

**Manokaran Vs. 1.State Rep. by**

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**Court : Chennai**

**Decided On : Jun-19-2014**

**Judge : P.N.Prakash**

**Appellant : Manokaran**

**Respondent : 1.State Rep. by**

**Judgement :**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:**

19. 06.2014 CORAM THE HONOURABLE MR.JUSTICE P.N.PRAKASH  
Crl.O.P.(MD)No.9667 of 2007 Manokaran : Petitioner Vs. 1.State rep. by The  
Deputy Superintendent of Police, Directorate of Vigilance and Anti Corruption,  
Madurai District. 2.State rep. by The Inspector of Police, Directorate of Vigilance  
and Anti Corruption, Madurai District. (Crime No.6/2007). 3.M.Rajesh :  
Respondents PRAYER Criminal Original Petition is filed under Section 482 of the  
Code of Criminal Procedure to call for the records pertaining to the proceedings in  
Special Case No.8 of 2008 on the file of the learned Chief Judicial Magistrate,  
Madurai and quash the same. For Petitioner : Mr.I.Pinaygash, For Mr.T.Lajapathi  
Roy For Respondents 1&2 : Mrs.S.Prabha, Government Advocate (Crl.side) For  
Respondent No.3 : No Appearance :

**ORDER**

This is the petition under Section 482 of the Code of Criminal Procedure to quash the prosecution in Special Case No.8 of 2008, on the file of the learned Chief Judicial Magistrate, Madurai.

2. The factual matrix in this case is as follows: It is the case of the prosecution that the petitioner/accused by name S.Manokaran, was Inspector of Police, attached to the Traffic Wing of Thilagar Thidal Police Station, Madurai, during the relevant period. The complainant in this case is one M.Rajesh. On 30.07.2007, the accused was on duty checking vehicles for violation of Traffic Rules near the Girder bridge in Madurai. The complainant, M.Rajesh, was working as Service Engineer in Star System Computer Sales and Service Centre at Melaponnagaram, Madurai. On 30.07.2007, M.Rajesh purchased some materials for his company at Simmakkal and he was returning in his TVS XL motorcycle bearing Registration No.TN-58- J-6818. While he was proceeding towards the Girder bridge, he was stopped by the accused and was asked to produce his driving licence. The complainant said that he had left the driving licence in the Company, where he was working. At that juncture, the accused issued a police notice, requiring the complainant to produce his driving licence. The printed number in the police notice was 1742707, but the last digit has been corrected and read as '8' [1742708]..

3. It is the normal practice that the vehicle will be detained by the police until the driver produces the driving licence. On such production, the police will permit the driver to take back the vehicle. Nevertheless, non-possession of a copy of the driving licence at the time of interception and check, is an offence under Section 181 of the Motor Vehicles Act, 1988 and vide G.O.Ms.No.30, Home Traffic V Department, dated 11.01.2000, r/w G.O.Ms.No.628, Home Traffic Department, dated 15.04.1996, the police officers have been empowered to collect spot fine of Rs.50/- from the driver for not possessing the copy of the driving licence under Section 181 of the Motor Vehicles Act, 1988. But if the driver produces the driving licence, a sum of Rs.50/- will be collected by the police officer and the vehicle will be returned to him immediately, so that, he can drive the same with the licence in his possession.

4. In this case, the accused gave the complainant police notice immediately as stated above and when he wanted to detain the two wheeler driven by the complainant, the complainant pleaded that he is carrying goods belonging to his Company, which he had just than purchased and that those goods should have to be delivered to the Company. The complainant suggested that he would hand over his mobile phone to the accused, in lieu of detaining the two wheeler. The accused felt that there was genuineness in the request made by the complainant and instead of detaining the vehicle, he took the mobile phone of the complainant and permitted the complainant to take the vehicle and produce the driving licence and thereafter, collect the mobile phone. Upto this, the complainant admits both in his complaint as well in his 161 statement. The final report also states so.

5. It is alleged by the complainant that on 31.07.2007 at around 09.00 a.m., he met the accused and showed him the driving licence and at that time, the accused shouted at him and asked him to get Rs.200/- as bribe for returning the mobile phone. Aggrieved by this, the complainant went to the respondent police and lodged a complaint, based on which, a case in Crime No.6 of 2007, dated 31.07.2007 was registered by the Vigilance and Anti- Corruption Police.

6. The Inspector of Police, Vigilance and Anti-Corruption decided to lay a trap to apprehend the accused and so, he requested the services of one Rajendran, who was working as Sub-Registrar -cum- Special Officer in the Co-operative Society and one Mr.Ibrahim, who was working as Special Grade Assistant in the Co-operative Society, to be decoy witnesses. The complainant and the decoy witnesses were explained about the trap procedure by the Investigating Officer and four 50 rupee notes produced by the complainant were smeared with phenolphthalein and the same were handed over to the complainant to be given to the accused, if he demands it. Rajendran one of the decoy witnesses was asked to accompany the complainant and be with him for hearing the conversation with the accused. Ibrahim was required to be with the trap laying officer at a safe distance and to watch the proceedings.

