IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.04.2025
PRONOUNCED ON : 10.09.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1924 of 2024
and
Crl.M.P.Nos.15747 & 15750 of 2024

K.Poopathy ... Petitioner

Vs.

The State rep. by
The Sub-Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
No.26, Shastri Bhawan, 3rd Floor,
Haddows Road, Shastri Bhavan,
Chennai – 600 006. ... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 r/w. 442 of BNSS to set aside the impugned order dated 14.10.2024 passed in Crl.M.P.No.17638 of 2023 in C.C.No.15526 of 2022 pending on the file of the Additional Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.Jaishankar Ramakrishnan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor

ORDER

The petitioner/accused in C.C.No.15526 of 2022 pending on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai facing trial for the offence under Section 420 IPC filed a discharge petition in Crl.M.P.No.17638 of 2023, dismissed by the Trial Court by order dated 14.10.2024. Against which, the present revision petition filed.

2.The gist of the case is that the defacto complainant, a Senior Technician in Hindustan Petroleum retired from service during November 2016 was searching job for his son S.Sathyaprakash, who completed his Diploma in Mechanical engineering and completed a course in Shipping and Logistics. During a train journey, the defacto complainant came in contact with the petitioner/accused who introduced himself as Personal Assistant to the Chief Engineer, Chennai Port Trust and lured the defacto complainant by representing that the Chief Engineer is having wide powers to appoint a person in Chennai Port Trust to the Post of Assistant Traffic Manager, a respectable position with good salary, for which he demanded Rs.1 Crore to secure the job. Thereafter, they had several meetings and interactions and the defacto complainant paid a sum of Rs.97 lakhs in cash and cheque payments between 17.12.2016 and 20.11.2019. This amount could be arranged from the defacto complainant's retirement benefits, savings, pledging gold jewels of his daughter, by mortgaging his house property and through private finance. The defacto complainant's son met the petitioner/accused in his Office on two occasions and the petitioner projected, as though steps are taken soon to secure a job for him in the Chennai Port Trust. The petitioner collected the application of defacto complainant's son along with other certificates and credentials but later he started avoiding and not responded to the defacto complainant's calls and on one occasion, the petitioner sent some henchmen who came to the defacto complainant's house, threatened him and warned him not to further disturb the petitioner for return of money. The defacto complainant sent a complaint to the Chief Vigilance Officer, Chennai Port Trust and later lodged a complaint to the respondent, who on receipt of the complaint on

14.12.2020, registered the FIR and finding petitioner using his official position demanded bribe money for getting a job. Hence, a case under Sections 7 and 8 of Prevention of Corruption Act registered, during investigation, the defacto complainant, his son and others examined, statements recorded, telephonic conversation between the defacto complainant's son and the petitioner, recorded in Motorola mobile phone along with memory card produced, voice samples of the defacto complainant, his son and the petitioner recorded and sent to forensic examination. The seized documents collected and sent to handwriting expert. The bank witnesses and others examined. Thereafter, charge sheet filed listing 33 witnesses, 97 documents and 3 material objects. Since charge sheet filed for the offence under Section 420 IPC, the case is now being tried before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

3.The contention of the learned counsel for the petitioner is that the defacto complainant was doing Real Estate business and also buying and selling used cars. In this connection, he came in contact with the petitioner who used to collect money for his requirement and they had some transactions but later they fell apart. Taking advantage of this relationship, a false case was projected as though the petitioner demanded money for securing Assistant Traffic Manager job for the defacto complainant's son at Chennai Port Trust and received Rs.97 lakhs. The defacto complainant in the complaint to the Chief Vigilance Officer, Chennai Port Trust alleges that he paid Rs.95 lakhs but on the contrary in the complaint to the respondent, it is mentioned that Rs.97 lakhs was paid. The defacto complaint's primary allegation is that he paid Rs.47 lakhs which is his retirement benefit deposited in his bank account, namely, Axis Bank and paid to the petitioner on various dates on 19.02.2017, 07.11.2017 and 05.12.2017 which is totally false. It is seen that the defacto complainant issued a self cheque dated 21.12.2016 for Rs.47 lakhs and later transferred the said amount of Rs.47 lakhs from Axis Bank account to Indian bank account, Rs.20 lakhs deposited as Fixed Deposit and the balance amount was paid to third parties. A scanned reproduction of the tabular coloumn showing actual transactions done by the defacto complainant is as follows:

9.2) The following table clearly shows the actual transactions done by the De facto complainant: -

