



Crl.O.P.No.30355 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.30355 of 2024
& Crl.M.P.No.17191 of 2024

1. Mr.P.Jayakuamr. (60/M),
S/o.Pandurangan,
Wireman and Generator Operator,
Tiruvannamalai Municipality,
Residing at No.120/25, Old Karkana Street,
Thiruvannamalai – 606 601. ... Petitioner No.1/Accused No.4

2. Mr.S.Saravanan, (51/M),
S/o.Sammantham,
Electrician and Generator Operator,
Tiruvannamalai Municipality,
Residing at No.419, Kulathumettu Street,
Nallavanpalayam,
Thiruvannamalai – 606 603. ... Petitioner No.2/Accused No.5
/versus/

State Rep. by,
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tiruvannamalai Detachments.
(Crime No.8 of 2014) ... Respondent/Complainant



Cr.L.O.P.No.30355 of 2024

WEB COPY

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to in Spl.Case No.4 of 2018 on the file of the Learned Chief Judicial Magistrate/Special Court, Thiruvannamalai and quash the same.

For Petitioners : Mr.Ramprakash Rajagopal
For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

The petitioner/accused A4 & A5 facing trial in Special Case.No.4/2018 for offences under Sections 120 (B), 465, 468, 471, 409 of I.P.C and Section 13(2) r/w 13(1)(c) (d) of the P.C Act had filed this quash petition.

2. The contention of the petitioners are that, the 1st petitioner is a Wireman-cum-Generator Operator and the 2nd petitioner is an Electrician-cum-Generator Operator. The case projected against them is that, during the period from 07.09.2011 to 31.03.2014 and from 01.04.2011 to 31.03.2014, the petitioners, who were employed in the Tiruvannamalai Township and posted at the Ulagalabadi Pick Up Dam Head Water Pumping Station conspired with A1



CrI.O.P.No.30355 of 2024

WEB COPY

to A3. They made a false claim that diesel was purchased and used in Generators (110 KVA and 200 KVA) whenever there was power cuts for pumping station and distribution of the water in the water station. Hence, they had misappropriated the public funds to a tune of Rs.22,76,651/-.

3. The FIR against the petitioners are that a preliminary enquiry was conducted and thereafter, a case has been registered. The complaint against the petitioners and other accused is that they misappropriated the funds allotted for the purchase of diesel for the generators installed at Water pumping Station, Ulagalapadi Pick up Dam, Thennrampet Taluk, Tiruvannamalai District. Further, the preliminary enquiry conducted that A1 had purchased a large quantity of diesel from Bharat Petroleum Corporation Limited (BPCL) dealer at Tiruvannamalai with the association of A2 and A3, on a credit basis during the period from 01.05.2012 to 31.10.2013 and created false utilisation entries in the log books of Ulagalapadi pick up dam Head Water Pumping Station and shown huge purchase of diesel from the Petrol bunk to the pumping Station on different dates and fraudulently sold to unknown agency and



CrI.O.P.No.30355 of 2024

WEB COPY

thereby, caused a wrongful loss to the Municipal exchequer and wrongful gain to the accused persons to a tune of Rs.21,45,894/-. Though, the case proceeds from a preliminary inquiry, there are no details about who conducted the enquiry and the preliminary inquiry does not form part of the final report.

4. Further, the learned counsel for the petitioners submitted that, in the charge sheet, it is projected that the second petitioner, knowingly in association with the first petitioner, recorded false power cut hours in the log books, falsely recorded the log books, drawn excess diesel for the power cut hours and disposed of the diesel in association with other accused which is contra to the F.I.R. He further submitted that, in this case, it is not clear whether booking of diesel without its utilisation or converting the diesel into money and misappropriation of the same. He also further submitted that, in this case, L.W.5, the BPCL dealer had mentioned that the persons from Municipality used to come and fill the diesel in 35-litre cans and he used to submit the accounts and they would issue cheque directly to the petrol bunk for the purchase of diesel.



