

J.Sethuraman vs the State Rep.by

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Court : Chennai Orders

Decided On : Feb-28-2025

Judge : Honourable Mr Justice M. Nirmal Kumar

Appeal No. : CRL OP/3640/2025

Appellant : J.Sethuraman

Respondent : The State Rep.by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR CrI.O.P.No.3640 of 2025 and CrI.M.P.No.2398 of 2025 J.Sethuraman ... Petitioner Vs. The State, Rep. By The Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai City II, Alandur, Chennai - 600 016. (Crime No.141/2012). ... Respondent PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 15.11.2024 made in CrI.M.P.No.1190 of 2023 in C.C.No.31 of 2013 passed by the Special Judge, Special Court for the

cases under PC Act, Chennai - 104. For Petitioner : Mr.K.Sukumaran For Respondent : Mr.S.Udayakumar, Government Advocate (Crl. Side)

ORDER

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The petitioner, who is facing trial in C.C.No.31 of 2013 before the learned Special Judge, Special Court for the cases under PC Act, Chennai, has filed a petition under Section 91 Cr.P.C in Crl.M.P.No.1190 of 2023 in C.C.No.31 of 2013 to produce the following documents: (a)The General Diary of DVAC for the period from 30.07.2012 to 10.09.2012. (b)Visitors Book of DVAC for the period from 30.07.2012 to 10.09.2012. (c)Visitors Book of Directorate of Industries and Commerce, Mandaveli for the period from 30.07.2012 to 10.09.2012. (d)Incoming Tapal Register of Directorate of Industries and Commerce, Mandaveli for the period from 30.07.2012 to 10.09.2012. (e)Outgoing Tapal Distribution Register of Directorate of Industries and Commerce, Mandaveli for the period from 30.07.2012 to 10.09.2012. (f)Visitor's Book of Tamilnadu Cooperative Milk Producers Federation Limited for the period from 30.07.2012 to 10.09.2012. (g)Incoming Tapal Register of Tamilnadu Cooperative Milk Producers Federation Limited for the period from 30.07.2012 to 10.09.2012. (h)Outgoing Tapal Distribution Register of Tamilnadu Cooperative Milk Producers Federation Limited for the period from 30.07.2012 to

Page No.2 of 9 10.09.2012. (i)Pocket Diary of PW10 - Mr.Shanmugam for the period from 30.07.2012 to 10.09.2012. (j)Tapal Distribution Register of Incoming Tapals and the Despatch Register of Outgoing Tapals maintained in the DVAC. The Trial Court, by order, dated 15.11.2024 dismissed the above said petition, against which, the present Criminal Revision Case is filed.

2.The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case on the complaint of the defacto

complainant and no way connected to the case. He further submitted that the petitioner was employed in Tamil Nadu Electricity Board and that he was not allotted any additional duty in Adyar Division and he was only looking after the jurisdiction of IT Corridor Division alone. In this case, the defacto complainant/decoy in his evidence admits that whenever any person entered the Government Office, they used to make entry of the visitors name in the Visitors Book and that since the Tamil Nadu Electricity Board and DVAC are Government Offices, necessary entries would have made. In this case, based on the letter of DVAC, PW3/Azhagumalai and Page No.3 of 9

PW11/Jeevanantham were summoned. The General Diary is to be maintained in the DVAC Office which would show the entry of the decoy and the two official witnesses with date and time. He further submitted that the witnesses present in the DVAC Office even prior to the complaint, no requisition was made to them. With such interested witnesses, the petitioner was falsely implicated, hence the Visitors Books of DVAC, Directorate of Industries and Commerce, Mandaveli and Tamil Nadu Cooperative Milk Producers Federation Limited would prove the presence of PW3 and PW11 in the DVAC office along with decoy, is highly doubtful.