CBI ACB filed Defacto complainant's Statement of A/c - Indian Bank 01.07.2016 to 30.06.2017 -(at Page No.57 & 58) (D-48)			
Date	**Description**	**Debit**	**Credit**
30.11.2016	Opening balance		Rs. 4,01,998/-
21.012.2016	Axis Bank self Cheque No.050425		Rs.47,00,000/-
23.12.2016	FD created Cheque No.003314	Rs.20,00,000/-	
29.12.2016	Paid to V.Elumalai - Cheque No.003316	Rs. 4,00,000/-	
02.01.2017	Paid to D.Saroja - Cheque No.003316	Rs. 1,00,000/-	
23.01.2017	Paid to Sadayappan - Cheque No.733105	Rs. 2,00,000/-	
23.01.2017	Paid to S.Muthu - Cheque No. 733103	Rs. 2,00,000/-	
25.01.2017	Paid to V.Elumalai - Cheque No.733112	Rs. 4,00,000/-	
30.01.2017	Paid to Thainesraja - Cheque No.733104	Rs. 1,00,000/-	
30.01.2017	Paid to Poopathy - Cheque No. 733111	Rs. 40,000/-	
30.01.2017	Paid to Anish Kumar - Cheque No.733107	Rs. 2,00,000	
13.02.2017	Paid to Anish Kumar - Cheque No.733110	Rs. 1,00,000/-	
15.02.2017	Paid to Anish Kumar - Cheque No.733109	Rs. 1,00,000/-	
02.03.2017	Paid to R.Ramalingam - Cheque No.733108	Rs. 2,00,000/-	
06.03.2017	Paid to Poopathy - Cheque No.733115	Rs. 20,000/-	
20.03.2017	Self –Cheque No.733116	Rs. 1,00,000/-	
29.03.2017	Paid to Banumathy - Cheque No. 733113	Rs. 1,00,000/-	
06.04.2017	Self Cheque No.733118	Rs. 1,00,000/-	
06.04.2017	Paid to Ankish Kumar - Cheque No.733114	Rs. 1,00,000/-	
27.04.2017	Paid to Selvam - Cheque No.733119	Rs. 2,00,000/-	
29.04.2017	Paid to Murugan - Cheque No.733120	Rs. 1,00,000/-	
Total		Rs.47,60,000/-	Rs.51,01,998/

4.From the above transactions, it is clear that the defacto complainant uttering falsehood and projecting a false case. On this score alone, charge sheet to be quashed. He would further submit that it is stated that the defacto complainant pledged his house property with one Shantilal, received Rs.15 lakhs and paid the amount to the petitioner. From the Encumbrance Certificate and the Mortgage Deed vide Document No.7345 of 2018 produced as listed document, it is seen that the mortgage is only for Rs.2.5 lakhs and not for Rs.15 lakhs. Further the defacto complainant stated that he had given the amount in cash but no details given as to when, where and through whom cash paid. The defacto complainant making wild allegations without proof. Since the defacto complainant earlier employed in Central Government agency and closely associated with CBI during service, used his contact and projected a false case as though the petitioner received money for securing a job. The private money transaction between the defacto complainant and the petitioner for the real estate business is now magnified and projected falsely as job racketing, a civil dispute given a criminal colour. He further submitted that the defacto complainant doing forum shopping, earlier lodged a complaint to the Chief Vigilance Officer, Chennai Port Trust, due to which, the petitioner was suspended and faced departmental action. The defacto complainant also lodged complaint to the Enforcement Directorate who issued summons to the petitioner for enquiry and thereafter it is left in dormant. He further submitted that the loan transaction between the petitioner and the defacto complainant is now projected as a job racketing case. In fact the defacto complainant borrowed Rs.4 lakhs from the petitioner's son Anish Kumar, Rs.50,000/- from the wife of the petitioner and another Rs.50,000/- from his relative Sushila, in total, the defacto complainant has to pay Rs.5 lakhs. The defacto complainant used to frequently borrow hand loan by cash for his real estate business and in that score, he has to pay around Rs.3,30,000/-. Some of these transactions are now projected, as though money received for securing job. Further even in the statement before the respondent, when these transactions was enquired, defacto complainant was unable to give proper reasons. In this case, admittedly the report of voice recording and handwriting expert opinion sent to Central Forensic Science Laboratory [CFSL] is yet to be received. Thereafter only the defacto complainant's complaint would gain some acceptability. Even before receiving the scientific evidence, the respondent police in a haste filed the charge sheet in this case.