7. As instructed, the trap party left the office of the Vigilance and Anti-Corruption in search of the accused. They were able to locate the accused only around 08.25

p.m., on 31.07.2007 at TVS Signal near North Veli Veethi, Madurai. The accused was sitting in a jeep and the jeep was being driven by a constable. The complainant and Rajendran went near the jeep. Rajendran stood behind the jeep so that he could hear the conversation and also see what transpires between the complainant and the accused through the rear opening of the jeep. Even according to the 161(3) statement of Rajendran, the complainant went near the accused and after introducing himself, showed him the driving licence. The accused saw the driving licence and returned it to him and asked him to give the money. The complainant took the four 50 rupee notes (Rs.200/-) and when he was about to give it to the accused, the accused saw that and told him that it was enough for him to give only Rs.150/-. Therefore, the complainant gave Rs.150/- to the accused and the accused put that money in the dash-board of the jeep. He then took out the mobile phone and handed it over to the complainant.

8. It may be relevant to state that even in the 161(3) statement of the complainant, he has also stated the same thing. When the complainant gave the pre-arranged signal, the trap party came, surrounded the jeep and took the accused, the complainant and the decoy witnesses (Rajendran and Ibrahim), to the nearby Thilagar Thidal Police Station. The jeep was also directed to be brought there.

9. It is stated in the 161(3) statement of the complainant and Rajendran (decoy witness) that even at that time, the accused said that he had charged the complainant on two counts, viz., for not possessing the driving licence and for not wearing the helmet. The accused further stated that he issued the police notice and at the request of the complainant, the accused permitted the complainant to take away the vehicle, as it was having some Company goods and in lieu of that, he collected the mobile phone of the complainant to be returned to him, as a security, on his producing the driving licence. The accused further said that he put his own money amounting to Rs.150/-, being the fine payable by the complainant, for the violations and had remitted the amount in the Treasury.

10. That the respondent police conducted the post trap proceedings, like preparing the sodium bicarbonate solution, dipping the fingers of the accused in that, etc., are not disputed by both the parties.

11. The short point for consideration is, did the accused receive a sum of Rs.150/- as bribe from the complainant at the time and place, as alleged by the prosecution in the final report?..

12. This Court is aware of the legal position that the power under Section 482 of the Code of Criminal Procedure should be very sparingly invoked for quashing a criminal prosecution and that this Court should follow the parameters laid down by the Supreme Court in State of Hariyana V. Bajanlal reported in AIR 1992 SC604 Further, this Court should proceed under the premise that the final report and the accompanying documents reflect the true state of affairs and accepting them as truth, still if no offence is made out, only then, can this Court quash the criminal proceedings under Section 482 of the Code of Criminal Procedure. This Court should also not venture into disputed questions of fact in a quash proceedings. Bearing these cardinal principles of law in mind, this Court perused the final report and the accompanying documents, viz., the statements of various witnesses.

13. The matters that are not in dispute are as follows: (i) The complainant was stopped by the accused on 30.07.2007 for traffic violation. The complainant was issued with a police notice for not holding a driving licence. (ii) At the request of the complainant, the accused permitted the complainant to take his vehicle and in lieu of it, collected his mobile phone, which was offered by the complainant himself as security on the assurance that the complainant will produce the driving licence and collect it from the accused. (iii) On 31.07.2007, the complainant and the decoy witness viz., Rajendran met the accused and the complainant showed the driving licence. The accused saw the driving licence and returned it to the complainant and asked for the money. At that time, the complainant took out Rs.200/-, for which, the accused said that it will be enough, if he gives Rs.150/-. The complainant handed over Rs.150/- to the accused, who kept the amount in the dash-board of the jeep and returned the mobile phone to the complainant. (iv) The explanation of the accused is that the sum of Rs.150/- represents the fine, that is payable by the complainant and which he has paid from his pocket in the morning itself. (v) At the first blush, the explanation offered by the accused sounded little incredible to me. I was unable to buy the explanation that a police officer would come forward to put his own money towards the fine payable by a traffic violator.

