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Crl.O.P.Nos.13547 and 7851 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 30.04.2025
PRONOUNCED ON: 10.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.13547 and 7851 of 2025

P.Somakumaran

... Petitioner in
both Crl.O.Ps

Vs.

The Deputy Superintendent of Police,
Vigilance and Anti Corruption
Udhagamandalam, The Nilgiris.

... Respondent in
both Crl.O.Ps

Prayer in Crl.O.P.No.13547 of 2025: Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to proceedings in Spl.C.C.No.27 of 2024 on the file of the Chief Judicial Magistrate Court, Udhagamandalam and quash the same.

Prayer in Crl.O.P.No.7851 of 2025: Criminal Original Petition filed under Section 528 of BNSS, to direct the Chief Judicial Magistrate Court, Udhagamandalam to expedite and complete the trial in Spl.C.C.No.27 of 2024 on the file of the Chief Judicial Magistrate Court, Udhagamandalam in so far as it relates to the petitioner.



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For Petitioner
in both Crl.O.Ps : Ms.A.L.Gandhimathi
Senior Counsel
for Mr.L.Palanimuthu

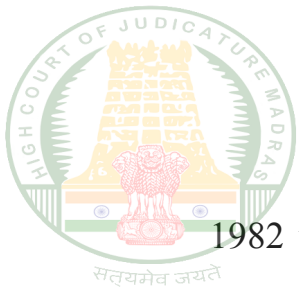
For Respondent
in both Crl.O.Ps : Mr.S.Udayakumar
Government Advocate (Crl. Side)

COMMON ORDER

Crl.O.P.No.13547 of 2025 is filed to quash the proceedings in Spl.C.C.No.27 of 2024 on the file of the learned Chief Judicial Magistrate, Udthagamandalam. Crl.O.P.No.7851 of 2025 is filed to direct the Trial Court to expedite and complete the trial in Spl.C.C.No.27 of 2024.

2.The brief facts of the case is as follows:

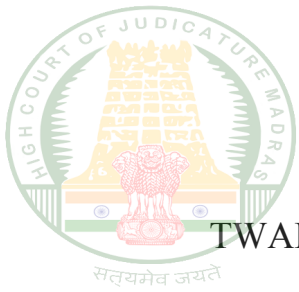
(i)The Government of Tamil Nadu in G.O.Ms.No.25 Planning and Development (HADP) dated 08.04.1982 accorded sanction for implementation of Rural Water Supply Scheme in about 140 villages under Social Input Programme. The Rural Water Supply Scheme was formulated and a rural water supply division was formed in TWAD Board in the year



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1982 with Head quarters at Udhagamandalam to implement the said RWS Scheme. It is functioned under the control of one Executive Engineer, TWAD Board, who was assisted by a team of Technical and Administrative staff for the implementation of Rural Water Supply Schemes in the Nilgiris District. There were four sub divisions having offices at Kothagiri, Gudalur, Coonoor and Udhagamandalam headed by Assistant Executive Engineers with Assistant Engineers and other supporting staff. In the Board proceedings No.153 dated 13.05.1974 of TWAD Board authorized only the Chief Engineer to split up all major tender works into convenient parts as contemplated in the abstract of the estimate. As per the Board proceedings No.387 dated 11.10.1977, the Executive Engineer other than Rural Water Supply Division are empowered to procure the unlisted item of materials upto Rs.10,000/- only. As per Board proceedings No.118 dated 12.05.1987 the HDPE Specials are included as listed items of materials and the Executive Engineer, RWS is empowered to procure the unlisted item of materials upto Rs.20,000/-.

(ii) During the period 1982 to 1987, at Udhagamandalam, A1 along with one M.Prabakaran (expired) in the capacity as Executive Engineer,



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TWAD Board, RWS Supply Division, Udthagamandalam having been entrusted and having dominion over the funds of TWAD Board had in violation of the tender procedures, PWD Codal Provisions and instructions of TWAD Board in the purchase of HDPE Flanges and Pipe ends committed criminal breach of trust in respect of a total sum of Rs.1,82,24,293/- pertaining to 1036 forged tender documents/agreements of A28 to A31 and A33, who claimed themselves to be the representatives of 10 non-existent and fictitious firms.

(iii)A2 and A3 in collusion with the said M.Prabakaran, Executive Engineer (expired) in the process of the said tender documents, intentionally and knowingly omitted to observe the existing Rules and Orders of TWAD Board in respect of the said tender transaction in calling for the tenders, issue of tender schedules, settling of contracts, execution of agreements, etc. with A28 to A31 and A33 and in passing the bills without pointing out the violation of TWAD Board's proceedings for splitting up purchase of HDPE Flanges and Pipe ends and without placing any objection on record for making the payment by the said M.Prabakaran (expired) to A28 to A31 and A33 for the supply of the said materials.



