

Ramanjaneya Vs. State of Karnataka

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Court : Karnataka

Decided On : May-05-2011

Judge : K.N. Keshavanarayana

Appeal No. : Criminal Petition No.2256 of 2011

Appellant : Ramanjaneya

Respondent : State of Karnataka

Advocate for Pet/Ap. : For the Petitioner: P.S. Narasimha, Sr. Counsel Sainath, Advocate. For the Respondent: S. Rajendra Reddy, Advocate.

Judgement :

1. In this petition filed under Section 482, Cr.P.C.. the petitioner has sought for quashing the FIR, the charge-sheet and the entire criminal proceedings initiated against him by the respondent-Lokayukta Police, City Division, Bangalore in Spl.C.C.No.45/11 on the file of the Special Judge, Bangalore City.

2. The case of the prosecution is as under:

On 29.11.2010 one C. Narayanaswamy son of late Chikkonappa, resident of No.5, Classic Colony, Banglapet, Bommasandra, Bangalore, filed a complaint with the respondent-Lokayukta Police inter alia alleging that he being the absolute owner of the agricultural lands measuring 3 acres 11 guntas in Survey No.23/1; 1 acre 10 guntas in Survey No.23/2 and 33 guntas in Survey No.26, in all, 5 acres 14 guntas

of Thimmasandra village in Anekal taluk Bangalore Rural District, on 25.10.2010 presented an application addressed to the Tahsildar, Anekal taluk before the jurisdictional Revenue Inspector seeking conversion of the aforesaid agricultural lands to non-agricultural purposes; that the Revenue Inspector submitted a report to the taluk office on 26.10.2010 for and the Tahsildar after verifying the said report for warded the application and the report to the office of the Special Deputy Commissioner; that thereafter as sought for by the office of the Special Deputy Commissioner (for short "the Spl.D.C."), the Anekal Planning Authority submitted a report to the effect that the lands in question are located in the industrial zone; that thereafter on 14.11.2010, he met the Spl.D.C., Sri. Ramanjaneya (petitioner herein) and enquired with him about the application filed by him for conversion of the aforesaid lands; that at that time, the Spl.D.C. told him that the work would be done and by showing a person who was in the room, asked him to get a DD for `2 lakhs; that when he questioned the Spl.D.C. as to why the money should be paid, he was told that it was non-official; that when he asked as to in whose name he should get the DD, he was asked to get the same in the name of one Nalini; that at that juncture, he came to know that the demand for said money was towards bribe and when he asked that unknown person, he was told that if only the DD is given his work would be done; that thereafter when on 15.11.2010 he went to the office of the Spl.D.C. and met the concerned clerk, he was given an intimation, in writing to deposit the conversion fine in respect of land bearing Survey Nos.23/1 and 26; that when he questioned the said clerk about Survey No.23/2, the clerk told him to meet the Spl.D.C.; that however, he did not meet the Spl.D.C. thinking that if he meets him, Spl.D.C. would question him about the demand made for `2 Lakhs during the previous meeting; that therefore, he met the Additional Deputy Commissioner Sri. Nanjundeshwara, who informed him that in respect of Survey No.23/2, documents regarding grant of the said land from the Government are required to be furnished; that accordingly, on 16.11.2010 he furnished copies of those documents; that on 18.11.2010 along with his friend one Bhadrareddy, he met the Spl.D.C. and at that time Bhadrareddy requested the Spl.D.C. to get the work done, for that the Spl.D.C. by showing a person who was in the chambers asked him (the complainant) to pay `15,000/- and since he had no money to that extent, he told the Spl.D.C. that he would pay the said money by drawing the

