

IN THE COURT OF THE SPECIAL JUDGE AT PUDUCHERRY

PRESENT: THIRU C.V. KARTHIKEYAN. M.A.,M.L.,
SPECIAL JUDGE.
(Under Prevention of Corruption Act)
PRINCIPAL SESSIONS JUDGE

FRIDAY, THE 14TH DAY OF AUGUST, 2015

SPECIAL CALENDAR CASE No.3/2009

STATE, rep. by the Inspector of Police,
Vigilance & Anti-Corruption Police Unit,
Pondicherry
Through Additional Public Prosecutor
(Cr.No.3/2002)

...

Complainant

Vs.

D. Mariadass

...

Accused

This case coming on 11.8.2015 for final hearing before me in the presence of Thiru N. Vinayagam, Additional Public Prosecutor for the State, and M/s.Law Solvers, represented by its M/s. V. Kamala Kumar, B. Rangarajan and S. Mukundan, Advocates for the accused, upon hearing both sides and perusing the case records and having stood over for consideration till this day, this Court delivered the following:

J U D G M E N T

Charge: U/s 7 of Prevention of Corruption Act, 1988 and u/s 13(2) r/w 13(1)(a) of the Prevention of Corruption Act, 1988.

2. These are very serious charges, particularly when the person charged is a police official and consequently deserves deep and careful consideration.

3. The accused B. Mariadass was working at Crime Records Bureau, Police Department, Puducherry as Head Constable, and between 1997 and 2000 was entrusted with the duty of processing the applications from the public, for issuance of non-conviction certificates and no objection certificates.

4. Pursuant to the First Information Report No.3/2002, dated 9.12.2002,

department namely Superintendent of Police, Vigilance & Anti-Corruption Police Unit, Puducherry. In the complaint, marked as Ex.P2, the Superintendent of Police addressed a letter to the Inspector of Police, Vigilance & Anti-Corruption Police Unit and stated that -

“As directed, a detailed enquiry was conducted and a report was submitted to the Chief Vigilance Officer, Pondicherry vide letter No.15-2000/SP(VAC)/Pet/2000, dated 24.10.2000.

During my enquiry I enquired a number of witnesses and perused the records relating to the issue of No Objection/Non Conviction Certificates to the applicants. The enquiry revealed that HC 1147 Mariadass who was working in the CRB, Police Department, Pondicherry, who was processing the applications for issue of Non-Conviction Certificates had been in the habit of getting money ranging from Rs.300/- to Rs.500/- from many applicants for processing the same and putting up the papers for signature to the SP (CID) through the Inspector CRB during the period from 1997 to April 2000. He had been in the habit of getting illegal gratification from the many of the applicants for issue of Non-Conviction Certificates by the SP (CID).”

5. It had been further stated in the complaint by the Superintendent of Police that he had conducted enquiry and during the enquiry, had recorded the statements of a number of witnesses and perused the records and it had been revealed that the accused herein who was working in the Crime Records Bureau, Police Department, Pondicherry and who was processing the applications for issue of Non-Conviction Certificates had been in the habit of getting money ranging from Rs.300/- to Rs.500/- from many applicants for processing the applications and putting up the papers for signature to the SP (CID) through the Inspector of Police, Crime Records Bureau,

dated 4.12.2002 had accorded permission for registering the criminal case against the accused herein. The complaint finally ended with the following sentence:

"You are hereby directed to register a criminal case under Section 7 and 13 (1) (a) of POC Act, 1988 and take necessary action as per law."

