

Selvam Vs. State

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Court : Chennai

Decided On : Dec-08-2011

Judge : C.T.Selvam, J.

Acts : Prevention of Corruption Act - Sections 7, 13(2) r/w 13(1)(d)

Appeal No. : Crl.R.C.No.1676 of 2011

Appellant : Selvam

Respondent : State

Advocate for Def. : Mr.A.N.Thambidurai, Adv.

Advocate for Pet/Ap. : Mr.M.Varadhan, Adv.

Judgement :

1. This revision arises against the order of the learned Special Judge and Chief Judicial Magistrate, Chengalpattu, passed in Crl.M.P.No.1025 of 2011 in Special Case No.4 of 2008 dated 08.08.2011.

2. A case stands registered against the petitioner in Crime No.13/AC/06 for offences under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act on the allegation that he accepted a bribe of Rs.750/- from one Rajalakshmi Ammal on 06.11.2006 at his office premises. Pursuant thereto, the residence of the petitioner was searched and an amount of Rs.6,07,500/-was seized. Presently,

charge sheet stands filed in the case in Crime No.13/AC/06 and it is pending trial in Special Case No.4 of 2008. Initially, though a case in Crime No.24/AC/2007 for offence u/s.13(1)(e) of Prevention of Corruption Act, 1988 was registered against the petitioner for holding assets disproportionate to his known source of income, further action in respect thereof was dropped.

3. The Court below has dismissed the petition seeking return of the amount of Rs.6,07,500/- seized from the petitioner on the reasoning that disciplinary proceedings were pending before the Tribunal and only after the conclusion of the enquiry therein it could be decided whether it was the property of the petitioner. The Court below further observed that on the petition of investigating officer, the records relating to the case registered in Crime No.24/AC/2007 for offence u/s.13(1)(e) of Prevention of Corruption Act, 1988, had been forwarded to the Tribunal. It failed to see that the money came to be seized from the petitioner pursuant to investigation in the case in Crime No.13/AC/06 relating to offence under sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act. The Court below observed that the amount is also one of the item involved in the case relating to disproportionate assets and therefore, it could not be ascertained whether the amount is properly accounted or not.

4. Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

5. In circumstances where the money return of which is sought was seized in connection with the case registered for offences under sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act and criminal proceedings in respect of Crime No.24/AC/2007 for offence u/s.13(1)(e) of Prevention of Corruption Act, 1988, stand dropped, there can be no embargo against return of monies seized to the petitioner. However, as an abundant caution, this Court directs the Court below to cause return of monies seized from the petitioner after:

(a) getting detailed proper panchanama prepared of such notes.

The detailed panchanama of the currency notes in question should be drawn by such Court Officer as designated by the learned Special Judge and Chief Judicial

Magistrate, Chengalpattu, in the presence of two panchayatdars and in the actual and physical presence of the Presiding Officer of the trial Court.

(b) causing a videograph of such currency notes at the expense of the petitioner

The videograph shall be taken in the presence of such Court Officer as designated by the learned Special Judge and Chief Judicial Magistrate, Chengalpattu and two panchayatdars and the same shall be preserved by the trial Court to be marked during trial. A certificate is to be recorded by the court officer as also the two panchayatdars and the person recording the videograph informing the place, time of recording the same. Such certificate shall also be marked along with the videograph in the course of trial.

(c) after taking self bond to the extent of about Rs.6,07,500/- from complainant which one surety for the like sum.

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