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WEB COPY (iv)A4 to A22 and one C.Manoharan (expired) in collusion with the said M.Prabakaran (expired) in the process of the said tender documents intentionally prepared unwanted requirements of the HDPE Flanges and Pipe ends for RWS Scheme for where there is no provision in the technically sanctioned OP estimates and detailed working estimates and also intentionally and knowingly omitted to check up and ensure the quality of HDPE Flanges and Pipe ends supplied by A28 to A31 and A33 countersigned the bills for the supply of the said materials.

(v)A23 to A27 in collusion with the said M.Prabakaran (expired) in the process of the said tender documents intentionally omitted to verify the genuineness about the existence, I.T. Clearance, Sales Tax Clearance, Financial Capacity and also the Proprietorship of those 10 non-existent firms of A28 to A31 and A33 and thereby recommended the said M.Prabakaran (expired) to place supply orders and to make payments of the said amount to A28 to A31 and A33 for the supply of HDPE Flanges and Pipe ends under those 1036 false tender documents/agreements.

(vi)As there was a large scale misconduct in the implementation of



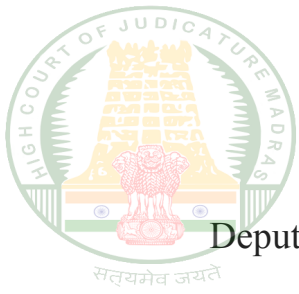
the scheme was notices, the then Superintendent of Police, Western Range,

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Vigilance & Anti Corruption conducted a preliminary enquiry and filed a report. Based on the Enquiry Report, originally FIR was filed against 13 persons under Sections 120-B, 420 IPC, 5(1)(d) r/w. 5(2) of P.C. Act, 1947 and 109 IPC in Cr.No.3/AC/88/HQs dated 14.10.1988.

(vii) Thereafter, the then Inspector of Police, City Special Unit II, Vigilance and Anti Corruption, Chennai took up the case for further investigation and pending completion, he found out the involvement of 30 more persons in the irregularities in the implementation of the scheme. The Investigating Officer has filed an application to include 30 persons as accused before the Competent Court and included the other accused persons also. Thereafter, the case was transferred from City Special Unit II, Vigilance and Anti Corruption, Chennai to the respondent police on 30.06.2005 and the then Deputy Superintendent of Police took up the case for further investigation and examined 119 witnesses, collected and perused 3064 documents including 1178 forged tender schedules/agreements with forged signatures of fictitious persons.

(viii) Based on the examination of witnesses and documents, the then



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Deputy Superintendent of Police laid a charge sheet against the accused persons for the offences punishable under Sections 120-B r/w. 409, 467, 468, 477A, 471 r/w. 467 and 420 IPC and 5(1)(A)(a)(c) and (d) of Prevention of Corruption Act, 1947 on 10.10.2007 and the same was taken as C.C.No.9/2008 on the file of the learned Special Judge/District Sessions Judge at Udhagamandalam, The Nilgiris District on 23.04.2008.

(ix) As per G.O.Ms.No.899 Home (Court-II) Department dated 18.10.2010, the case was transferred to Court of Special Judge under Prevention of Corruption Act, Coimbatore on 10.11.2011 and the same was taken on file vide Spl.C.C.No.126 of 2011. Further, the case was transferred to Assistant Sessions Court cum Special Court for Cases under the Prevention of Corruption Act, Udhagamandalam, The Nilgiris as per G.O.(Ms).No.666 Home (Courts-II) Department, dated 10.09.2014 and re-numbered as Spl.C.C.No.29 of 2015. Subsequently the case transferred to the Court of Chief Judicial Magistrate cum Special Judge for Cases under the Prevention of Corruption Act, Udhagamandalam on 16.04.2024 and re-numbered as Spl.C.C.No.27 of 2024.