But, on a thorough reading of the 161(3) statement of K.Chandran, the Head Constable, working under the accused in the Traffic Police Department, I am convinced with the explanation offered by the accused. K.Chandran has spoken about the practice that was being followed by the accused, while collecting spot fines from traffic violators. (vi) The accused would issue police notice to the traffic violators and when they pay the fine, he will collect the same and hand it over to K.Chandran, around 09.00 p.m., every day. Chandran will keep the money safe in the police station, after making necessary entries in the cash register of the police station. On the next day, K.Chandran will take the cash and deposit it in the Treasury and get the Treasury receipt. On 31.07.2007 also, this same procedure was followed. He has stated that the accused handed over to him the fines collected by him on 30.07.2007 and he deposited a total sum of Rs.8,800/- on 31.07.2007 in the Treasury attached to the office of the Commissioner of Police, Madurai. The receipt bearing No.9992843 is one of the documents that is relied upon by the prosecution and which has been served on the accused under Section 207 of the Code of Criminal Procedure. (vii) K.Chandran, in his 161(3) statement, has very clearly stated that this sum of Rs.8,800/- includes the fine of Rs.150/- payable by M.Rajesh, the complainant herein, in respect of the police notice bearing No.1742708. K.Chandran had submitted the original police notice bearing No.1742708, which relates to M.Rajesh and in which the accused has recorded two violations viz., (a) not having driving licence and (b) not wearing helmet. (viii) The blunder that has been committed by the accused is that, in the copy of the police notice given to the complainant, he has corrected ".1742707". as ".1742708". and further, he has recorded only one violation viz., 'not possessing driving licence'. He has not included the violation relating to 'not wearing helmet'. (ix) Initially, I thought that this interpolation was done by the accused in order to escape prosecution, but the records show that the correction was done on 30.07.2007 itself, which has been explained by K.Chandran in his 161(3) statement. In other words, in the office copy of the police notice relating to M.Rajesh (complainant), two violations viz., (a) not wearing helmet and (b) not having driving licence have been recorded, for which, the penalty is Rs.150/- (Rs.50/- for not possessing licence + Rs.100/- for not wearing helmet), but in the copy that was furnished to the complainant, the violation relating to not wearing

helmet is not there. It may be very essential to state here that the complainant M.Rajesh, in his 161(3) statement, has not stated that he was wearing helmet on 30.07.2007, when he was intercepted by the accused. (x) Admittedly, the sum of Rs.150/- was not collected by the accused from the complainant on 30.07.2007. Whereas K.Chandran has clearly stated that the sum of Rs.8,800/- that was deposited by him in the Treasury on 31.07.2007 includes the sum of Rs.150/- under police notice 1742708 relating to the complainant. Obviously, the accused would have put his own money, so that the amounts mentioned in the police notice issued to various violators on 30.07.2007 tallied with the amount paid in the Treasury. It will be a cumbersome process, if payment relating to one police notice alone, is withheld, that too, for a paltry sum of Rs.150/-. (xi) On 31.07.2007, when the complainant and the decoy witness went near the jeep of the accused, the accused checked the driving licence and thereafter, simply asked for the money. It is not stated in the 161(3) statements of the complainant and the decoy witness that he demanded Rs.200/- . What he meant by money was the sum of Rs.150/-, which he had paid from his pocket towards the fine payable by the complainant. When the complainant gave Rs.200/- the accused did not accept the money, but asked him only Rs.150/-, which itself shows that he did not have the necessary mens rea for the offence. When the trap party took him to the nearby police station, there also, he gave this explanation spontaneously, which has been stated by both the complainant and the decoy witness in their 161(3) statements. (xii) Thus, from a thorough reading of the police report and the accompanying statements, this Court is convinced that the sum of Rs.150/-, that was accepted by the accused, is not bribe money, but the money that he had paid from his pocket, as he was confident that he can get back the money from the complainant, when he comes to collect his mobile phone. (xiii) As regards the correction in the last digit in the copy of the police notice that was given to the complainant, K.Chandran, the Head Constable has stated that the police notices will be in triplicate and will be written with carbon. The police notice bearing No.1742707 relates to one Balamurugan, who has paid a fine of Rs.100/-. The accused has filled police notice 1742707 in duplicate and, therefore, the last leaf of 1742707 was left 'unfilled'. The accused has used the last page of 1742707 as the first page, when he issued the police notice for the complainant M.Rajesh. That is why,

in the police notice given to the complainant M.Rajesh, the last digit has been corrected as '8', but whereas, the second leaf bears the number '1742708' without corrections. This is, in my opinion, an ordinary human error, which ought not to have been blown out of proportion, especially in the light of the explanation offered by K.Chandran, the Head Constable, who is one of the prosecution witnesses.

14. If all the prosecution witnesses repeat verbatim their 161 statements in the chief-examination during trial, the accused cannot be convicted even if he does not cross-examine them. This Court observes that Rajendran, the decoy witness has remained truly neutral and objective, and Mrs.Kalavathi, the Investigating Officer, has recorded the events that transpired during the trap in an unbiased manner without adding spice and sauce.

15. In the result, this Court holds that even going by the police report and the accompanying documents, there is no material to infer that the accused had demanded and accepted a bribe of Rs.150/- from the complainant, so as to attract the provisions of Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, warranting prosecution. The Criminal Original Petition is allowed and the prosecution in Special Case No.8 of 2008, on the file of the learned Chief Judicial Magistrate, Madurai, is quashed. To 1.The Chief Judicial Magistrate, Madurai. 2.The Deputy Superintendent of Police, Directorate of Vigilance and Anti Corruption, Madurai District. 3.The Inspector of Police, Directorate of Vigilance and Anti Corruption, Madurai District.

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