

CRL.A(MD).No.513 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.12.2024

Pronounced on : 15.05.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).No.513 of 2018
and
CrI.MP(MD)Nos.9605 and 9606 of 2018

Murasolimaran

... Appellant/ Sole Accused

Vs.

The State rep by,
The Inspector of Police,
Vigilance and Anticorruption Wing,
Madurai.

... Respondent/Complainant

Prayer : This Criminal Appeal is filed under Section 374(2) of Cr.P.C., to set aside the judgment and sentence passed in Spl.Case.No.1 of 2014, dated 31.10.2018 on the file of the learned Special Judge, Prevention of Corruption Act Cases, Madurai.

For Appellant : Mr.P.Andiraj

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



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JUDGMENT

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The appellant is the sole accused in Special S.C.No. 1 of 2014 on the file of the Special Judge Prevention of Corruption Act Cases, Madurai, has filed this appeal challenging the conviction and sentence passed against him in Spl.C.No.1 of 2014 dated 31.10.2018.

2. The brief facts of the case :-

2.1. The appellant was the Village Administrative Officer, Chinaulagani Village during the period 2009 to 2012. In the month of September 2011, when P.W.2 approached the appellant, the appellant filled the application for obtaining the Free House Site Patta and also demanded a sum of Rs.5,000/- as bribe for issuing the same. Thereafter, P.W.2 called the appellant on various dates namely, 23.01.2012, 24.01.2012 and 28.01.2012 over the cell phone and asked to reduce the amount. Subsequently, the appellant met P.W.2 on 28.01.2012 and asked him to pay an amount of Rs.1500/- on 30.01.2012. PW.2 not willing to pay bribe amount to the appellant, approached the Vigilance Office and lodged a complaint to PW.14. PW.14 after receiving the complaint, registered a case in Crime No.1 of 2012 for the offence under section 7 of the Prevention of Corruption Act and arranged pre-trap proceedings. PW.14, the Trap Laying



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Officer, arranged two official witnesses. On their arrival, they were asked to read the FIR. Both official witnesses read the contents of the FIR to P.W. 2 and PW.2 affirmed it as true. Then demonstration of the test was conducted using the money brought by P.W.2. Thereafter, the Trap Laying Officer instructed P.W.2 to hand over the amount to the appellant only on his demand. PW.3 was directed to observe the transaction taking place between the appellant and PW.2, during the course of handing over the bribe amount. With this instruction, the Entrustment Mahazar was prepared under Ex.P4. Thereafter, the vigilance team along with PW.2 and P.W.3 went to the Village Administrative Office of the appellant and the appellant demanded and received the amount and thereafter, PW.2 gave a signal and on receipt of the signal, the entire trap team approached the appellant and the phenolphthalein test was conducted on the hands of the appellant and the wash was turned into a pink in colour and hence, the Trap Laying Officer asked the appellant regarding the receipt of the bribe amount. The appellant admitted the receipt of the bribe amount and the bribe amount was recovered and also he was arrested and Recovery Mahazar, Ex.P.6 was prepared in the presence of the official witnesses. Thereafter, investigation was conducted by PW.15 and P.W.15, after examining number of witnesses, collected the documents and obtained sanction and filed the



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final report before the the Special Judge, Prevention of Corruption Act Cases, Madurai, and the same was taken on file in Spl.Case.No.1 of 2014.

2.2. The Special Judge Prevention of Corruption Act Cases, Madurai, summoned the accused and served the copies under section 207 Cr.P.C., Thereafter, charges were framed and the trial Judge questioned the accused and the appellant pleaded not guilty and he stood for trial.

2.3. The prosecution to prove the case, examined PW.1 to P.W.16 and marked exhibits Ex.P.1 to Ex.P.22 and also produced the MO.1 to MO.3.