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2.The contention of the learned senior counsel for the petitioner is that when the case was pending in C.C.No.126 of 2011, not progressed for eight years, the petitioner filed Crl.O.P.No.9104 of 2016 to quash the proceedings. This Court by order dated 17.11.2016 dismissed the said petition finding that the delay in furnishing copies to all the accused was due to abscondance and Non-Bailable Warrant pending against some of the accused and Section 207 Cr.P.C. could not be completed, hence gave direction to the Trial Court to furnish copies of the documents to the available accused and frame charges and proceed the case on day-to-day basis and dispose the case in accordance with law within a period of six months. The petitioner aggrieved against the order of this Court, preferred an appeal to the Apex Court in Diary No.24006/2017. The Apex Court by order dated 28.08.2017 not entertained the Special Leave Petition and dismissed the same even at the admission stage. In the interregnum, trial proceedings transferred from one Court to another and finally re-numbered pending on the file of the learned Chief Judicial Magistrate, Udhagamandalam in Spl.S.C.No.27 of 2024. The petitioner earlier filed a



discharge petition before the Assistant Sessions Court, Udhagamandalam on

20.12.2017 and the said petition was dismissed on 22.10.2019. Thereafter

no steps taken by the respondent to speed up the trial. Three years thereafter

only in the year 2022, few prosecution witness examined. She would

further submit that in this case, there are totally 34 accused and majority of

the accused were either discharged or charges have been quashed against

them. She would further submit that in the departmental proceedings, two

charges were framed against the petitioner, first charge is the petitioner

formerly Assistant Executive Engineer, TWAD Board in connivance with

Executive Engineers, Assistant Engineers/Junior Engineers, Divisional

Accountants and Jr.D.Os. Committed irregularities in the process of calling

for tenders, split up the supply orders and procurement of fabricated

materials such as Fencing Posts, Chain Links, M.S.cover settling tank

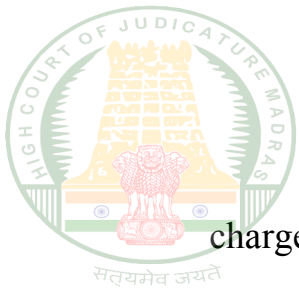
covers, Chlorinators, MS Gates, MS Ladders, Water Level Indicators, MS

Doors and MS Windows from non-existing firms (and not from the

Government approved firms) at exorbitant rates and in excess quantity than

the actual requirement, thereby committed misconduct under the TWAD

Board Employees' (Discipline and Appeal) Regulations, 1972. The second



charge is that the petitioner failed to maintain high standard of integrity and devotion to duty as per the TWAD Board Officers' and Servants' Conduct Regulations, 1972.

3.The learned senior counsel further submitted that charges in both the departmental proceedings and Criminal Court are identical in sum and substance, one and the same. In the departmental proceedings, full-fledged enquiry conducted and the Enquiry Officer submitted his report that charges not proved. Thereafter it was placed before the Appointing Authority and explanation from the petitioner obtained. The Enquiry Officer's report analyzed in detail, placed before the TWAD Board, meeting held on 07.03.2007 along with the Disciplinary Committee's recommendations. The Board in the resolution dated 07.03.2007 resolved as follows:

“The Board after careful consideration of the files and connected records relating to the charges framed for the irregularities committed by the Officials of the Board in the purchase of fabricated materials for RWS Schemes undertaken by the RWS Division, Udthagamandalam.



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Resolved to accept the recommendation of the Disciplinary Proceedings Committee and to drop the charges framed against Thiru.P.Somakumaran, Asst.Exe.Engineer (under suspension).”

The Board passed an order in B.P.Ms.No.145 (ESTT.(DP)WING) dated 17.12.2007, dropping the charges against the petitioner.

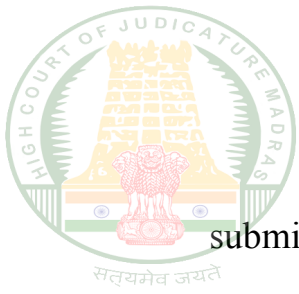
4.The learned senior counsel further submitted that the co-accused in this case filed Crl.O.P.Nos.7587/2013, 8097/2012, 16320/2014, 14681/2014 and 29814/2014 to quash the proceedings against them. The petitioners therein includes Executive Engineers, Assistant Executive Engineers, Assistant Engineers, Junior Engineers and Junior Accounts Officers in TWAD Board. Out of them, A4, A5, A6 and A8 are Assistant Executive Engineers, entrusted with similar duties and responsibilities as that of the petitioner herein. This Court by a common order dated 26.02.2015 quashed the proceedings against A1, A3, A4, A5, A8, A9, A10, A11, A12, A14, A15, A16, A17, A18, A20, A21 and A22. Thereafter, two more quash petitions filed in Crl.O.P.Nos.8435 and 9468 of 2015 by A23, A24, A25, A27, A28, A31, A32 and A33. The petitioners in Crl.O.P.No.8435 of 2015



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are the employees of the Contractors and the petitioners in Crl.O.P.No.9468 of 2015 are all officials of the TWAD Board. This Court by order dated 26.08.2015 by referring to the earlier order passed by this Court, quashed the proceedings against the accused both on merits and on the ground of delay. Challenging the same, the respondent preferred a Special Leave Petition before the Apex Court. The Apex Court by order dated 23.09.2016 dismissed the Special Leave Petition.