5.In support of his contention, the learned counsel for the petitioner relied upon the judgment of the Apex Court in the case of ***Rajib Ranjan vs. R.Vijaykumar*** reported in ***(2015) 1 SCC 513*** for the civil dispute and initiating criminal action. He further relied upon the decision in the case of ***Vijay Kumar Ghai and others vs. The State of West Bengal and others*** reported in ***(2022) 7 SCC 124*** wherein the defacto complainant filed two complaints one before the Delhi Court and another in Calcutta, finding that it is a forum shopping, the Apex Court quashed the petition. In this case, the defacto complainant lodged complaints before the Chief Vigilance Officer, Chennai Port Trust, Enforcement Directorate and to the CBI which amounts to forum shopping . Hence prayed for setting aside the impugned order.

6.The learned Special Public Prosecutor submitted that on the complaint of the defacto complainant, a case was registered. It is found that the petitioner is working as Personal Assistant to the Chief Engineer, Chennai Port Trust and using his official position projected that he could get Gazetted Officer post to the defacto complainant's son and collected Rs.97 lakhs. On the complaint of the defacto complainant, FIR registered for the offence under Sections 7 and 8 of Prevention of Corruption Act. During investigation, it was found that the petitioner committed the offence punishable under Section 420 IPC by cheating and dishonestly inducing the defacto complainant to part with the money by promising for a job for the post of Assistant Traffic Manager at Chennai Port Trust for the defacto complainant's son D.Sathyaprakash and charge sheet filed. Thus, the investigation revealed that the petitioner received a total sum of Rs.7.85 lakhs from the defacto complainant by way of bank transactions into his account and also in the account of his family members confirmed by documents, which are as follows.

(a) Document D-9, Original Cheque No.050423 dated 16.12.2016 issued in favour of Shri.K.Poopathy for Rs.50,000/- from the saving account No.622010100012421 of Shri.N Devaraj.

(b) Document D-10, Original paying slip (credit challan) dated

16.12.2016 for account number 006010100781749 of Shri.K.Poopathy for Rs.50,000/-.

(c) Document D-11, Original Cheque No.050429 dated 04.01.2017 issued in favour of Shri.K.Poopathy for Rs.1,50,000/- from the saving account No.622010100012421 of Shri.N Devaraj.

(d) Document D-12, Original paying slip (credit challan) dated 05.01.2017 for account number 006010100781749 of Shri.K.Poopathy for Rs. 1,50,000/-.

The above said Documents D-9, D-10, D-11 and D-12 will be corroborated by the Axis Bank Deputy Manager Shri.P.Siva/L.W.13.

(e) Document D-17, Certified scanned image of Cheque No.733115 for an amount of Rs.20,000/- in favor of Shri.K.Poopathy and the said document D-17 will be corroborated by Axis Bank Asst. manager Shri.E.Karthikeyan L.W.21.

(f) Document D-27, Original Cheque (Cheque No.733109) favouring Smt.P.Pramila, W/o.Shri.K.Poopathy dated 10.02.2017 for an amount of Rs.1 lakh along with deposit challan from Shri.N.Devaraj.

(g) Document D-28, Original Cheque (Cheque No.003315) favouring

Shri.K.Poopathy dated 23.12.2016 for an amount of Rs.25,000/- along with deposit challan from Shri.N.Devaraj.

(h) Document D-29, Original Cheque (Cheque No.733111) favouring Shri.K.Poopathy dated 27.01.2017 for an amount of Rs.40,000/- along with deposit challan from Shri.N.Devaraj. The above said Documents D-27, 28 & 29 will be corroborated by the SBI Bank Deputy Manager Shri.Dinesh kannah/L.W.17.

(i) Document D-38, Certified copy of the cheque No.733114 of Indian Bank (erstwhile Allahabad Bank) for an Amount of Rs.1,00,000/- in favour of Shri.Anissh Kumar, S/o.Shri.K.Poopathy from Shri.N.Devaraj.

(j) Document D-39, Certified copy of the cheque No.733110 of Indian Bank (erstwhile Allahabad Bank) for an Amount of Rs.1,00,000/- in favour of Shri.Anissh Kumar, S/o Shri.K.Poopathy from Shri.N.Devaraj.

(k) Document D-40, Certified copy of the cheque No.733107 of Indian Bank (erstwhile Allahabad Bank) for an Amount of Rs.2,00,000/- in favour of Shri.Anissh Kumar, S/o Shri.K.Poopathy from

Shri.N.Devaraj.

The above said Documents D-38, D-39 and D-40 will be corroborated by the Indian Bank Assistant Manager Shri.Abhinav Chandar/L.W.20.

7.It is also evident from the final report that Document D-88 (search list) drawn in the presence of independent witnesses L.W.29 Shri.Raghu and L.W.31, Shri.Nitesh Kumar, the respondent recovered documents relating to Shri.D.Sathyaprakash, namely, the resume along with the photocopies of Aadhar card, academic certificate such as Transfer Certificate, Course Completion Certificate and job application of Shri.D.Sathyaprakash S/o.Shri.N.Devaraj from the office chamber of the accused during the searches conducted after registration of the instant case.

