



Crl.O.P.No.18348 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.07.2025

CORAM:

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

Crl.O.P.No.18348 of 2025

and

Crl.M.P.No. 12186 of 2025

Tr.Z.Abdul Hakkim

... Petitioner

Vs.

The State,
Represented by Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
City-II Detachment,
Nandanam, Chennai – 600 035.

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS Act r/w 482 of Cr.P.C., to set aside the order dated 18.06.2025 in Crl.M.P.No.85 of 2025 in C.C.No.21 of 2013 on the file of the Special Court for Cases under Prevention of Corruption Act at Chennai and to allow the said petition as prayed for.

For Petitioner : Mr.R.Srinivas, Senior Counsel
assisted by Mr.V.Mythili

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



Crl.O.P.No.18348 of 2025

ORDER

WEB COPY This Criminal Original Petition is directed against the order of the Special Court for cases under the Prevention of Corruption Act, 1988, Chennai, dated 18.06.2025, made in Crl.M.P. No. 85 of 2025 in C.C. No. 21 of 2013.

2. By the said order, the application filed by the petitioner herein, who is the sole accused in the case, was partly dismissed by the trial Court. The prayer made by the petitioner is to permit him to examine five persons, including an individual and four official witnesses, as defence witnesses. Of the five, the trial Court permitted the petitioner to examine one *Devi Selvam*, who was hitherto shown as LW6 in the final report, as a defence witness, while denying permission with respect to the other four. Aggrieved by the same, the petitioner is before this Court.

3. *Mr. R.Srinivas*, the learned Senior Counsel appearing on behalf of the petitioner would submit that this is a case where the allegation of the prosecution is that the petitioner was caught red-handed while demanding and accepting a bribe amount of Rs.1,500/- for issuing a transfer certificate to a student. The defense taken by the petitioner/accused is that he, as headmaster,



Ctrl.O.P.No.18348 of 2025

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had taken action against unauthorized orphanages and sports academies functioning on the school premises, and also opposed the cutting of standing trees in the school campus, which were ultimately burnt down by some miscreants. This matter was reported to the fire services. In view of all these consecutive actions taken by the headmaster, a third party taking advantage of a student who did not have parents, willfully and intentionally intruded in the matter, arranged the trap and placed the money in the drawer of the petitioner.

4. The learned Senior counsel submits that, in that regard, he made queries under the Right to Information Act, 2005. Some of the information was provided to him by the Office of the District Educational Officer on 05.02.2014 and by the Office of the Chief Educational Officer on 25.04.2014. Similarly, another set of information was furnished under the Right to Information Act, 2005 by the Public Information Officer at the Office of the Chief Educational Officer on 13.03.2014. Further, it is necessary to examine the Public Information Officer from the Fire Services and Rescue Department, as they also furnished written information sought by the petitioner on 25.03.2014. The defense seeks to summon these witnesses only to substantiate its version. The same was refused by the trial Court. The learned Senior Counsel would submit that the reasoning given by the trial Court that



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the petitioner is not willing to share the said information obtained under the Right to Information Act, 2005 cannot, by itself, be a reason to deny the opportunity to the defense.

5. The learned Counsel appearing for the petitioner/accused, before the trial Court, did not want to share those information in advance because they wanted to confront the witnesses in the box with those information. In any event, he had no objection to sharing the information, and it was also furnished in a typed set of papers to the learned Government Advocate (Criminal Side) before this Court. The prosecution has now been provided with those copies. The trial Court could have ordered the petitioner to provide the copies and ought to have granted the opportunity to the defense. The learned senior counsel further submits that unless such an opportunity is given, the defense will be denied a valid chance to present its case. This is the first time the defense is seeking for the list of witnesses and it is mandatory in law to provide the opportunity sought by the defense.

6. Opposing the prayer, the learned Government Advocate (Criminal Side) appearing for the respondent would submit that the attempt is nothing but an effort to delay the proceedings. The relevant witness, namely Devi



CrI.O.P.No.18348 of 2025

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Selvam, has already been permitted to be examined by the trial Court. The other witnesses are not at all necessary. Repeated queries have been made to various authorities and not all of them can be summoned in the name of the defense version. The same will only protract the proceedings and has nothing to do with the facts of the case, as projected by the prosecution. The fact remains that the petitioner demanded and accepted a sum of Rs. 1,500/- and the trap was successful.

