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Crl.O.P.No.25528 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

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THE HONOURABLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.O.P.No.25528 of 2024

and

Crl.M.P.No.14303 of 2024

Shakthi Premchandhar

... Petitioner/A1

Vs.

1.State Rep. by  
The Inspector of Police,  
Vigilance and Anti-Corruption,  
Thiruvarur District.

2.M.Sivadas

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS praying to call for the records in F.I.R. bearing Crime No.1 of 2024 on the file of respondent police, V & AC, Thiruvarur and quash the same.

For Petitioner : Mr.V.Krishnamoorthy

For Respondent-1 : Mr.S.Udaya Kumar  
Govt. Advocate (Crl.side)



CrI.O.P.No.25528 of 2024

## **ORDER**

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The petitioner/A1 in Crime No.1 of 2024 for offence under Section 7 of Prevention of Corruption Act (in short 'PC Act') had filed this quash petition.

2.The contention of the learned counsel for the petitioner is that the petitioner is the District Manager of TASMACH, Thiruvarur. The case projected against him is that on 08.03.2024, the de-facto complainant met the petitioner in the presence of A2 for transfer of his job and at that time the petitioner is said to have demanded Rs.1,10,000/- from the de-facto complainant and directed him to give money to A2. Thereafter, the de-facto complainant paid the amount of Rs.70,000/- in 3 installments to A2. Since he could not arrange the balance amount of Rs.40,000/- within time, A2 is said to have called him through phone and insisted him to pay the bribe amount. Hence, a complaint was lodged.

3.In this case, the admitted case of the prosecution is that no recovery was made from the petitioner and the entire money is alleged to have been paid by the de-facto complainant only to A2. As regards the petitioner, he



earlier transferred the de-facto complainant for overcharging of Rs.10/- per bottle during a flying squad visit on 21.05.2022 and thereafter a proceedings was issued against the de-facto complainant, Sivadas on 27.07.2023 directing him to remit the difference amount, which the de-facto complainant paid. Keeping this as a motive, the de-facto complainant falsely implicated the petitioner. The de-facto complainant claiming that he was not well and sought for transfer on medical ground and at that time the petitioner demanded and received the amount through A2, which is not proper. He further submitted that on 09.02.2024 the de-facto complainant was transferred from Shop No.9657, Kidaramkondan to Shop No.9867, Alankottai. The petitioner is not the transferring authority. He is only a recommending authority and he only implements the order passed by the Regional Manager. The petitioner on his own cannot transfer any salesman. Hence, he has been falsely implicated on this motive.

4.In support of his contention, the learned counsel for petitioner relied upon the following judgments:

- (i) Hon'ble Apex Court decision in *State of Haryana and others vs. Bhajan Lal and others* reported in 1992 Supp(1) Supreme Court Cases 335; and



(ii) Hon'ble High Court of Punjab and Haryana decision in *Parkash*

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*MANU/PH/2179/1993*.

for the point, when the relationship between the parties are strained, there did not arise any question of demanding illegal gratification. Further as per recovery mahazar, the amount was alleged to have been recovered from A2, when no valuable thing passed over to the petitioner it cannot be said petitioner *prima-facie* liable for the offence for the case registered against him. The complaint lodged by the de-facto complainant is malicious with ulterior motive to spite vengeance.

5.The learned Government Advocate (Crl. Side) on the other hand vehemently opposed the petitioner's contention and submitted that a case was registered against the petitioner in Crime No.1 of 2024 for offence under Section 7 of PC Act. In the complaint, the petitioner's role such as, demand of money in the presence of A2 and directing the de-facto complainant to pay the money to A2 and payment of money to the petitioner through A2 has been clearly narrated. Thereafter the complaint of the de-facto complainant was verified and a case was registered. Thereafter, pre-trap proceedings conducted. The de-facto complainant along with the accompanying witnesses



Crl.O.P.No.25528 of 2024

had gone to the office of the petitioner on 20.06.2024 and were waiting for A2. The de-facto complainant called A2 through phone and A2 asked him to wait till his arrival and not to enter the chambers of the petitioner. A2 thereafter came, received the cash and counted the same, kept the cash in his pant pocket and also collected the transfer application from the de-facto complainant. Thereafter, on getting pre-arranged signal, the trap team entered the office of A1 and seized a cash of Rs.40,000/- and transfer application from A2. A2's hand wash collected and the Phenolphthalein test proved positive. On questioning the petitioner he got perplexed and he admitted that A2 collected bribe amount for the petitioner. Thereafter recovery mahazar prepared. The petitioner as well as A2 arrested in this case. Now investigation in this case is in progress. The de-facto complainant also gave statement under Section 164 of Cr.P.C. in conformity to the complaint and happenings on the trap day. He further submitted that earlier the de-facto complainant charged for the misdeeds committed by him. He had also remitted the amount of Rs.11,800/- on 19.05.2023. Thereafter, he was transferred to another Shop No.9867, Alankottai on 09.02.2024. The present demand is only for recommendation for further transfer and this time it is on the health grounds.

6.The learned counsel for petitioner submitted that the admitted case of



the prosecution is that the decoy witness along with the accompanying witness reached the office of the petitioner earlier, found A2 not available and A1 available, but not made any attempt to pay the bribe amount of Rs.40,000/- to A1. The petitioner was very much present in the chamber and nothing stopped them to enter into the chamber and hand over money, if the demand is made by the petitioner. But they waited for the arrival of A2, which would clearly show that the petitioner is noway connected with the individual act of A2. The petitioner has been falsely implicated in this case. The petitioner is only a forwarding officer for transfer of salesmen and Supervisors, it is the Regional Manager, Trichy to pass orders of transfer. The admitted position is that no transfer petition of de-facto complainant was pending with the petitioner. Further admitted position is that the transfer petition of defacto complainant was collected by A2 only on the date of trap, which is recorded in the recovery mahazar. Hence, there is no case made out against the petitioner under Section 7 of P.C. Act.

7.The petitioner's contention can be considered by the Investigating Officer during investigation and take appropriate action. Added to it, the petitioner can also raise these points during trial. This Court is not inclined to entertain this petition at this stage.



Crl.O.P.No.25528 of 2024

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8. Accordingly, the Criminal Original Petition is dismissed.

Consequently, the connected Criminal Miscellaneous Petition is closed. It is made clear that the observations made herein is to the limited extend for deciding the above petition and the same cannot be quoted against the petitioner.

**07.02.2025**

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Crl.O.P.No.25528 of 2024

**M. NIRMAL KUMAR, J.**

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To

- 1.The Inspector of Police,  
Vigilance and Anti-Corruption,  
Thiruvarur District.
- 2.The Public Prosecutor,  
High Court, Madras.

**Crl.O.P.No.25528 of 2024**  
**and**  
**Crl.M.P.No.14303 of 2024**

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