for by the petitioner. On the counter filed by the respondent stating that due to heavy rain, the records destroyed and General Diary entries are not available, the Trial Court finding the purpose of cross examination of Trap Laying Officer/PW7 is no more required, dismissed the petition by order, dated 18.03.2025, against which, the present revision.



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3.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that in this case, earlier the petitioner filed a petition in Crl.M.P.No.730 of 2024 in C.C.No.13 of 2014 seeking extracts of General Diary maintained in the respondent office on 22.01.2014, 23.01.2014, 21.05.2014 and 03.11.2014 and the said petition dismissed on 21.11.2024. Challenging the same, the petitioner preferred a revision before this Court in Crl.R.C.No.2239 of 2024 and this Court by order, dated 10.12.2014 directed the Trial Court to consider necessity of summoning general diary, personally satisfy with the same and permitted the petitioner to cross examine the Trap Laying Officer/PW7. Thereafter, the petitioner filed a petition under Section 311 Cr.P.C in Crl.M.P.No.767 of 2024 in C.C.No.13 of 2014 and the Trial Court by interim order, dated 29.01.2025 directed the prosecution to produce the relevant general diary extracts. As per the order, dated 29.01.2025, a counter filed by the respondent stating that due to heavy rain, the general diary got damaged, not available. Recording non-availability of extracts of general diary and recall of Trap Laying Officer/PW7 becomes redundant, the Trial Court dismissed the 311 petition *vide* order, dated 18.03.2025, against which, the present petition filed. He further

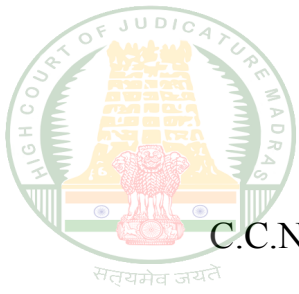


submitted that the Trap Laying Officer/PW7 examined in chief on 16.06.2017, thereafter recalled and cross examined on 15.09.2023.

Following the same, the petitioner is filing one petition or other and protracting the proceedings. Though the Trap Laying Officer/PW7 was present on 23.11.2023 and available on 15.02.2024 and 13.03.2024, there was no cross examination by the petitioner. Finding that the delay was purely on the side of the petitioner, the Trial Court negated the prayer.

4.The learned Government Advocate (Crl. Side) fairly submitted that the cross examination of Trap Laying Officer/PW7 is not complete. What are the other aspects and for what reason the petitioner needs to cross examine PW7, not given.

5.Considering the rival submissions and on perusal of the materials, it is seen that in this case, the Trap Laying Officer/PW7 examined in chief on 16.06.2017, thereafter cross examined only on 15.09.2023 citing identical witness to be cross examined. Though PW7 cross examined in detail on 15.09.2023 for the purpose of confronting PW7 with regard to general diary, the cross examination not completed. Thereafter, the petitioner filed a petition in Crl.M.P.No.730 of 2024 in



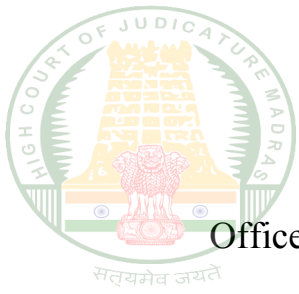
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C.C.No.13 of 2014 seeking extracts of general diary. Finally, it was found general diary extracts sought by the petitioner damaged due to heavy rain, not available. Thereafter, the petitioner filed a petition under Section 311 Cr.P.C to recall PW7, but the Trial Court dismissed the same by impugned order, dated 18.03.2025, against which, the present petition is filed.

6.From the submissions of the learned Government Advocate (Crl. Side), it is seen that the Trap Laying Officer (PW7) is a Police officer and available. Now the case is posted for cross examination of the Investigating Officer/PW10 on 29.04.2025.

7.In view of the Trap Laying Officer/PW7's cross examination not completed, this Court set asides the impugned order, dated 18.03.2025 in Crl.M.P.No.767 of 2024 in C.C.No.13 of 2014 passed by the learned Special Judge, Special Court for the cases under PC Act, Chennai with the following directions.

(i)The respondent to ensure the presence of Trap Laying



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Officer/PW7 on the next hearing date or on the subsequent hearing date.

WEB COPY (ii) On the date of appearance of PW7, the petitioner to complete cross examination without fail.

(iii) On completion of cross examination of PW7, the Trial Court to examine other witnesses if any and proceed with the trial.

8. In the result, this Criminal Original Petition is allowed.
Consequently, connected Criminal Miscellaneous Petition is closed.

23.04.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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Note: Issue Order Copy on 24/04/2025.

To

1. The Special Judge,
Special Court for cases under PC Act,
Chennai.

2. The Inspector of Police,
City Special Unit-I,
Vigilance and Anti Corruption,
Chennai.

3. The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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