2.4. The learned trial judge examined the appellant under section 313 Cr.P.C., by putting the incriminative material available against him from the evidence of the prosecution and he denied the same as false and gave a detailed explanation stating that false case was registered due to the strong motive between the appellant and the family members of PW.2 and also he stated that the amount was received as interest for the debt amount of Rs.40,000/- already handed over to PW.2 on the basis of the promissory note and a suit was also filed before the Court below and the same was

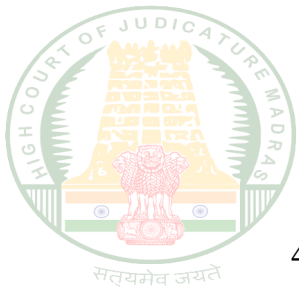


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decreed in his favour. To substantiate the same, he himself examined as DW.1. Apart from examination of DW.1, D.W.2 was also examined and on his side he marked the exhibits Ex.D1 to Ex.D12.

2.5. The learned trial Judge, after considering the above evidence and the records produced by the prosecution as well as the defense and the material objects, passed the conviction against the appellant under Section 7 & 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and sentenced him to undergo 2 years of Simple Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 3 months of Simple Imprisonment for the offence under Section 7 of the Prevention of Corruption Act and sentenced him to undergo 2 years of Simple Imprisonment and to pay a fine of Rs. 1,000/-, in default to undergo 3 months of Simple Imprisonment for the offence under Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act.

3. Challenging the above said conviction and sentence passed by the learned trial Judge, the present appeal has been filed.



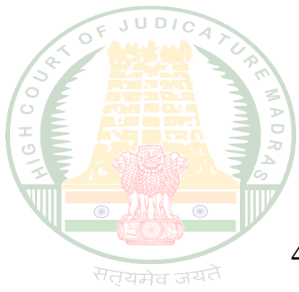
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4. The learned counsel for the appellant made the following

submission:-

4.1. The appellant is an honest officer. He prevented the illegal mining in the village. One Muniyandi, who is the close relative of P.W.2 involved in the above said illegal mining and hence, the appellant lodged a complaint against the said Muniyandi and FIR was registered against him in Crime No.97 of 2011. Due to that motive, PW.2 arranged a false trap by making a false complaint against the appellant at the Vigilance Office. PW. 2 already borrowed a sum of Rs.40,000/- from the appellant. When the appellant demanded to pay the interest, PW.2 paid part of the interest amount of Rs.500/- and he came with the remaining amount of Rs.1,500/- as interest on the date of the trap. When he received the said amount, the entire Vigilance Team surrounded him and arrested him and registered a false case against him.

4.2. According to the learned counsel for the appellant, the false implication was only on account of the personal grudge against him due to registration of FIR against the relative of P.W.2. Hence, he seeks acquittal.

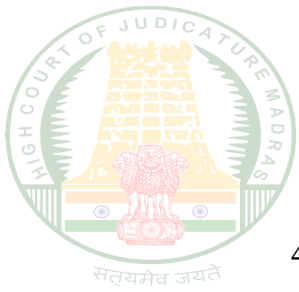


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4.3. The learned counsel for the appellant submitted that according to the prosecution, the appellant was the Village Administrative Officer. His role was only to recommend the application for issuance of Natham Free House Site Patta. He conducted enquiry upon receipt of the request from the Tahsildar office and sent his report to the next high level officer namely, the Revenue Inspector. The Revenue Inspector also recommended and sent the said document to the Tashildar office. The prosecution document itself shows that the said recommendation was made much earlier to the date of the demand. Hence, the case of PW.2 that the appellant had demanded money to issue patta is not acceptable one. Hence, he seeks acquittal for the appellant.

4.4. The learned counsel for the appellant further submitted that without proof of demand, conviction under sections 7 r/w 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, is not legally maintainable. In this case, before the date of alleged demand, there was no relationship between PW.2 and the appellant. The learned counsel referred number of circumstances available on record to show that the demand itself is false.

