IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.02.2025
PRONOUNCED ON : 19.02.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2358 of 2024 and
Crl.M.P.No.18170 of 2024

Tr.S.Venkatesan ... Petitioner

Vs.

The State Rep by
The Deputy Superintendent of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Alanthur, Chennai- 16. ... Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records and set aside the order dated 21.11.2024 in Crl.M.P.No.706/2024 in C.C.No.30/2014 pending on the file of the Special Court for the cases under Prevention of Corruption Act at Chennai and consequently directed the Special Court for the cases under the Prevention of Corruption Act at Chennai to return of the documents seized from the petitioner.

For Petitioner : Mr.S.Karthikeyan for

Mr.C.Vigneshwaran

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

ORDER

The petitioner/accused in C.C.No.30 of 2011 has filed a petition under Section 25(7)(xxxi) of C.R.P in Crl.M.P.No.706 of 2024 in C.C.No.30 of 2011 before the learned Special Judge, Special Court for the Cases under Prevention of Corruption Act at Chennai (Trial Court) to direct the respondent to submit list of all the documents seized from the petitioner's residence and what are all the documents not relied upon by the prosecution. The Trial Court *vide* impugned order, dated 21.11.2024 dismissed the said petition, against which, the present criminal revision case is filed.

2.The contention of the petitioner is that on the basis of the complaint given by one S.Murugan alleging that the petitioner demanded a bribe of Rs.3,000/- for providing electricity connection to newly constructed building at Thandeeswaram, Velacherry, an FIR in Crime No.10 of 2008 registered against the petitioner for offence under Section 7 of Prevention of Corruption Act on 07.11.2008 and thereafter, trap proceedings initiated against the petitioner, trap proved successful, the petitioner was arrested. On completion of investigation, charge sheet filed before the Trial Court. During investigation, house search was conducted on the petitioner's residence on 23.06.2009, at that time, seventeen documents were seized, inventory of the house was taken and thereafter, search list was served to the petitioner on the same day. The petitioner earlier filed a petition under Section 451 Cr.P.C before the Trial Court in Crl.M.P.No.272 of 2022 in C.C.No.30 of 2011 seeking return of the original sale deed document No.105 of 2006, dated 27.01.2006. The Trial Court, by order, dated 13.12.2022 dismissed the petition but recorded that the original sale deed in document No.105 of 2006, dated 27.01.2006, registered in Sub Registrar Office, Kaniyambadi, Vellore District seized from the petitioner's residence is not available in the Court. Thereafter only, the subsequent petition in Crl.M.P.No.706 of 2024 in C.C.No.30 of 2011 is filed and the same was dismissed *vide* impugned order, dated 21.11.2024.

3.He further contended that PW12, Mr.Rajendran, Investigating Officer in his evidence admitted that on 23.06.2009, he conducted search in the house of the petitioner and seized seventeen documents for investigation and that the said documents not relied upon documents in the above case. Finding that the Investigating Officer taken a stand that the documents handed over to the Trial Court appears to be found missing, this Court sought for a report from the learned Special Judge, Special Court for the cases under Prevention of Corruption Act, 1988, Chennai (Trial Court) after holding an enquiry in this regard. The Special Court in Dis.No.34 of 2025, dated 27.01.2025 submitted a report that on thorough scrutiny of the case records, it is found that the disputed documents are not available in the case records and on further enquiry, the Special Court reported that originally, the case was taken on file by the Principal Sessions Judge, City Civil Court, Chennai and the same was made over to the file of the IV Additional Special Judge, City Civil Court, Chennai on 08.09.2009. After formation of the Special Court for cases under Prevention of Corruption Act, the entire case records were indexed and forwarded to the Special Court for the cases under Prevention of Corruption Act, 1988, Chennai and the same was received on 15.09.2011. It is also submitted in the report that as per index of the IV Additional Special Judge, City Civil Court, Chennai, the document mentioned in Sl.Nos.1 to 17 of the search list were not relied upon by the prosecution and were not sent to the Special Court for the cases under