amount from the SBM ATM located in City Civil Court Complex and thereafter, the amount of `15,000/- was paid to that person in the presence of Bhadrareddy; that on 19.11.2010 when he visited the office of the Special Deputy Commissioner, he collected the intimation regarding payment of conversion fine in respect of Survey No.23/2 and thereafter on 23.11.2010, he paid the conversion fines in respect of the aforesaid lands and submitted the original challans to the office of the Spl.D.C.; that on 25.11.2010 he met the Spl.D.C. and by informing that he has deposited the conversion fine, asked the Spl.D.C. to issue conversion order; that at that time, once again the Spl.D.C. asked him to get the DD for `2 Lakhs, however the complainant expressed his inability to pay the said sum as he is a poor former and for that the Spl.D.C. told him that, if DD is not brought he would reject the file and so saying he handed over the concerned file to his P.A.; that since he was not willing to get his work done by paying bribe, he decided to lodge a complaint before the Lokayuktha police; that accordingly, on 26.11.2010, he met the Police Inspector, Lokayuktha explained to him the entire events and at that time the police Inspector gave him a digital voice recorder, a button camera and asked him to go and meet the Spl.D.C. and to record as also to videograph the conversation; that on the same day he went to the office of the Spl.D.C to meet the Spl.D.C. but the Spl.D.C. was not present there, therefore, he went back to his house; that 27.11.2010 he went to the office to meet the Spl.D.C. but the Spl.D.C. was not present in the office; that at about 2.00 p.m. the Spl.D.C. came to the office and when he tried to meet the Spl.D.C., the Spl.D.C. did not speak to him properly and soon went out of the office; that he waited for the return of the Spl.D.C., and at about 4.00 p.m., the Spl.D.C. came back to office and when he met the Spl.D.C., on seeing him the Spl.D.C. told him that he would get the work done and by showing a person who was sitting in the chambers asked to pay `1 lakh, however, the complainant agreed to pay `50,000/- for which the Spl.D.C. agreed and all these conversation was both videographed and recorded.

3. On the basis of this complaint lodged at 11.15 a.m. on 29.11.2010, the Police Inspector Lokayuktha registered the case in Crime No.56/10 for the offence punishable under Section 13(1)(d) r/w Section 13(2) of Prevention of Corruption Act and thereafter made arrangements to lay a trap; thereafter the Police Inspector Lokayuktha secured presence of two independent witnesses from the KGID office

and in their presence drew up entrustment mahazar between 12.10 p.m. and 1.00 p.m. on the same day, during which period the complainant produced 50 currency notes of the denomination of `1,000/-; the details of those notes were noted down and all those notes were smeared with phenolphthalein powder on either sides and the same was kept in the pant pocket of the complainant; thereafter all of them came to the office of the Spl.D.C. and at about 4.00 p.m., the complainant met the Spl.D.C. along with a shadow witness and told the Spl.D.C. that he has brought the money as demanded and at the time the Spl.D.C. asked one Naveen (Accused No.3) who was there to get some other person and within about 5 to 6 minutes one aged person (accused No.4) came to the office of the Spl.D.C. and at that time the Spl.D.C. asked the said older person to go out and take the money; thereafter the complainant, said Naveen and the aged person came to the parking place where a Maruthi Swift car had been parked in which one Venkatesh Babu (accused No.2) was sitting and at that place, the old man asked the complainant to pay the money to the said Venkatesh Babu; thereafter said Venkatesh Babu took the complainant out of the Deputy Commissioner's Office compound and received the money from the complainant; thereafter the complainant gave the prearranged signal to the Lokayuktha Police who immediately surrounded and caught hold of Venkatesh Babu and others and thereafter brought them inside the chambers of the Spl.D.C. where they washed the hands of said Venkatesh Babu in colourless Sodium Carbonate solution which turned into pink and thereafter the money which had been received from the complainant was also recovered from the person of said Venkatesh Babu and on verification, those currency notes were found tallying with the serial numbers of the currency notes mentioned in the entrustment mahazar, therefore, those currency notes were seized, all the 3 accused persons along with the Spl.D.C. were apprehended and to this effect a detailed mahazar was drawn. After completing the investigation, the Investigating Officer has filed the charge-sheet against the petitioner herein and 3 others for the offences punishable under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act and Section 120-B of IPC. The Special Judge before whom the charge-sheet came to be filed took cognizance of the offences alleged and directed for issue of summons.