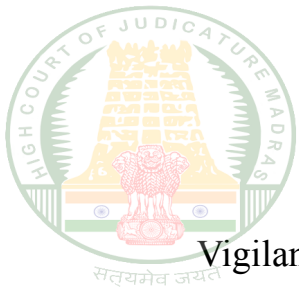


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4.5. The learned counsel further submitted that the appellant received the amount from P.W.2 under the *bona fide* impression that it was paid towards interest for the amount already received by P.W.2. In view of the decree granted in O.S.No.183 of 2012, dated 06.02.2013, in favour of the appellant, the case of the appellant that the amount was paid only towards the interest is proved. Hence, there is no illegal gratification.

4.6. The learned counsel for the appellant further submitted that with a strong motive and explanation, one more circumstance in this case is that the trap was conducted in the Village Administrative Office and the preparation of the Recovery Mahazar had taken place in the middle school. The explanation furnished by the prosecution that the villagers had assembled in the Village Administrative Office is not acceptable one. The preparation of the Recovery Mahazar at various places itself shows that the trap was illegitimate one.

4.7. The learned counsel for the appellant further submitted that PW.3, the official witness deposed that he received the information on 29.01.2012 to come to the Vigilance Office i.e., even before P.W.2 approaching the Vigilance Office. According to P.W.2, he went to the



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Vigilance Office only on 30.01.2012, at 7.15 am. But, prior to the said date, P.W.3 received the information. In the said circumstances, the entire trap bristled with the suspicions and infirmities. Therefore, he seeks acquittal for the appellant.

4.8. The learned counsel for the appellant further submitted that the appellant already gave patta to the brother of P.W.2 without receiving any bribe amount. According to the evidence, both had submitted their applications. Subsequently, sub-division was made and patta was also issued. Apart from that, even according to P.W.2, he is the friend of the appellant/Village Administrative Officer. In that event, when the appellant granted patta to his brother without receiving any amount as bribe, the case of P.W.2 that the appellant demanded and received the bribe amount from P.W.2 showed that the case against the appellant is false one.

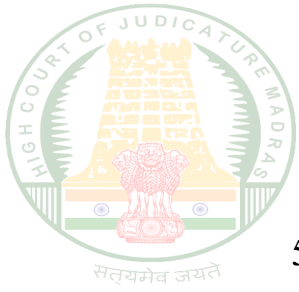
4.9. The learned counsel for the appellant further submitted that after lodging the complaint against the relative of P.W.2 with regard to the illegal mining, many troubles were caused to the appellant in the village, where he had been working as Village Administrative Officer. Therefore, he submitted an application to higher officials seeking transfer from the



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village. The said transfer application was submitted much earlier to the demand. Therefore, the case of the appellant that he was falsely implicated in the present case is well-founded and also proved through the circumstances that appear in the case and also through the evidence of the cross-examination of the prosecution witnesses apart from the evidence of defence witness and also the defence documents. Hence, in all aspects, the prosecution has failed to prove the case beyond reasonable doubt and the same was not properly considered by the learned trial judge and the appellant was convicted erroneously.

4.10. The learned counsel for the appellant finally submitted that the learned trial judge has not applied the principle that the evidence of the defense witness also to be treated on par with the evidence of the prosecution witness. In this case, he adopted a different yardstick to believe the evidence of the prosecution witnesses and disbelieve the evidence of the defense witnesses. The learned trial judge has not properly considered the case in a fair manner and hence, he seeks to allow this appeal by setting aside the judgment passed by the learned trial Judge.