Prevention of Corruption Act, 1988, Chennai. The Special Court for the cases under Prevention of Corruption Act, 1988, Chennai had also sought for proof of production of un-relied documents submitted in C.C.No.30 of 2011 in this regard to the Director, Vigilance and Anti Corruption, Special Investigation Team, Chennai. The Investigating Officer admits that he conducted search in the house of the petitioner on 23.06.2009 and handed over the Search Slip No.972283 with inventory mahazar, dated 23.07.2009 along with the seized document *vide* Sl.Nos.1 to 17 to the Principal Sessions Judge, City Civil Court, Chennai and one of the document is the original sale deed above mentioned. Though the seized documents handed over to the Court along with search list at the first instance, it is found that except the copy of the Search Slip No.972282 no proof is available with the Police for production of the documents.

4.The learned counsel for the petitioner submitted that in this case, the seizure of seventeen documents including the original sale deed is not disputed. Now the stand taken by the prosecution agency is that they submitted the documents along with search slip to the Court but from the Court records, receipt of these documents not recorded. The admitted position is that these documents not relied upon documents by the prosecution agency, hence the petitioner is entitled for return of documents. In view of the above anomaly, the petitioner restricts his prayer to the extent that missing of the document can be recorded and the petitioner may be permitted to obtain certified copy of the missing document and the certified copy can be considered as a primary document as per Section 65 of Indian Evidence Act.

5.Considering the rival submissions and on perusal of the materials, it is seen that the petitioner's house was searched on 23.06.2009 by the Investigating Agency, on the same day, seventeen documents seized and house inventory drawn. Of the seventeen documents, the first document is the original sale deed in document No.105 of 2006, dated 27.01.2006. The original document seized by the Investigating Agency is recorded in the search slip which is confirmed by PW12, Mr.Rajendran, Investigating Officer in his evidence. It is also confirmed that the said document is not a relied upon document by the prosecution in the above case and the prosecution has no objection for return of document No.105 of 2006, dated 27.01.2006. Whether along with the search slip the document submitted or not to the Court is now becomes questionable. In view of the petitioner's limited prayer, further dwelling on the issue is not required.

6.The contention of the Investigating Agency is that the documents were submitted to the Court as early as on 23.08.2009 but the petitioner at the fag end of trial, had filed a return of property petition in Crl.M.P.No.272 of 2022 in C.C.No.30 of 2011. The Special Court for the cases under Prevention of Corruption Act, 1988, Chennai finding that the original sale deed is not available with the Vigilance and Anti Corruption, dismissed the petition and thereafter the petition in Crl.M.P.No.706 of 2024 in C.C.No.30 of 2011 filed but the same was also dismissed. One thing is certain that the original sale deed in document No.105 of 2006, dated 27.01.2006 was seized by the prosecution agency from the petitioner's residence during the house search. There is an anomaly with regard to whether the document is with the prosecution agency or submitted to the Court.

7.It is also seen that originally the FIR and charge sheet filed before the Principal Sessions Judge, City Civil Court, Chennai and thereafter transferred to the IV Additional Special Judge, City Civil Court, Chennai and then transferred to the present Court namely the Special Court for the cases under Prevention of Corruption Act, 1988, Chennai.

8.Since the petitioner has limited his prayer to consider the certified copy of missing document as a primary document in view of the above anomaly, this Court is not dwelling further as to where the document got lost and found missing.

9.In view of the above, the certified copy of the sale deed in document No.105 of 2006, dated 27.01.2006 to be considered as a primary document for all further transactions.

10.With the above observation, this Criminal Revision Case stands disposed of. Consequently, connected miscellaneous petition is closed.

19.02.2025

Neutral Citation: Yes/No
Speaking Order/Non Speaking Order
Index: Yes/No
Internet: Yes

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To

1.The Special Judge, Special Court for the Cases under PC Act,
Chennai.

2.The Deputy Superintendent of Police,
Special Investigation Cell,
Vigilance and Anti Corruption,
Alanthur, Chennai- 16.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
Crl.R.C.No.2358 of 2024

19.02.2025