4. On coming to know of the same, the petitioner has presented this petition seeking to quash the entire proceedings inter alia on the ground that the respondent Lokayuktha Police has acted in the most unprecedented and outrageous manner without modicum of the respect for the well settled law and procedures in respect of registering the criminal cases against a public servant occupying top position in a department as enunciated by the Apex Court in the case of P. Sirajuddin v. State of Madras [AIR 1971 SC 520] that before registering the criminal case and lodging an FIR against the public servant, as laid down by the Apex Court in the aforesaid decision, the police officer ought to have held a preliminary enquiry to find out if there is prima facie evidence of guilt against the officer and such preliminary enquiry should be conducted in a fair and reasonable manner and not under any preconceived idea of guilt of the person and that the means adopted should be of higher standards, the preliminary enquiry should be limited to recording statements of the persons involved in the matter and to examine the document which have bearing on the matter and after such enquiry if the police officer finds that there is prima facie evidence of guilt then only he may resort to initiate criminal proceedings and in the present case if such preliminary enquiry had been conducted by recording the statements of the complainant and his friend Bhadrareddy who alleged to have witnessed the incident on 18.11.2010 and if the Investigating Officer had examined the records relating to the complainant, it would have revealed that the allegations made in the complaint against the petitioners are full of inconsistencies, totally absurd and inherently improbable on the basis of which no prudent man could ever reached a just conclusion about the existence of sufficient ground to proceed against the petitioner; that as per the allegations in the complaint, the complainant met, the petitioner for the first time on 14.11.2010 which date is the genesis of the entire allegations against the petitioner being a Sunday, the entire allegations made in the complaint are utter falsehood and that though according to the complainant on 18.11.2010 he withdrew Rs.15,000/- from his SB account through ATM and paid the same to the person shown by the petitioner, no such amount was drawn from the SB account on 18.11.2010 and in fact, as per the ATM customer advice filed along with the charge-sheet, the amount was withdrawn from the SB account on 19.11.2010 and this would also indicate the falsity of the allegations made in the

complaint; that even as per the complaint allegations on 19.11.2010 the challans were given to the complainant for payment of conversion charges which indicate that conversion work had been approved before the said date itself and on payment of the conversion charges, issue of conversion order was a matter of course; therefore, there were no occasion for the petitioner to demand any money from the complainant as bribe for doing any favour to the complainant; that even as per the case of the prosecution the alleged bribe money was not paid to the petitioner and therefore no case is made out against the petitioner for any of the offences alleged as such the entire proceedings lodged against the petitioner is liable to be quashed.

5. I have heard Sri. P.S. Narasimha, learned Senior Counsel appearing for the petitioner and Sri. Rajendra Reddy, learned counsel appearing for the respondent Lokayuktha.

6. The learned Senior Counsel appearing on behalf of the petitioner submits as under:

The allegations made in the complaint and in the FIR on their very face are absurd, inherently improbable and utter falsehood and the respondent police have proceeded with preoccupied and predetermined mind to foist a false case on the petitioner and thereby the respondent has crucified all the procedures contemplated by the Apex Court in Sirajuddin's case referred to supra; the duration within which the entrustment mahazar and trap mahazar said to have been drawn from the time of registration of the case would clearly indicate that the prosecution version as set out in these mahazars are false and got up versions to foist a false case on the petitioner; that the allegations made in the complaint itself would indicate that the work of the complainant regarding conversion was completed by the petitioner long prior to the date of trap and this is further fortified from the documents collected from the Investigating Officer during the investigation and produced along with the charge-sheet and from these materials it is clear that as early as 11.11.2010 itself, the petitioner had passed the orders calling upon the complainant to pay the conversion fees in respect of two lands and after the production of regrant certificate in respect of another land on