3.The learned counsel further submitted that the Trial Court dismissed the petition under Section 91 Cr.P.C merely recording the petitioner's contention and the counter filed by the respondent that the documents sought for from the DVAC were lost in the flood of the year 2015 and other documents sought from the Directorate of Industries and Commerce and Tamil Nadu Cooperative Milk Producers Federation Limited cannot be obtained by DVAC since it does not fall under the administrative jurisdiction of the respondent. Added to it, the Trial Court dismissing the petition is not proper in view of the admission of PW10 that the Pocket Page No.4 of 9

Diary would contain the minutes of the day to day activities of the Investigating Officer and referring to the decision of this Court in Saravanan and others v. State represented through the Inspector of Police, Vaipoor Police Station, Vaipoor in Crl.O.P.No.5272 of 2023, dated 17.03.2023 is also not proper.

4.The learned Government Advocate (Crl. Side) appearing for the respondent filed counter reiterating the submissions made before the Trial Court and submitted that the charge sheet in this case filed on 03.10.2013 and that the copies furnished to the petitioner under Section 207 Cr.P.C. After examination of PW1 to PW11 and marking of Exs.P1 to P29 and after questioning under Section 313 Cr.P.C, the petitioner filed a petition under Section 311 Cr.P.C to recall PW10, PW12 and PW13 for cross examination. After ten years, to protract the trial which is pending for the more than ten years, the petitioner has filed the petition under Section 91 Cr.P.C seeking the above said documents. Since the documents (a), (b) and (j) viz., General Diary, Visitors Book and Tapal Distribution Register are more than ten years old and further due to flooding in the year 2015, these documents are lost and not presently available. Added to it, the petitioner not made a ground Page No.5 of 9

during the cross examination of the relevant witnesses to seek the documents. Only at the penultimate stage, such petition filed which is nothing but to drag on the trial, hence he prays for dismissal.

5.Considering the rival submissions and on perusal of the materials, it is seen that the documents (a), (b) and (j) alone pertains to DVAC Office and that these three documents are lost in the flood of the year 2015 may not be a proper reason since the DVAC office at that point of time situated at second and third floor of the building and the floods not reached that level. Since the petitioner in the year 2023 had sought for the documents of the year 2012, the same may not be available, hence the documents destroyed due to flooding may not be proper reasoning. The petitioner is entitled to take recourse invoking Section 114 of Indian

Evidence Act.

6.As regards the documents (c) and (h) sought for from the Directorate of Industries and Commerce, Mandaveli and Tamil Nadu Cooperative Milk Producers Federation Limited are concerned, it is seen that in the petition under Section 91 Cr.P.C, they were not made as a party and no notice sent to them, hence the documents (c) and (h) cannot be sought
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through the DVAC. Not making the Directorate of Industries and Commerce, Mandaveli and Tamil Nadu Cooperative Milk Producers Federation Limited as party to the petition under Section 91 Cr.P.C would only show that the petitioner is not serious in seeking these documents. Since the documents (c) and (h) are more than ten years old, the same may not be available.

7.As regards the Pocket Diary (i) of PW10/Shanmugam, Investigating Officer is concerned, this document is also more than ten years old and it might not be available. It is to be noted that PW10 is deployed in Special Unit, not in a regular Police force.

8.In view of the above, this Court comes to the conclusion no grounds made to seek the documents (a) to (j) stated above. Hence, this Criminal Revision Case stands dismissed confirming the impugned order, dated 15.11.2024 in CrI.M.P.No.1190 of 2023 in C.C.No.31 of 2013 passed by the learned Special Judge, Special Court for the cases under PC Act, Chennai. Connected Miscellaneous Petition is closed. Page No.7 of 9

28.02.2025 Index : Yes/No Internet: Yes/No

Speaking Order/Non-Speaking Order

vv2 To 1.The Special Judge, Special Court for the cases under PC Act, Chennai.
2.The Deputy Superintendent of Police, Vigilance and Anti-Corruption, Chennai
City II, Alandur, Chennai - 600 016. 3.The Public Prosecutor, High Court, Madras.
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M.NIRMAL KUMAR, J.

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