7. Without going into further details of this case, with respect to "*necessary action as per law*" initiated by the Inspector of Police, Vigilance & Anti-Corruption Police Unit, as "**directed**" by his superior officer, this court cannot refrain from observing that the first information report is the result of a "**direction**" from a superior officer to a junior officer in his very same department. The Inspector of Police, Vigilance & Anti-Corruption Police Unit, had no other option except to register the first information report and direct his investigation with the sole aim of filing a charge sheet only according to the report terms mentioned in the complaint Ex.P2. At this juncture, it is also to be mentioned that in Ex.P2, the Supdt. of Police Vigilance & Anti-Corruption Police Unit, had stated that the accused put up the applications for non-conviction certificates and no objection certificates for signature to the SP (CID) through the Inspector of Police, Crime Records Bureau and it also concluded that while processing the applications, the accused had definitely obtained illegal gratification.

8. The permission to initiate criminal proceedings had been filed herein as Ex.P1 and it was the result of a letter by the Supdt. of Police, Vigilance & Anti-Corruption Police Unit, dated 18.11.2002, which letter had not been produced before the court.

9. Irrespective of the above, a few further back ground details will have to be presented for better appreciation of the facts of the case. The Inspector General of Police in his letter No 9/IGP/Secy/2000-15 dated 17.4.2000 had informed the Chief

conviction certificates and no objection certificates. Pursuant to that, finally the Supdt. of Police Vigilance & Anti-Corruption Police Unit, submitted a report to the Chief Vigilance Officer, Government of Pondicherry, dt.24.10.2000, marked as Ex.P10, in this proceedings. In the said report, which is a preliminary report, the Supdt. of Police had stated that the accused herein was in the habit of obtaining bribe, in fact, the following are the findings given in Ex.P10:

FINDINGS:

34) **The enquiry revealed the following:**

- a) *HC 1147 Mariadass of Crime Records Bureau: He had been habitually demanding and taking money from the applicants for the issue of the Non Conviction Certificates.*
- b) *Thiru M.P. Muthiah, Inspector (Crime Records Bureau) – Failed to take action even though malpractices carried on in his own office by the HC 1147 were brought to his notice which indicates his connivance with such practices.*
- c) *Thiru V.J. Chandran, the then SP (CID) – Failed to take any action against the HC 1147 who worked under his control even though such malpractices were going on for more than three years under his nose. (Slack supervision or Connivance?)*
- d) *Thiru Feroze Zia Hussain, the then SP (CID) – He was very much aware of the malpractice of the HC 1147. Even when a specific instance of corruption was brought to his knowledge no action was taken.”*

10. As stated above, pursuant to the registration of the first information report, the charge sheet was laid before this court only against the accused u/s 7 and 13(2) r/w 13(1)(a) of the Prevention of Corruption Act, 1988.

11. In the charge sheet, it had been stated that the accused, Head Constable, Crime Records Bureau, Police Department, during the year 1997 who was entrusted with the duty of processing the applications for issuing non-conviction certificates and

stated:

- a) The year of occurrence of transaction of receiving bribe was 1997.
- b) The persons from whom bribe was received was mentioned as "various applicants/witnesses numbering 23.
- c) The individual bribe amount paid by each of these persons was not given.
- d) The dates on which these individuals gave bribe was not given.
- e) However, the total bribe amount received was fixed at Rs.7400/-.

13. The accused was required to face these charges and this court had framed charges u/s 7 and 13(2) r/w 13 (1)(a) of Prevention of Corruption Act, 1988, against the accused after having been furnished with the free copies of prosecution documents as contemplated u/s 207 of Cr.P.C.

14. In the first charge with respect to Section 7 of the P.C. Act, 1988, this court, had stated that between 1997 and 2000, the accused had received bribe from 23 applicants namely LW5 to LW27 ranging from Rs.200/- to Rs.600/- totally amounting to Rs.7400/-.