8.It is further submitted that the compact discs marked as Document D-93 submitted by the complainant along with the complaint contains the conversation between his son D.Sathyaprakash and the petitioner/Accused, it is clear that the petitioner/Accused assured defacto complainant's son about the listing of his name in the list of selected candidates for the post of Assistant Traffic Manager in VOC Port Trust and was also talking about his posting in Chennai Port Trust. The Material Object marked in the Document D-92 that the mobile phone of defacto complainant's son in which the alleged audio conversation was originally recorded was seized and the collected voice port samples of the accused forwarded to CFSL, Chandigarh through the Court of VIII Additional Sessions Judge, before the case transferred to the Chief Metropolitan Magistrate Court, Egmore, Chennai. Further, at the time of final report the relied upon documents and oral evidences submitted, is enough to prove the prima facie materials available for offence under section of 420 IPC and the Trial Court taken the final report on record, since this case is in the stage of framing of charges, during the trial the said CFSL report can be considered.

9.It is further submitted that during the search conducted at the office cabin of the Petitioner/Accused a deed in Rs.20/- stamp paper was recovered along with other documents (D-89). The said deed dated 03.12.2018 records that a sum of Rs.75 lakhs by way of cash was given by the defacto complainant to the petitioner in installments, Rs.15 lakhs on 05.01.2017, Rs.30 lakhs on 06.03.2017, Rs.20 lakhs on 08.07.2017 and Rs.10 lakhs on 03.05.2018 aggregating to Rs.75 lakhs. The said deed also states that Rs.75 lakhs was said to be received by the defacto complainant by way of cash, Rs.30 lakhs on 20.08.2018, Rs.30 lakhs on 12.09.2018 and Rs.15 lakhs on 03.12.2018. There is no signature of the petitioner in the said deed. The signature in the name of the defacto complainant and two witnesses are found in the said deed. When the said deed was shown to the defacto complainant, he denied the signature found in the said deed as his signature. The defacto complainant further confirmed that he never received back Rs.75 lakhs from the petitioner as recorded in the said deed. The witnesses to the said deed are not available in the said addresses given in the deed and they are non-existing persons. Thus the said deed was fabricated by the petitioner dishonestly as an alibi as if he returned the amount Rs.75 lakhs back to the defacto complainant which he otherwise accepts in the said Deed the receipt of Rs.75. lakhs from the defacto complainant. He further submitted that money transactions between the petitioner and the defacto complainant has been proved by the bank witnesses, namely, L.W.13, L.W.17, L.W.20 and L.W.21. Hence prayed for dismissal.

10.Considering the submissions made and on perusal of the materials, it is seen that the petitioner was employed as Personal Assistant to the Chief Engineer, Chennai Port Trust, the petitioner came in contact with the defacto complainant and received amounts from the defacto complainant including Rs.47 lakhs which is his retirement benefits. Further the defacto complainant mortgaged his property, pledged gold jewels and handed over the amount to the petitioner on various dates. The petitioner's explanation that these amounts were paid to him and he had not received money for securing job has to be decided on facts during trial. In this case, admittedly during the search in the office cabin of the petitioner, application of defacto complainant's son, his certificates, credentials seized but no explanation why these documents collected by the petitioner. Added to it, stamp paper with the sign of the defacto complainant and two witnesses, recording petitioner paying back the amount of Rs.75 lakhs on various dates seized. The defacto complainant denies his signature in these documents, why such defensive documents created and kept by the petitioner, there is no explanation. The voice recording report and handwriting expert opinion to be received from CFSL. The grounds raised by the petitioner are his defence, factual in nature which can be decided only during trial and not in this petition.

11.In view of the above, this Criminal Revision Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. Considering the fact that charge sheet filed in the year 2022, three years passed so far and the trial is yet to commence, the Trial Court is directed to give preference and complete the trial without any delay, preferably within a period of six months from the date of receipt of a copy of this order. It is made clear that the observation made herein is only to the limited purpose to decide the above petition, the Trial Court to decide the case independently uninfluenced by the observations made herein.

10.09.2025

Index:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse

To

1.The Sub-Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch,
No.26, Shastri Bhawan, 3rd Floor,
Haddows Road, Shastri Bhavan,
Chennai – 600 006.

2.The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Special Public Prosecutor for CBI Cases,
High Court, Madras.

M.NIRMAL KUMAR, J.

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Crl.R.C.No.1924 of 2024

10.09.2025