19.11.2010, the conversion order in respect of said land also was passed calling upon the complainant to pay the conversion fine as such there was nothing required to be done by the petitioner in respect of the request of the complainant for conversion, therefore, the allegations made by the complainant regarding demand for bribe are all utter false; that reading of Section 95(7) of the Karnataka land Revenue Act makes it clear that the question of directing payment of the conversion fine would arise only after conversion is permitted and after the payment of the conversion fine the issue of conversion order is a mere formality, therefore by 14.11.2010, conversion of the two lands had already been permitted and by 19.11.2010 conversion of another land also had been permitted as by those dates the complainant had been directed to pay the conversion fines and on 27.11.2010 the petitioner had signed all the 3 files concerning the complainant and thereby well before the date of FIR and trap, even the formal order of conversion order had been signed by the petitioner and the work of the complainant had been completed in all respects on 27.11.2010 and it is to overcome to this situation, the prosecution, appears to have come out with an afterthought that although the petitioner had signed the file on 27.11.2010 he retained the file on his table till 29.11.2010 and this version of the prosecution is inherently improbable and inherently false for the reason that there has been no allegation in the complaint that the petitioner having signed the files had retained the same with him without releasing the same and therefore this is clearly an afterthought created by the prosecution and there was no question of the petitioner retaining the file after having signed the same on 27.11.2010 as 27.11.2010 was a Saturday and the file having been signed in the afternoon, the same was sent to the case worker on the immediate next working day namely the Monday on 29.11.2010 and even according to the certified copy of the file movement register the files concerning the complainant were sent from the petitioner's chambers on 29.11.2010 itself and when the police raided the office of the petitioner the files were with the case worker and not in the chambers of the petitioner; that there has been inherent falsity in the complaint of the complainant as 14.11.2010 was a Sunday on which day no officer would attend the office, therefore, the allegations that on 14.11.2010 the complainant met the petitioner and at the time the petitioner demanded bribe of `2 lakhs is inherently false; the allegations that on 18.11.2010, a sum of

`15,000/- was paid by drawing the said amount through ATM is once again utter falsehood as even according to the documents produced along with the charge-sheet, the amount of `15,000/- was drawn through ATM on 19.11.2010; that the subsequent prosecution version that the further statement of the complainant and the witness Bhadrareddy to the effect that the incident happened on 19.11.2010 and by mistake the date was disclosed as 18.11.2010 in the complaint is also inherently false since on 19.11.2010, the complainant has done various other acts and therefore, payment of `15,000/- could not have happened on 19.11.2010; that the audio and video recording done on 27.11.2010 cannot be looked into at all in view of the decision of the Hon'ble Supreme Court in the case of Navinchandra v. State of Meghalaya [AIR 2000 SC 3275] as any evidence collected in private investigation cannot be presented by the public prosecutor in any trial; that the money said to have been recovered from the possession of accused No.2 has nothing to do with the petitioner and the telephone calls stated in the final report have nothing to do with the petitioner as even according to the prosecution, the SIM card of the said telephone number does not stand in the name of the petitioner, therefore, the recovery of the marked currency from the possession of accused No.2 cannot incriminate the petitioner herein for any of the offences alleged.

A written submission is also been filed on behalf of the petitioner.

7. Per contra, Sri. Rajendra Reddy contended that: the contentions urged on behalf of the petitioner in this petition are all in the nature of pleas which may be taken by way of defence during the trial and this Court in exercise of power under Section 482, Cr.P.C. cannot hold enquiry into the correctness of the case of the prosecution or the defence and this can be done only by the trial Court as such there are no grounds to quash the proceedings; that the materials produced before the Court along with the charge-sheet makes out prima facie case against the petitioner and the falsity in the case of the prosecution as pointed out by the petitioner has to be enquired into by the trial Court and the proceedings will have to be taken to its logical conclusion; that the materials collected during investigation prima facie indicates that accused Nos.2 to 4 are close associates of the petitioner herein and they had acted as the agents of the petitioner through

whom the petitioner had collected the bribe amount, therefore, though the bribe amount has been recovered from the possession of accused No.2, it was only at the direction and instruction of the petitioner, the complainant paid the bribe amount to the hands of accused No.2 therefore, the recovery of the bribe amount from the possession of accused No.2 is prima facie sufficient to prosecute the petitioner for the offences alleged; that the telephone call details between accused Nos.2 to 4 on the one hand and the petitioner on the other hand would clearly establish the unholy nexus between the petitioner and accused Nos.2 to 4 and this is required to be adjudicated by the trial Court during the trial and therefore at this state, it cannot be said that there are no prima facie material against the petitioner as such there are no ground to quash the proceedings. Therefore, he sought for dismissal of the petition.