15. The same was the gist of the charges u/s 13(2) r/w 13(1)(a) of the P.C.Act, 1988.

16. The accused denied the charges and claimed to be tried.

17. Accordingly, the prosecution examined PWs 1 to 19 and also marked Ex.P1 to Ex.P11 documents on its side.

18. The accused was then questioned u/s 313 Cr.P.C. and he stated that a false case was foisted against him and there were also other persons by name Durairaj and Madhusudanan, Police Constables and Subramanian and Deenadayalan, Head Constables who were also working in the same unit. He further stated that he processed the applications as directed by the Inspector of Police. During cross-

19. The witnesses who supported the prosecution case are as follows:

PW1-Thiru A.S. Munisamy, then Supdt. Of Police, V&AC Unit, Puducherry stated that the IG of Police, Puducherry sent a letter No.9/IGP/Secy/2000-50, dt.17.4.2000 to the Chief Vigilance Officer, Puducherry complaining about demand of illegal gratification for issuing No Objection Certificates and Non-Conviction Certificates in the Crime Records Bureau, Police Department, Puducherry and sought for enquiry and that letter was redirected to him vide Memo No.C/1305/4/2000/CVO, dt.3.5.2000 for necessary enquiry. After a detailed enquiry he sent the enquiry report to the Under Secretary on 24.10.2000 vide his letter No.15-2000/SP/VAC/Pt/2000. In the enquiry it came out that the accused had involved in demanding illegal gratification to the tune of Rs.300/- to Rs.500/- from the public for issuing NOCs for the period from 1997 to 2000. Therefore, he sent a letter to the Chief Vigilance Officer, Puducherry seeking permission to take necessary action against the accused and on 4.12.2002, the Under Secretary to Government sent a letter (Ex.P1) to him recommending to register case as against the accused herein. Accordingly, he prepared a complaint (Ex.P2) and sent it to the Inspector of Police I.R.C. Mohan to register a case against the accused and based on that Thiru I.R.C. Mohan, Inspector of Police registered a case in Cr.No.3/2002 u/s 7 and 13(1)(a) of P.C.Act, 1988 and took up for investigation.

PW16-Thiru I.R.C. Mohan, then Inspector of Police, V&AC Unit, Puducherry stated that on the strength of the complaint given by the Supdt. of Police Thiru Munisamy, he registered a case in Cr.No.3/2002 u/s 7 & 13(i)(a) of the Prevention of Corruption Act, 1988 against the accused and took up for investigation. Ex.P5 is the printed FIR. He obtained four documents from the the Supdt. of Police (Head Quarters), by addressing him, Ex.P6 is the Office Order authorising Supdt. of Police (CID) to initiate action in issuing NOC and Non-Conviction Certificate, Ex.P7 is the

Joseph Marie Gnanaraj, Gasper, Xavier, Thamodaran, Rathinavel, Balasubramanian, Rajesh, Ramasamy, Manimaran, Kumar, Gunasekaran, Valarmathi, Mohamed Syed, Loganathan, Srinivasan, Jayaveeran, Seetharaman, Rajeswari, Rajendiran, Gandhimathi, Mohandoss, Catholic Immacorin, Barathan, Robert Kalaiman, Datchinamoorthy, Glovesarela Bailee, Visthalingam, Kilaveli, Somasundaram, Saiyaraj, Karuppai, Insen Mathew, Head Constable Natarajan, Woman Home Guard Selvi, Women Home Guard Kulandai Theresa, Head Constable Deenadayalan, Head Constable Periyasamy, Police Constable Durairaj, Head Constable Subramanian, Head Constable Thirumal, Police Constable Madhusudhanan, and SI of Police Sundar, Radhakrishnan, Jayaseelan Steephen and recorded their statements, and on his transfer, he handed over the case file to his successor Inspector of Police Thiru Rajakirubakaran.

PW17-Thiru Kannan, Under Secretary to Government, Chief Vigilance Office, Puducherry stated that Ex.P10 is the original enquiry report.

PW18-Thiru Prahlad Rao Meena, the Inspector General of Police, Puducherry stated that on receipt of the file from the Department of Confidential and Cabinet Chief Vigilance Officer, Puducherry dt.13.5.2006, received on 19.5.2006 requesting prosecution sanction, after careful perusal of the entire case file and after applying his mind, he issued prosecution sanction (Ex.P11) u/s 19 of the P.C.Act, 1988 on 7.7.2006 as against the accused.