Crl.O.P.No.30355 of 2024

WEB COPY

5. Further, the Learned Counsel appearing for the petitioners rely upon the judgment of the Apex Court in ***K.R.Purushothaman vs State Of Kerala reported in AIR 2005 SC 35***, held that for the offences under Section 13(1) (c) & (d) of P.C Act, it is necessary for the prosecution to prove that the accused has dishonestly or fraudulently misappropriated any property entrusted to him or under his control as a public servant. The entrustment of the property is a necessary ingredient which is lacking in this case.

6. In such circumstances, the petitioners collecting a huge quantity of diesel and converting to their own use would not arise. Hence, the foundational facts of the case itself are doubtful and pray for quashing of the case against them.

7. The Learned Government Advocate (Crl.Side) appearing for the respondents submitted that, in this case, A1 was the Municipal Engineer who passed away on 30.03.2014. A2 & A3 are Assistant Engineers of the Tiruvannamalai Municipality and A4/1st petitioner is a Wireman-cum-



CrI.O.P.No.30355 of 2024

WEB COPY

Generator Operator, A5/ 2nd petitioner is a Electrician-cum-Generator Operator at Tiruvannamalai Municipality. A1 was in-charge of Ulagalapadi Pick up Dam Head Water pumping Station, Tiruvannamalai. A2 & A3 are Assistant Engineers during the period 01.05.2012 to 31.10.2013 and A4 & A5 are Generator Operators. For drawing diesel from Petrol Bunk, the petitioners herein informed other accused A1 to A3 about the diesel requirements and on their request A1 to A3 issued coupons to Vijayalakshmi Gopal Petrol Bunk (L.W.5), where the required diesel would be collected and the utilisation will be recorded. Later, it was found that there had been falsification of accounts and wrong entires have been made with regard to power cuts and also falsification of accounts has been made and they made used to run the generators for long duration and projected the utilisation of the diesel purchase.

8. Further, the Learned Government Advocate (CrI.Side) submits that, in this case, L.W.7, the Assistant of Tiruvannamalai Municipality had given details about the false recording made by the petitioners herein, along with the other accused and the details obtained from TANGEDCO and power



CrI.O.P.No.30355 of 2024

WEB COPY

interruption details were collected.

9. On comparison of the same, it is found that the petitioners were made false records during the period from 01.05.2012 to 31.10.2013 and misappropriated the diesel valued at Rs.17,18,581/-. Further, during investigation, the statement of witness L.W.1 to L.W.25 recorded. L.W.1 speaks about the sanction accorded to A2 and A3 and L.W.2 speaks about the sanction accorded to petitioners A4 & A5. The witnesses with regard to registration of F.I.R, preliminary investigation, supply of diesel, details about the duties and responsibility of the accused, recording of the power disruption particulars, utilisation of diesel and the records collected from TANGEDCO have all been spoken by relevant witnesses and charge sheet has been filed along with documents.

10. On perusal of statement of witnesses and the material produced, and after being satisfied that a *prima facie* case made out against the petitioners, the charge sheet was taken on file, issued summons to the



CrI.O.P.No.30355 of 2024

WEB COPY

petitioners and charges have been framed on 14.02.2019. He fairly submitted that in this case, the delay is on the part of the prosecution since the witnesses could not be produced. On the next hearing date i.e., 04.04.2025 possibility the sanction witness L.W.1 and L.W.2 will be produced. Hence, there would not be any delay on the side of the prosecution.

11. Considering the above submission, it is seen that the points raised by the petitioners are factual which has to be decided during trial and not in a quash application. As on date, there appears to be *prima facie* material against the petitioners to proceed with the trial, the contention of the petitioners are factual which can be decided only during the trial and not in the quash application.

12. In view of the above, this Court is not inclined to entertain the above petition. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

04.03.2025



CrI.O.P.No.30355 of 2024

WEB COPY

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

To,

1. The Chief Judicial Magistrate/Special Court, Thiruvannamalai.

2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tiruvannamalai Detachments.

3. The Public Prosecutor, High Court, Madras.



WEB COPY



CrI.O.P.No.30355 of 2024

M.NIRMAL KUMAR,J.

bsm

CrI.O.P.No.30355 of 2024
& CrI.M.P.No.17191 of 2024

04.03.2025