8. In the facts and circumstances of the case and in the light of the submissions made on both sides, the point that arise for my consideration is,

“Whether the prosecution launched against the petitioner is liable to be quashed?”

9. The principles as to under what circumstances the High Court in exercise of its inherent powers under Section 482, Cr.P.C. could quash the FIR and/or the criminal prosecution, are well settled by catena of decisions.

In the case of *State of West Bengal v. Swapan Kumar* [AIR 1982 SC 949], it has been held that if on a consideration of the relevant materials the Court is satisfied that the offence is disclosed the Court normally does not interfere with the investigation into the offence and would generally allow the investigation of the offence to be completed for proving the offence. If on the other hand the Court on the consideration of the relevant materials is satisfied that no offence is disclosed, it will be the duty of the Court to interfere with any investigation and to stop the same to prevent any kind of uncalled for and unnecessary harassment to an individual.

In *State of Haryana v. Choudary Bhajan Lal* [AIR 1992 SC 604], the Apex Court after referring to the several decisions cited, by way of illustration indicated 7 categories of cases wherein the, extraordinary powers under Article 226 of the

Constitution or the inherent powers under Section 482, Cr.P.C. should be exercised. The categories enumerated in para 108 are as under:

“108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down and precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.
2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.
3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.
4. Where, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.
5. Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala-fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

In the case of *Brijnath Jha v. Sita Ram and another* [(2008) 8 SCC 77] : (AIR 2008 SC 2778), the Apex Court has held that while exercising jurisdiction under Section 482, Cr.P.C. the High Court would not ordinarily embark upon an enquiry whether the evidence in question is reliable or not or whether on reasonable appreciation of it accusation would not be sustained as it is the function of a trial Judge. It is further observed that the judicial process should not be an instrument of oppression or needless harassment, the Court should be circumspect and judicious in exercising discretion and should take all relevant facts and circumstances, into consideration before issuing process, lest it would be an instrument in the hands of private complainant to unleash vendetta to harass any person needlessly. It is also observed that at the same time the section is not an instrument handed over to an accused to short circuit a prosecution and bring about its sudden death.

In *R. Kalyani v. Janak C. Mehta and other* [2009 (1) SCC 576] the Apex Court has held thus in para 10:

“10. It is furthermore well known that no hard-and-fast rule can be laid down. Each case has to be considered on its own merits. The Court, while exercising its inherent jurisdiction, although would not interfere with a genuine complaint keeping in view the purport and object for which the provisions of Sections 482 and 483 of the Code of Criminal Procedure had been introduced by Parliament but would not hesitate to exercise its jurisdiction in appropriate cases. One of the paramount duties of the superior Courts is to see that a person who is apparently innocent is

not subjected to persecution and humiliation on the basis of a false and wholly untenable complaint.”

Keeping the aforesaid principles in mind let me consider the case on hand as to whether the exercise of power under Section 482, Cr.P.C. is warranted?