PW19-Thiru V. Kaliyamurthy, then Inspector of Police, Vigilance & Anti-Corruption Unit, Puducherry stated that on 1.1.2005 he took up this case for further course of investigation from Inspector of Police-Thiru Kirubakaran and he examined the witnesses and recorded their statements, and on having completed the investigation, he sought prosecution sanction from the Under Secretary, Vigilance

20. The witness namely PW1 was further recalled to speak about Ex.P10, the report submitted by him pursuant to preliminary enquiry conducted by him.

21. The point to be framed for consideration is -

Whether the prosecution had established the case against the accused beyond all reasonable doubts?

22. **The point answered:**

The specific charge framed against the accused was that, between 1997 and 2000 he had received bribe ranging between Rs.200/- and Rs.600/- from Lws 5 to 27 totally amounting to Rs.7400/-.

23. Among Lws 5 to 22, the prosecution had examined LW9 as PW4 (Velmurugan @ Raja), LW10 as PW5 (Xavier), LW13 as PW6 (Joseph Marie Gnanarja), LW14 as PW7 (Rathinavelu), LW15 as PW8 (Damodaran), LW17 as PW9 (Rajesh), LW18 as PW10 (Ramasamy), LW19 as PW11 (Manimaran), LW20 as PW12 (Kumar), LW21 as PW13 (Gunasekaran), LW25 as PW14 (Jayaveeran) and LW26 as PW15 (Mohandass). All the witnesses did not support the prosecution case, that they had paid bribe or that the accused had demanded bribe from them or that they had any dealing with the accused. They denied any knowledge about the accused. The prosecution did not examine the other witnesses namely LW5 (Velmurugan Iyengar), LW6 (Ramandine), LW7 (Md. Sadik), LW8 (Ramachandiran), LW11 (Aimede Gaspar), LW12 (Premkumar Contran), LW16 (Balasubramanian), LW22 (Md.Seid), LW23 (Srinivasan), LW24 (Loganathan) and LW27 (Baradhan).

24. It is thus seen that none of the witnesses who were shown in the charge sheet as having been victims of demand of bribe to the accused did not support the case of the prosecution.

25. The learned Additional Public Prosecutor in his arguments stated that the

any shield and put the blame on the accused.

26. The prosecution relied heavily on the evidence of PW1 who stated about Ex.P10-Preliminary enquiry made by him. The preliminary enquiry has no value in a court of law adjudicating the criminal trial based on police report pursuant to an investigation of the first information report of cognizable offence. It just adds to the weightage of the court records and the court can never pass any finding on such preliminary enquiry report.

27. Another disturbing factor in this case is that, the officer who registered the first information report had been “**directed**” by PW1 to register the FIR. On this one ground itself, since directions had been issued by a superior officer giving the name of the accused, giving the provision of law under which he should be charged the first information report is vitiated.

28. Yet another aspect in this case is that according to PW10, the Inspector General of Police had directed preliminary enquiry by letter dated 17.4.2000. The preliminary enquiry is dated 24.10.2000. The permission to register criminal case was dated 4.12.2002. The letter of PW1 directing his subordinate Inspector to register the first information report is dated 9.12.2002. The first information report was registered on the very same date on 9.12.2002. The very last witness examined by the Investigating Officer was on 22.8.2003. Thereafter the charge sheet was filed in this court only on 26.10.2009, after six years. It is not known, since it has not been explained and since the prosecution did not make attempts to explain as to why there was a delay of more than six years in filing the charge sheet after the investigation had been completed. This also vitiates the prosecution case.

29. Learned counsel for the accused relied on the decision reported in “(2014) 2 SCC – **Lalita Kumari Vs. Government of Uttar Pradesh and Others**”, in

“Suspicion is not the substitute for proof. There is a long distance between “may be true and “must be true” and the prosecution has to travel all the way to prove its case beyond all reasonable doubt.”