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

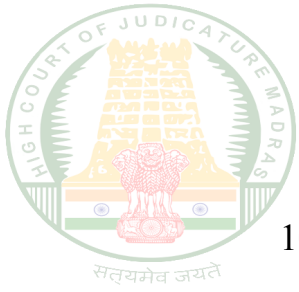
8. When the defence wants to establish certain facts relevant to dislodging the case of the prosecution, that relevance can only be determined after the evidence comes on record and is appreciated by the trial Court. To deny that opportunity at the threshold, the evidence should be totally unconnected to the case. From the arguments of the learned Senior Counsel appearing for the petitioner, it cannot be said that the purpose for which the defense witnesses are summoned that is, to mark documents furnished to the defense under the Right to Information Act, 2005 is totally alien to the case. In that view of the matter, the proof and relevancy will always be subject to the



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satisfaction of the trial Court. At the threshold itself, the opportunity should not be denied to the defense. However, at the same time, I see that the information that is furnished by the communications of the District Educational Officer and the Public Information Officer at the Office of the Chief Educational Officer overlap. As a matter of fact, more comprehensive information has been furnished by the Public Information Officer at the Office of the Chief Educational Officer. Therefore, there need not be duplication by examining both the District Educational Officer and the Public Information Officer from the Chief Educational Officer's Office, who is none other than the Headmistress, Government Madrasa -I- Azam Higher Secondary School, Chennai.

9. In that view of the matter, I am of the view that, in order to prove the defence version to establish the information provided to them with reference to the procedure for applying and also granting of transfer certificates, it would suffice to examine the Public Information Officer-cum-Headmistress, Government Madrasa-I-Azam Higher Secondary School, Chennai, who issued the communication dated 25.04.2014. The document dated 13.03.2014 can also be marked through the same witness.



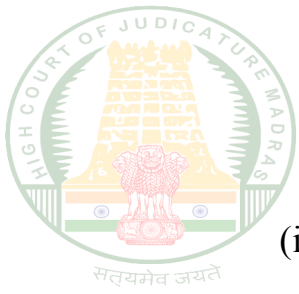
Crl.O.P.No.18348 of 2025

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10. Similarly, the request to examine the Public Information Officer of the Fire and Rescue Department can also be granted, as the same would bring light on the incident involving the burning of trees in the school premises. Even though, the learned Government Advocate (Crl.Side) strongly opposes this on the ground that the incident has nothing to do with the instant case, it is for the defence to establish the connection with the said incident. The further request that the official witnesses be examined before the individual witness is also considered to be reasonable by this Court and therefore, the same can be permitted.

11. In view thereof, this Criminal Original Petition is *allowed* on the following terms:

(i) The order of the Learned Special Court for cases under the Prevention of Corruption Act, 1988, Chennai, made in Crl.M.P. No. 85 of 2025 in C.C.No.21 of 2013 is set aside inasmuch as it refuses to permit the petitioner to examine Witnesses No. 3 and 5 mentioned in the list of witnesses.

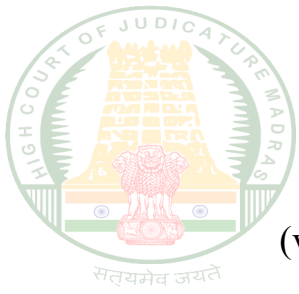


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(ii) Consequently, the trial Court shall permit the petitioner/accused to examine the Headmistress, Government Madrasa -I-Azam Higher Secondary School, Chennai – 600 002, who is also the Public Information Officer for the Chief Educational Officer, Chennai, for the purpose of marking the documents received under the Right to Information Act, 2005 along with enclosures and any other relevant question.

(iii) The trial Court shall also permit the petitioner/accused to summon the Public Information Officer, Tamil Nadu Fire and Rescue Services Department, Central Chennai, Kilpauk, Chennai – 600 010 and to examine him with reference to the information given under the Right to Information Act, 2005 dated 25.03.2014 and relevant questions with reference thereto. After examining the above two witnesses in the said order, the defense will be entitled to examine the said Devi Selvam as DW3.

(iv) The trial Court shall permit the defense to examine the three witnesses in the aforesaid order. It is stated that the matter is posted today for trial at the defence stage. On the next date of hearing, a web copy of this order shall be produced before the trial Court.



CrI.O.P.No.18348 of 2025

WEB COPY

(v) The trial Court shall issue summons to all three witnesses to be examined on the same day, as may be decided by the trial Court, as expeditiously as possible. The defense shall examine all three witnesses on the same day, or as may be decided by the trial Court and the trial shall be completed as expeditiously as possible.

(vi) In this case, since an apprehension is expressed, the summons shall be served through registered post. The witnesses shall appear directly in Court, and the concerned Public Prosecutor may cross-examine them in Court.

(vii) Consequently, connected miscellaneous petition is closed. No costs.

02.07.2025

Neutral Citation: Yes/No
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Crl.O.P.No.18348 of 2025

D.BHARATHA CHAKRAVARTHY, J.

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To

1. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
City-II Detachment,
Nandanam,
Chennai – 600 035.
2. The Special Court for Cases under
Prevention of Corruption Act,
Chennai – 600 104.
3. The Public Prosecutor,
High Court, Chennai.

Crl.O.P.No.18348 of 2025

02.07.2025