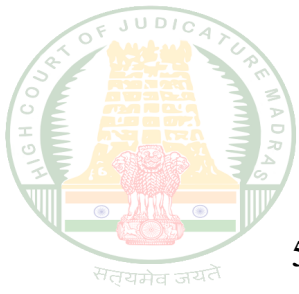


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5. The learned Additional Public Prosecutor made the following

submission:-

5.1. In this case, payment of the amount was accepted and hence, the presumption under section 20 of the Prevention of Corruption Act, 1988, would come into play. According to the appellant, the amount was given as interest to the principal amount of Rs.40,000/-. The suit in O.S.No.183 of 2012 was filed much later after the trap. Therefore, the suit is after thought and it has been filed to escape from the criminal prosecution. Hence, the defense case that the receipt of the amount as interest is not probable one. The alleged motive of lodging complaint for illegal mining against the relative of PW.2 has no nexus with the alleged trap. The charges were clearly made with the specific averment that the appellant demanded money from P.W.2 to arrange patta. The argument of the appellant is that he already recommended the application of P.W.2. Hence, the argument that there is no relationship between the appellant and P.W.2 cannot be accepted. The demand of the appellant was to arrange for patta. Therefore, promise of the appellant does not snap with the recommendation. PW.2 and PW.3 cogently deposed about the demand and acceptance and hence, the learned trial judge correctly convicted the appellant based on the circumstances.

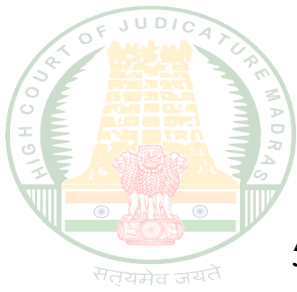


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5.2. The learned Additional Public Prosecutor further submitted that the prosecution clearly explained in the Recovery Mahazar itself that due to the crowding assemble of the villagers in the Village Administrative Office, they took the appellant to the middle school and prepared the Recovery Mahazar in that place. Therefore, the preparation of Recovery Mahazar in another place has no impact on the recovery of money from the appellant in the Village Administrative Office. There was no explanation on the side of the appellant relating to the receipt of the amount. Once he received the amount, it is presumed that it is illegal gratification. Therefore, he must explain it properly. In this case, the explanation of the receipt of the amount as interest towards the principal amount of Rs.40,000/- is not acceptable one and the learned trial judge considered the same and gave a categorical finding that the defense was false. Hence, this court has no jurisdiction to interfere with the finding based on appreciation of the evidence.

5.3. The learned Additional Public Prosecutor further submitted that the defense of the appellant that he received the amount as interest is belated explanation. To prove the belated defense, he filed a suit in O.S.No.183 of 2012 and obtained a degree and made such a defence.



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5.4. He further submitted that the belated defence with the concocted documents cannot be accepted. The circumstances that P.W.2 received an amount of Rs.500/- earlier and received the balance interest of Rs.1,500/- on the date of the demand is not believable one going by the circumstance of trap. Hence, he prayed for dismissal of the appeal by confirming the conviction and sentence imposed by the learned trial judge.

6. This court perused the records and also considered the rival submissions made by the both side and the precedents relied upon by them.

7. Now, the question arising for consideration in this case is *whether the prosecution proved the case against the appellant to sustain the conviction under sections 7 r/w 13(2) r/w 13(1)(d) of the Prevention of Corruption Act.*

8. Admittedly, there is no dispute about the working of the appellant as Village Administrative Officer in the village namely, Chinnaulagani. It is also admitted that P.W.2 repeatedly submitted the applications to get Natham Free House Site Patta and he approached the appellant to get patta and he filled the application and the said application was also forwarded to



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the Revenue Inspector and he after verifying the name and other records forwarded the same to the Tashildar office for further recommendation.