10-11. As noticed supra, the criminal law was set on motion through the complaint lodged by the complainant before the Police Inspector, Lokayuktha which contained allegations regarding the demand for bribe said to have been made by the petitioner herein for according permission for conversion of the agricultural lands owned by the complainant to non-agricultural purpose. From the perusal of the entire materials produced along with the charge-sheet, the copies of which are produced before this Court, it is prima facie clear that the petitioner at the relevant point of time was a public servant working as Spl.D.C. of Bangalore Rural District and he was the competent authority to accord permission for conversion of agricultural lands to non-agricultural purposes. At this stage, there also appears to be no serious dispute that the complainant C. Narayanaswamy being the owner of the three agricultural lands noted supra had filed application seeking conversion of these lands to non-agricultural purpose and a report in that regard had been submitted by the Tahsildar to the office of the Spl.D.C. and the concerned files were before the petitioner herein. No doubt, even as per the allegations made in the complaint, in respect of two lands on 15.11.2010 itself the complainant was given intimation to deposit the conversion fines and in respect of the other lands intimation of deposit of conversion fine was given on 19.11.2010. Section 95(7) of the Karnataka Land Revenue Act deals with procedure for use of agricultural lands for other purposes. As per sub-section (2) of Section 95, if any occupant of land assessed or held for the purpose of agriculture wishes to divert such land to any other purpose, he shall apply for permission to the Deputy Commissioner who may subject to the provision of that Section and the Rules made under the Act, grant or refuse permission on such condition as he may deem fit. As per sub-section (7) when any land assessed or held for the purpose of agriculture is permitted under sub-section (2) to be used for any purpose unconnected with agriculture, the Deputy Commissioner subject to any such rules as may be made by the State Government in that behalf require the payment of fine.

Thus reading of provision of Section 95(7) of the Act would indicate that it is only after the Deputy Commissioner permits the agricultural lands to be used for any purpose unconnected with agriculture he may require the person to pay the fine as per the rules. On this basis, since in the case on hand by the date of the complaint, intimation, to the complainant requiring him to deposit the conversion fine had been issued, it was contended that long before the date of complaint conversion sought had been permitted as such, there was no occasion for the petitioner to make any demand for bribe. But it is only after the deposit of the conversion fine, a conversion certificate would be issued and this would be well within the control of the concerned authority. Therefore, it cannot be said that the allegations made in the complaint regarding demand of bribe is *ex facie* false. The said aspect is required to be adjudicated by the trial Court. This Court while exercising the power under Section 482, Cr.P.C. cannot hold an enquiry and record findings on disputed facts. The questions whether the petitioner had already completed the work which he was required to be done in respect of the application filed by the complainant, and therefore, there was no occasion for the complainant to make any demand for bribe are the matters required to be considered by the trial Court during the full dressed trial.

No doubt the Apex Court in Sirajuddin's case, has held that before a public servant whatever be its status is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct and a first information is lodged against him, there must be some suitable preliminary enquiry into the allegations by a responsible officer. In the said decision, the Apex Court has also observed that such enquiry must proceed in a fair manner the enquiring officer must not act under any pre-construed idea of guilt of the person whose conduct was being enquired into or pursue enquiry in such a manner as to lead to an inference that he was bent upon securing the conviction of said person by adopting the measures which are doubtful validity or sanction. The Apex Court has further observed that when the enquiry is to be held for the purpose of finding out whether criminal proceedings are to be resorted to, the scope thereof must be limited to the examination of the person who have knowledge of the affairs of the delinquent officer and documents bearing on the same to find out whether there is any *prima facie* guilt of the officer. The submission of the learned Senior Counsel in this

regard in the present case is to the effect that before registering the case if the Investigating Officer had conducted a preliminary enquiry as directed to be held in Sirajuddin's case, it would have revealed that the allegations made in the complaint are all false but failure to do so has resulted in registration of a false case and creation of evidence, I find no substance in this contention. Reading of the allegations made in the complaint prima facie indicates demand made for bribe by the petitioner herein who is a public servant, from the complainant for discharging his official duty. Even according to the allegations in the complaint though the complainant visited the office of the Police Inspector Lokayuktha on 26.11.2010 and informed the Police Inspector about the demand for bribe, the Police Inspector did not proceed to register the case, instead he said to have provided a digital voice recorder and button camera to the complainant so that the conversation between the complainant and the petitioner with regard to the alleged demands for bribe could be recorded before registration of a case. It is only after perusal of the audio and video recordings, the Police Inspector appears to have satisfied himself about existence of prima facie case with regard to demand for bribe and proceeded to register the case by recording the statement of the complainant. No doubt, as per the complaint allegations the demand for bribe was made for the first time when the complainant said to have met the petitioner on 14.11.2010. 14.11.2010, no doubt, a Sunday. Merely because 14.11.2010 was a Sunday, it cannot be presumed that the allegations made in this regard is utter false. On this basis, at this state, it cannot be said that no such demand had been made. It is only during the trial of the case the contentions urged by the petitioner in this regard is required to be considered. Therefore, on this ground it cannot be said that the allegations made in the complaint are inherently false. According to the allegations in the complaint on 18.11.2010 the complainant and his friend Bhadrareddy said to have visited the petitioner and at that time the petitioner said to have demanded bribe of `15,000/- and accordingly the said amount was stated to have been paid by withdrawing the amount through ATM. Of course, as per the ATM advice slip produced along with the charge-sheet, the amount withdrawn from ATM was on 19.11.2010 and not on 18.11.2010. According to the documents produced along with the charge-sheet, during investigation the further statements of the complainant and Bhadrareddy have been recorded and in their further