5.The learned senior counsel further submitted that this Court while dismissing the quash petition in Crl.O.P.No.9104 of 2016 though referred to the earlier quash petition of the co-accused, but recorded that the earlier quash petition was entertained for the reason inordinate delay in progress of the case. While dismissing the earlier petition of the petitioner, it recorded the reason for delay was due to abscondance of the accused and pendency of Non-Bailable Warrant and the delay is not on the part of the prosecution. She further submitted that this may not be correct and proper. Further, referring to the order passed by this Court in Crl.O.P.Nos.7587/2013, 8097/2012, 16320/2014, 14681/2014 and 29814/2014 dated 26.02.2015



submitted that apart from the ground of delay, this Court on merits recorded

that the approver statement is the only material implicating the accused/officials of TWAD Board in the above case, admittedly, the approver, namely, K.Elango is reported dead. Hence, as regards the petitioner, who is similarly placed as that of another Assistant Executive Engineer/A5 de hors the approver statement, there is no materials against the petitioner. Further, it had also referred to the departmental proceedings initiated against A3, A8, A9, A17 and A21, wherein the departmental proceedings dropped. As against the dropping of the departmental proceedings the TWAD Board preferred Special Leave Petition against one of the Engineer M.Balan, but the Apex Court dismissed the Special Leave Petition observing “it is a gross case where the respondents (TWAD Engineers), in our opinion, have been harassed by the petitioner-Board for reasons best known to its Officers. We are satisfied that the action of the authorities of the petitioner-Board is malafide. The Special Leave Petitions are dismissed”. Thus considering all these facts, the criminal cases to be quashed.



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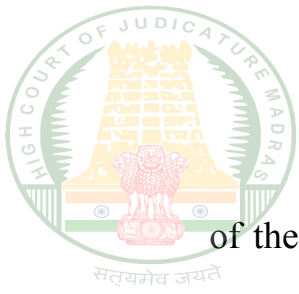
6.The learned senior counsel further submitted that earlier dismissal of the quash petition of the petitioner was only on the ground of delay and not on the merits. The appeal before the Apex Court was dismissed at the admission stage. Hence, the prayer of the petitioner on merits not considered both by this Court and the Apex Court, hence this petition can be entertained. The learned senior counsel referring to the orders of this Court, took to the charge sheet and the statement of the witnesses, submitted that petitioner is only a mid level officer, the scheme was conceptualized and implemented at the higher level and thereafter, the petitioner forwarded the same to the Subordinate and Field Officers to implement the scheme. The petitioner as mid level officer received the report from the Field Officers, recommended to the Accounts Section and thereafter to the Executive Engineers who approved and authorized payment to the Contractors. The selection of Contractors were not within the domain of the petitioner. Except for the approver statement there is no material against the petitioner and now the approver is no more. Hence there is no justification in proceeding against the petitioner and therefore, sought for quashing the



case. She further submitted that both the criminal cases for similarly placed

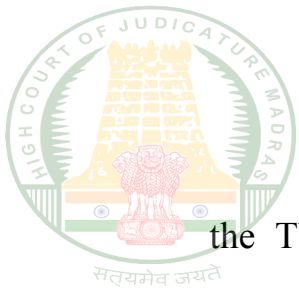
Engineers of TWAD Board quashed and the disciplinary proceedings against the Engineers of TWAD Board dropped and the petitioner is similarly placed. Hence continuation of the case against the petitioner will not serve any purpose, it will be an exercise in futility and will amount to abuse of process of Court. She further submitted that the petitioner is now 78 years old, one step short to the grave filed this quash petition.

7.The learned Government Advocate (Crl. Side) filed his counter and submitted that the principle of parity cannot be mechanically applied unless the facts and roles of the accused are identical. In the present case, the petitioner had a distinct and direct role in the criminal conspiracy, and the documentary evidence, including forged tender schedules and expert opinions, clearly link him to the commission of the offence. The departmental exoneration in respect of Sam Daniel does not preclude criminal prosecution, especially when the petitioner's role, as reflected in the charge sheet, is not comparable. The delay in proceeding further with the trial is not attributable to the prosecution, but entirely due to the conduct