Thereafter, the said file was in the Deputy Tashildar Office for passing appropriate order. At this stage, the appellant came forward with the case that he never demanded amount from P.W.2 and P.W.2, with ulterior motive, lodged the false complaint against him. According to the appellant, earlier he lodged a complaint against the close relative of P.W.2 with regard to the illegal mining in the said village. Before registration of the said criminal case, P.W.2 had close relationship with the appellant. In the said circumstances, the appellant already lent an amount of Rs.40,000/- as debt to P.W.2. Due to the said registration of the case for illegal mining, he had some motive. To substantiate the same, the appellant produced the number of documents including the complaint, Ex.D.5, which was lodged against the relative of P.W.2 by the appellant before the concerned Court. From the contents of the complaint, it is clear that there was illegal mining in the village. Hence, he made a complaint against the relative of P.W.2. P.W.2 also admitted that his relative, who indulged in illegal mining is the son of his 'elder grand father'. Hence, the case of the appellant that due to the said motive, he lodged the false complaint is probable one. The said probable defense has been further strengthened from the circumstances



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that he had asked for transfer by citing the trouble caused to him in the said village, due to active steps taken by him to curb the illegal mining. The said transfer order was passed much earlier to the demand and trap. The transfer order was also passed on 29.01.2001.

9. Yet another circumstance is that according to P.W.2, both his brother and himself made applications for the Natham Free House Site Patta. The admitted case of P.W.2 is that the appellant has not received any bribe amount to give separate patta to his brother. In the said circumstances, the case of P.W.2 that he demanded bribe for issuing patta to him is not acceptable one. Hence, the conviction on the basis of evidence of P.W.2 is not legally sustainable one. Therefore, mere stray statement of demand in the above motivated circumstances without any corroboration, this Court finds that the prosecution failed to prove the demand. The Hon'ble Supreme Court in the case of ***Mukhtiar Singh Vs. State of Punjab reported in 2017 8 SCC 136*** has held that bald allegation of demand made against the appellant by P.W.2 without corroboration in the facts of the present case cannot amount to demand to be a constituent of the offence under Sections 7 or 13 of the Act. The relevant paragraphs of the above said judgment are as follows:-



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“24. the bald allegation of the complainant with regard to the demand and payment of Rs 3000 as well as the demand of Rs 2000 has remained uncorroborated. Further to reiterate, his statement to this effect lacks in material facts and particulars and per se cannot form the foundation of a decisive conclusion that such demand in fact had been made by the original accused. Viewed in this perspective, the statement of the complainant and the Inspector Satpal, the shadow witness in isolation that the original accused had enquired as to whether money had been brought or not, can by no means constitute demand as enjoined in law as an ingredient of the offence levelled against the original accused. Such a stray query ipso facto in absence of any other cogent and persuasive evidence on record cannot amount to a demand to be a constituent of the offence under Section 7 or 13 of the Act.”

10. The appellant also established before this court that P.W.2 received the amount on execution of promissory note. During the said civil proceedings, P.W.2 made his suggestion that due to the registration of the corruption case, this false promissory note case was in O.S.No.183 of 2012 filed. But, the learned jurisdictional civil judge has decided the issues

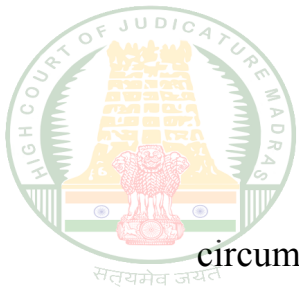


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against P.W.2 and held that the execution of promissory note is in accordance with the law, and decreed the suit in favour of the appellant.

There is no evidence on the side of P.W.2 whether he preferred an appeal against the said judgment. In the said circumstances, the receipt of amount towards interest is probable one and this court is satisfied with the said explanation.

11. As per the appellant's version, he earlier asked P.W.2 to give the interest for the amount already given by him. In the said circumstances, according to the appellant, “கேட்ட பணம்” is concerned, it is the interest for the amount already given to P.W.2. The said fact was not disclosed by P.W. 2 either to the Vigilance Inspector or to P.W.3. P.W.2 suppressed this fact and used the Vigilance Department by lodging false complaint that the appellant demanded money for issuance of patta. The said finding is further strengthened from the clear admission of the Tashildar that after the recommendation for issuance of patta, the appellant has no role in issuing patta when the entire file was transmitted to the office of the Deputy Tahsildar. Subsequently, the next level officer namely, the Revenue Inspector has to give patta. Mere isolated circumstance of recovery of amount is not sufficient to convict the appellant in the peculiar



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circumstance without proof of demand and acceptance of illegal gratification. The Hon'ble Supreme Court in the case of State of Kerala v. C.P.