statements they have disclosed that the demand and payment of `15,000/- was on 19.11.2010 and by mistake the date has been disclosed as 18.11.2010. The correctness of this version will have to be considered by the trial Court after the examination of the witnesses on oath. Therefore, at this stage, this Court cannot hold that the allegations made in the complaint in this regard is inherently false.

No doubt as per the contents of the trap mahazar, the marked currency notes were recovered from the possession of accused No.2. According to the complainant, the bribe amount of 50,000/- was handed over to accused No.2 as per the directions of the petitioner herein. According to the case of the prosecution, there is a unholy nexus between the petitioner on the one hand and accused Nos.2 to 4 on the other hand and these accused Nos.2 to 4 have acted as agents of the petitioner to collect the bribe money. Of course the petitioner has denied of having any connection with the accused Nos.2 to 4. However, on the basis of this denial it cannot be held that no case is made out against the petitioner. The prosecution has produced certain materials to establish the unholy nexus between the petitioner and accused Nos.2 to 4. The prosecution during the trial will have to prove these facts by acceptable evidence. It is for the trial Court to record a finding in this regard. Having regard to materials available on record, at this stage, there is no difficulty in holding that there are sufficient materials to prima facie indicate that the bribe amount was received by accused No.2 from the complainant as per the instructions of the petitioner. Therefore, at this stage, it cannot be said that there are no materials to proceed against the petitioner for the offences alleged. No doubt in the complaint there is no allegation that the petitioner had kept back the file even after according permission with a view to demand bribe. However reading of the entire materials produced along with the charge-sheet as a whole prima facie indicates that the file concerning the complainant were still with the petitioner till the evening of the 29.11.2010 and those files were moved out of the chambers of the petitioner only after coming to know of payment of bribe amount of `50,000/- to accused No.2. No doubt the Apex Court in AIR 2000 SC 3275 has held that private funded police investigation is not recognised in law and in the constitutional scheme the police and other statutory Investigation agency cannot be allowed to be hackneyed by those who can afford it and all complainant shall be investigated with equal fairness irrespective of financial capacity of the person lodging the

complaint. In my considered view this decision does not apply to the case on hand. In the present case, the investigation has not been funded by any private person. After the complainant narrated the incident of demand of bribe by the petitioner herein, the Police Inspector with a view to get himself satisfied about the genuineness of the allegations stated to have provided digital voice recorder and a button camera to the complainant so that the conversation that takes place between, the complainant and the petitioner could be recorded and videographed. This procedure adopted by the Police Inspector cannot be termed as entrusting the investigation to a private agency nor it can be said that the investigation was privately funded. Therefore, at this stage I find no illegality in the procedure adopted by the Police Inspector. Therefore, regard being had to the materials produced before the trial Court along with the charge-sheet, this Court is of the considered opinion that there are sufficient materials to prima facie indicate that the petitioner herein being a public servant demanded from the complainant bribe for discharging his official duty in according permission for conversion and pursuant to such demand he received the said bribe amount through accused No.2 on 29.11.2010 and thereafter dispatched the files pertaining to complainant. In this view of the matter, I am of the considered view that there are no grounds to quash the prosecution launched against the petitioner. Therefore, the petition lacks merit and is liable to be dismissed.

Accordingly, the petition is dismissed.

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