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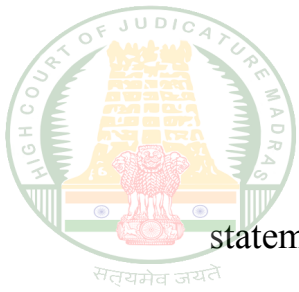
of the petitioner and co-accused, who have repeatedly filed quash petitions before this Court. The charges were quashed in 2015 and the state preferred special leave petitions before the Hon'ble Supreme Court which remained pending for a considerable time then. The pendency of these proceedings legally impeded the commencement of trial. It is further submitted that this Court as on 17.11.2016 dismissed the quash petition and had directed the trial court to furnish copies, frame charges and proceed with trial. The delay being systemic and procedurally caused, does not amount to a violation of Article 21 of the Constitution of India. The prosecution has diligently perused the case without default or malafide. The petitioner's reliance on departmental exoneration and dropping of charges by the TWAD Board is misconceived and untenable in the context of a criminal prosecution. It is a settled principle of law that disciplinary proceedings and criminal proceedings operate on distinct legal standards. While disciplinary action is based on preponderance of probabilities, criminal liability must be assessed based on evidence beyond reasonable doubt. Therefore the findings of the departmental enquiry have no bearing on the criminal trial, especially where independent materials exist against the petitioner. The resolution passed by



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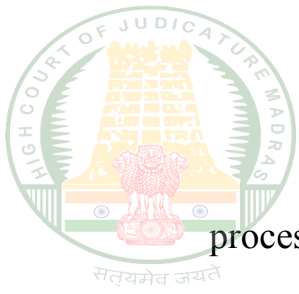
the TWAD Board in B.P.Ms.No.145, dated:17.12.2007 and the enquiry report dated 29.06.2005 are internal administrative decision and cannot override Judicial scrutiny in a Criminal Prosecution initiated under law. Moreover, the allegation that. continuance of proceedings would amount to abuse of process is without foundation, as the petitioner has been specifically implicated based on documentary evidence and witness testimonies. Thereafter, the case was filed before the Trial Court, it was transferred to various Courts on administrative ground and finally it is pending before the learned Chief Judicial Magistrate, Udthagamandalam in Spl.C.C.No.27 of 2024.

8.Considering the submissions made and on perusal of the materials, it is seen that the petitioner/A7 is an Assistant Executive Engineer of TWAD Board. In this case, originally there were 34 accused, A1 to A27 are the Engineers and Account Officer of different cadre in TWAD Board, A28 to A33 are the representatives of fictitious firms/private individuals and A34 is a Contractor/private individual. The employee of A34, namely, K.Elango turned approver, is reported dead. The entire case hinges primarily on the



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statement of the approver K.Elango. In this case, admittedly the case against A1, A3, A4, A5, A8, A9, A10, A11, A12, A14, A15, A16, A17, A18, A20, A21, A22, A23, A24, A25, A27, A28, A31, A32 and A33 have been quashed by this Court on two occasions. The same had been challenged before the Apex Court by the TWAD Board and the same was dismissed. Simultaneously, disciplinary proceedings initiated against the officials of TWAD Board, where charges found not proved and dropped. The action was challenged by the TWAD Board before the Apex Court and the same was dismissed. Thus, both the criminal case as well as the disciplinary proceedings reached upto the Apex Court where quashing of proceedings upheld and dropping of disciplinary proceedings confirmed. The petitioner though earlier filed quash petition, it was primarily dismissed on the ground of delay but not considered on merits of the case which was considered in the quash petitions of co-accused, who are similarly placed as that of the petitioner. It is also to be seen that FIR in this case came to be registered on 14.10.1988 and 20 years thereafter, charge filed on 23.04.2008. Thus, this Court finds continuation of the proceedings against the petitioner would serve no purpose and it would only amount to abuse of



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process of Court. Hence, this Court is inclined to quash the proceedings pending against the petitioner.

9. Accordingly, Crl.o.P.No.13547 of 2025 stands allowed and the proceedings in Spl.C.C.No.27 of 2024 pending on the file of the learned Chief Judicial Magistrate, Udhagamandalam is quashed.

10. In view of the order passed in Crl.O.P.No.13547 of 2025 quashing the proceedings in Spl.C.C.No.27 of 2024 as regards the petitioner, the prayer sought for in Crl.O.P.No.7851 of 2025 becomes infructuous. Accordingly, Crl.O.P.No.7851 of 2025 stands disposed of.

10.09.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
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M.NIRMAL KUMAR, J.

cse

To

1.The Deputy Superintendent of Police,
Vigilance and Anti Corruption
Udhagamandalam, The Nilgiris.

2.The Chief Judicial Magistrate,
Udhagamandalam.

3.The Public Prosecutor (Puducherry),
High Court, Madras.

Pre-delivery order made in

Crl.O.P.Nos.13547 and 7851 of 2025

10.09.2025