Rao reported in (2011) 6 SCC 450 has held as follows:-

“10. In C.M. Girish Babu v. CBI [(2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] , this Court while dealing with the case under the Prevention of Corruption Act, 1988, by referring to its previous decision in Suraj Mal v. State (Delhi Admn.) [(1979) 4 SCC 725 : 1980 SCC (Cri) 159] held that mere recovery of tainted money, divorced from the circumstances under which it is paid, is not sufficient to convict the accused when the substantive evidence in the case is not reliable. The mere recovery by itself cannot prove the charge of the prosecution against the accused. In the absence of any evidence to prove payment of bribe or to show that the accused voluntarily accepted the money knowing it to be bribe, conviction cannot be sustained. (See SCC para 18.)”

12. Apart from that, the trap is bristled with some mysterious circumstances. The trap was initially conducted in the Village Administrative Office. According to P.W.3, the Trap Laying Officer, while conducting trap, there was a huge crowd around the Village Administrative

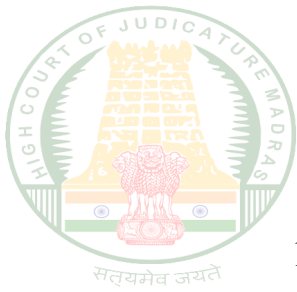


Office. Hence, he shifted the preparation of recovery mahazar to the middle school of the said village. It is not the case of either the Trap Laying Officer or P.W.3 that the said school is not situated near the Village Administrative Office. The explanation of the Trap Laying Officer cannot be accepted for the reason that the school is situated in the same village. In the said school also, the villagers could have gathered. The said preparation of Mahazar at the school cannot be accepted for one more reason that one of the material witnesses deposed that there was no preparation of Mahazar at the school. Apart from that, P.W.3 is also has not clearly stated anything about the preparation of mahazar and recovery at school. Therefore, the preparation of the mahazar at school is not accepted.

13. Further, the evidence of P.W.3 is that,

“அவர் வாதி சுந்தரத்தைப் பார்த்து தான் கேட்ட பணம்
கொண்டு வந்திருக்கிறீர்களா? என்று கேட்டார்.”

14. Therefore, this court is unable to accept the case of P.W.2 that the appellant demanded money for issuance of patta. Hence, in all aspects the prosecution has not proved the case beyond reasonable doubt.



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15. Hence, this court is inclined to set aside the judgment passed by the learned trial Judge convicting the appellant for the offences under section 7 r/w 13(2) r/w 13(1)(d) of the Prevention of Corruption Act.

16. Accordingly, the appeal is **allowed** in the following terms:

16.1. *The judgment passed by the learned Special Judge, Prevention of Corruption Act Cases, Madurai, in Special S.C.No. 1 of 2014, dated 31.10.2018, is set aside.*

16.2. *The appellant is acquitted from all the charges in Special S.C.No. 1 of 2014, by virtue of judgment dated 31.10.2018, passed by the learned Special Judge, Prevention of Corruption Act Cases, Madurai.*

16.3. *Fine amount paid by the appellant shall be refunded to the appellant forthwith.*

16.4. *Bail bond executed by the appellant shall stand cancelled.*

- Consequently, the connected miscellaneous petitions are closed.

15.05.2025

NCC : Yes/No
Index : Yes / No
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To

1. The Special Judge, Prevention of Corruption Act Cases,
Madurai.
2. The Inspector of Police,
Vigilance and Anticorruption Wing, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN,J.

dss

Order made in
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and
Crl.MP(MD)Nos.9605 and 9606 of 2018

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