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Crl.O.P.No.12565 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.12565 of 2025
and Crl.M.P.No.8356 of 2025

K.Sivamani
Inspector of Police,
Central Crime Branch,
Commissioner of Police,
Chennai – 600 008.

... Petitioner

Vs.

State rep. By
Inspector of Police,
Vigilance and Anti Corruption Wing,
Head Quarters,
Chennai – 600 028.
Crime No.4 of 2014

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023 to set aside the order passed by the learned Special Judge for Cases under Prevention of Corruption Act, Chennai dated 03.04.2025 in Crl.M.P.No.58 of 2025 in C.C.No.6 of 2016.



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For Petitioner : Mr.R.John Sathyan
Senior Counsel
for Mr.P.Divakar

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

ORDER

The petitioner/A1 facing trial in C.C.No.6 of 2016 filed a petition under Section 311 Cr.P.C. r/w. 243(2) & (3) of Cr.P.C. in Crl.M.P.No.58 of 2025 seeking to reopen the case to summon and examine Mr.Sridhar, IPS as defence witness. The Trial Court by order dated 03.04.2025 dismissed the petition. Against which, the present petition filed.

2.The contention of the learned counsel for the petitioner is that the case projected against the petitioner is that on 07.02.2012 the defacto complainant Mrs.S.Vijayalakshmi and her son Mr.S.Thiagarajan were detained by the petitioner and other Police personnel at the instance of the other accused, in order to evict them from the property, forcibly made a settlement. The defacto complainant Vijayalakshmi filed a petition before this Court and thereafter, case came to be filed in Crime No.4 of 2014 which



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now culminated to C.C.No,6 of 2016. So far in this case, 32 witnesses examined and 54 documents marked. He would submit that P.W.32 is the second Investigating Officer, who admits that he sent a draft final report dated 07.03.2016 reporting that the charges levelled against the petitioner is not substantiated and further action to be dropped. P.W.32 further recommended initiation of departmental action for procedural lapse. P.W.32 in his report referred to the enquiry conducted by three IPS Officers earlier on the direction of the Commissioner of Police, namely, Mrs.Lakshmi, IPS, Mr.Anbu, IPS and Mr.Sridhar, IPS and in his report, their enquiry reports listed in Sl.Nos.49 to 51. He would further submit the report of P.W.32 marked as Ex.C2, the documents referred to in the report not produced and the petitioner require these three reports listed in Sl.Nos.49 to 51 to substantiate his defence. The Three IPS Officers in their reports recommended only departmental action. Hence, marking of the reports of the three IPS Officers which forms part of Ex.C2 is very much necessary for the petitioner to probabilize his defence when statutory presumption is against him. But the Trial Court without considering the import of defence evidence dismissed the petition. Hence prayed for setting



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the aside the impugned order.

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3.The learned Government Advocate (Crl. Side) submitted that the petitioner/A1 filed a petition under Section 311 r/w. 243(2)&(3) Cr.P.C. to reopen the case and examine Mr.Sridhar, IPS (Retired) as defence witness in Crl.M.P.No.58 of 2025. The Trial Court after hearing both sides, dismissed the petition on the ground that the petitioner filed this petition belatedly without any due diligence in order to drag on the proceedings without bonafideness. The petitioner not mentioned the relevancy of the witness to the charges levelled against him. The petitioner not given the reason for which the witness is required to be examined. He would submit that in this case already P.W.32/Ramachandramoorthy, Investigating Officer examined and Ex.C2/report marked through him. He would further submit that the petitioner is aware about the draft final report much earlier and he had not thought it fit to call for the IPS Officer's report then belatedly now, filing present petition is nothing to protract the proceedings. Hence, prayed for dismissal.



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4.Considering the submissions made and on perusal of the materials, it is not in dispute that P.W.32/Ramachandramoorthy, Investigating Officer submitted a report which was marked as Ex.C2. According to the petitioner, the said report is favourable to him and the report only recommends for departmental enquiry. This report is based on the statements and reports collected, including report of three IPS Officers, namely, Mrs.Lakshmi, IPS, Mr.Anbu, IPS and Mr.Sridhar, IPS. Now the petitioner needs to mark these reports and confront the same with the Investigating Officer to substantiate his defence which cannot be denied thought it is raised at a belated stage, otherwise it would amount to denial of fair opportunity.

5.In view of the same, the impugned order dated 03.04.2025 made in CrI.M.P.No.58 of 2025 is set aside. The Trial Court is directed to summon P.W.32/Ramachandramoorthy and direct him to produce enquiry reports of three IPS Officers, namely, Mrs.Lakshmi, IPS, Mr.Anbu, IPS and Mr.Sridhar, IPS which forms listed documents in his report/Ex.C2 in Sl.Nos.49 to 51. It is reported that P.W.32 is in service and hence, there would be no difficulty in summoning P.W.32/Ramachandramoorthy and to



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produce these documents. Further, it was agreed that P.W.32 can be

examined on 15.05.2025. The copy of the enquiry reports of the aforesaid

IPS Officers to be furnished to the petitioner's counsel well in advance.

After completion of these processes, arguments to be heard.

6.With the above direction, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

24.04.2025

Index: Yes/No

Speaking Order/Non-Speaking Order,

Neutral Citation: Yes/No

cse

Note: Issue order copy on 24.04.2025



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To

- 1.The Inspector of Police,
Vigilance and Anti Corruption Wing,
Head Quarters,
Chennai – 600 028.
- 2.The Special Judge for Cases under
Prevention of Corruption Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
cse

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