

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2025

CORAM:

THE HONOURABLE DR.JUSTICE R.N.MANJULA

Crl.O.P.(MD)No.11063 of 2025

Albert Samuel Santhiyanathan

... Petitioner

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Vigilance and Anti Corruption,
Tiruchirappalli.
(Crime No. 14/2023).

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 BNSS, to call for the records pertaining to the order dated 30.09.2024 passed by the learned Special Judge, Special Court of Prevention of Corruption Act, Tiruchirappalli in Crl.M.P.No. 190/2024 in Cr.No. 14/2023 on the file of the Respondent Police, and set aside the same.

For Petitioner : Mr.B.Sargunam

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



ORDER

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This Criminal Original Petition has been preferred challenging the order of the learned Special Judge, Special Court of Prevention of Corruption Act, Tiruchirappalli, dated 30.09.2024 made in Crl.M.P.No. 190/2024.

2.The petitioner is an accused, in Cr.No.14 of 2023 registered by the respondent complainant, on the allegation that he demanded bribe from the defacto complainant and it is a trap case. During the pendency of the investigation, the petitioner filed a miscellaneous petition before the Special Court seeking to store all the information pertaining to two mobile numbers 9790145475 and 9944633626 between 14.08.2023 to 16.08.2023 in order to enable him to file a petition under Section 91 of Cr.P.C., at a future point of time to call for those details. The above petition has been dismissed.

3.Aggrieved over that, this criminal original petition has been filed.

4.The petitioner / accused, was the Deputy Superintendent of Police and after having caught in a trap case, he has filed a



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miscellaneous petition before the Special Court alleging that his defence would lie in the particulars of CDR and tower location pertaining to mobile numbers belonging to the defacto complainant and his associate, one Mr. Ashok and hence, a direction is required to store the CDRs during the relevant period. In order to justify his prayer, he had cited the decisions held by the Delhi High Court.

5.Having not satisfied with the justification given by the petitioner and by observing that the direction sought by the petitioner if given, it would have an impact on the privacy of two individuals, the special Court has dismissed the application filed by the petitioner.

6.Some other grounds raised by the petitioner in this petition is that the data pertaining to the above mobile numbers are essential to establish the truth of the matter and to demonstrate the falsity of the allegations made against him and that was not properly appreciated by the trial Court.

7.It is further submitted that the final report of the case has not yet been filed and at that stage the Court ought to have considered the necessity to collect the relevant information pertaining to the case, but



that was ignored.

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8.It is further submitted that subsequent to the dismissal of the petitioner's application, the final report has been filed and the CDR and tower location records have been deliberately omitted to be collected

9.The manner in which the petitioner wanted the Investigating Agency to act while investigating a case registered against him, on the face of it appears to be dictating the Investigating Agency by the accused as to how an investigation of a case registered against him should be conducted.

10.Knowing pretty well that it is not just a case based on a mere complaint of an individual, subsequent to the trap, the Petitioner has filed this petition seeking to store the information relating to two mobile numbers of the defacto complainant and Ashok, for the period from 14.08.2023 to 16.09.2023.

11.The cases cited by the petitioner have also been dealt by the trial Court by observing that they are relevant to the facts of its own case. The cases cited by the learned counsel for the petitioner are the



orders of the Delhi High Court, which may not act as a precedent, but have a persuading effect, if similar facts are involved.

12.In the case on hand, after having made a thorough analysis, the trial Court has observed how the circumstances involved in the above cases are different from the one which is involved in this case.

13.Certain facts have been admitted even by the prosecution in the response given to the petition filed by the petitioner. If the petitioner considers that some of the CDR details of any particular phone number is required and he believes that, it would serve as his defense, he is at liberty to call for those details from whose custody those informations are lying, by seeking appropriate permission from the Court. Instead of resorting to that course at the time when the defence side evidence opened, the petitioner has filed this type of petition for a direction given against the Investigating Agency to collect the particular information in the way as desired by the petitioner, who is an accused in this case.

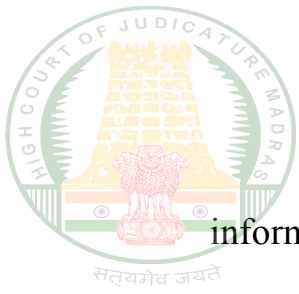


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14. One of the submissions made by the petitioner before the trial Court is that the case is in the investigation stage. From the grounds raised in the petition, it is well within the knowledge of the petitioner that the investigation is over and final report has also been filed against him. However, he has stated that the Investigating Agency has not included the CDR and tower location records as required by him.

15. So the grievance as expressed by the petitioner is that the Investigating Agency has not carried out the investigation in a way, he thought it fit. Such kind of allegations or any directions made consequent to such averments would only amount to intruding into the autonomy of the Investigating Agency and Court cannot set a precedent that the Investigating Agency should act to the tune of the accused and that the investigation agency can be dictated by the accused in the matter of investigation.

16. If an accused thinks fit that any information is necessary and if he believes that such informations are in the custody of someone, it would be appropriate for him to file a petition to seek those details through the Court by getting leave. Even in such case, orders will be given by the Court only when the petitioner could establish that those



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informations are in fact available from a person against whom it is sought. Without proving those essential details, the accused cannot expect an investigating agency to collect and store the private informations of certain individuals in order to enable him to use it later.

17.If the Investigating Agency does not require any call details, it is their discretion either to get the details or not. If the Investigating Agency require the call details of anyone for the purpose of investigation, no one can prevent from getting those details, including the petitioner.

18.The petitioner, being a Police Officer knows very well that every Investigating Agency will function only in accordance with the demand of each case and collect informations in order to know the truth. No accused can direct the Investigating Agency to do the investigation in a particular line or collect information as desired by the accused.

19.In fact, the petition filed by the petitioner itself is not maintainable. However, the learned trial Judge has thoroughly considered and passed an order on merits. Hence, I find no reasons to interfere with the order of dismissal passed by the learned trial Judge.



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20. Accordingly, this Criminal Original Petition stands
dismissed.

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Index : Yes/No
Internet : Yes/No
PNM

To

1. The Special Judge,
Special Court of Prevention of Corruption Act, Tiruchirappalli.

2. The Inspector of Police,
Vigilance and Anti Corruption,
Tiruchirappalli.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.N.MANJULA, J.

PNM

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