31. For all the reasons stated above, I hold that the prosecution had not proved the charges as against the accused person beyond all reasonable doubts.

32. In the result, the accused is acquitted of all the charges u/s 248(1) Cr.P.C. and set him at liberty. The bail bonds executed by the accused person and sureties are ordered to be cancelled. There has been no material objects produced and consequently no order is passed to that effect.

Dictated to the stenographer, transcribed by him, corrected and pronounced by me in the Open Court on this the 14th day of August, 2015.

(C.V. KARTHIKEYAN)
SPECIAL JUDGE
(UNDER THE P.C.ACT, 1988)
PRINCIPAL SESSIONS JUDGE
PUDUCHERRY

LIST OF PROSECUTION WITNESSES:

PW1	09.02.2015	Thiru A.S.Munusamy, then Supdt. of Police, V&AC Unit, Puducherry
PW2	09.02.2015	Thiru Karuppaiah
PW3	09.02.2015	Thiru Sairaj
PW4	10.02.2015	Thiru Velmurugan @ Raja
PW5	10.02.2015	Thiru Xavier
PW6	19.02.2015	Thiru Joseph Marie Gnanaraja
PW7	19.02.2015	Thiru Rathinavelu
PW8	19.02.2015	Thiru Damodaran
PW9	19.02.2015	Thiru Rajesh
PW10	19.02.2015	Thiru Ramasamy
PW11	13.03.2015	Thiru Manimaran
PW12	13.03.2015	Thiru Kumar
PW13	13.03.2015	Thiru Gunasekaran
PW14	13.03.2015	Thiru Jayasekaran

PW18	13.03.2015	Thiru P.R. Meena, then IGP, Puducherry
PW19	03.06.2015	Thiru V. Kaliamurthy, then Inspector of Police, V&ACT, Puducherry
<u>LIST OF PROSECUTION EXHIBITS:</u>		
Ex.P1	09.02.2015	Memorandum, dt.4.12.2002 issued by the Under Secretary to Government, CVO., Puducherry to the Supdt.of Police, V&AC Unit, Pondicherry
Ex.P2	09.02.2015	Complaint dt.9.12.2001 given by PW1 addressed to PW16
Ex.P3	26.03.2015	Circular dated 29.7.1997 issued by the SSP (C&I), Puducherry.
Ex.P4	26.03.2015	Circular dated 2.2.2000 issued by the SSP (C&I), Puducherry.
Ex.P5	26.03.2015	Printed FIR in Cr.No.3/2002 dt.9.12.2001 registered by PW16 of V&AC P.S., Puducherry
Ex.P6	26.03.2015	Order dt.17.4.1997 issued by the IGP., Puducherry
Ex.P7	26.03.2015	Order dt.16.10.1991 issued by SSP (L&O), Puducherry
Ex.P8	26.03.2015	Order dt.17.4.2000 issued by SSP (C&I), Puducherry
Ex.P9	26.03.2015	Intimation submitted by PW16 to this court
Ex.P10	07.04.2015	Enquiry report , dt.24.10.2000 issued by PW1 to the CVO., Puducherry.
Ex.P11	27.04.2015	Sanction Order dt.26.10.2009 issued by PW18 to prosecute the case as against accused.
<u>LIST OF DEFENCE WITNESSES : Nil</u>		
<u>LIST OF DEFENCE EXHIBITS:</u>		
Ex.D1	26.03.2015	Order dt.5.11.2001 issued by the Chief Secretary, Puducherry reinstating accused into service.
<u>LIST OF MATERIAL OBJECTS: Nil</u>		

SPECIAL JUDGE
(UNDER THE P.C.ACT, 1988)
PRINCIPAL SESSIONS JUDGE
PUDUCHERRY

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