

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Cr1.O.P No.13062 of 2015

1. B.S.Ranganathan
2. S.Chockalingam
3. P.Sivasubramaniam
4. R.Dorairaj
5. K.Chandran

Petitioners

Vs.

State rep.by
Inspector of Police
Vigilance and Anti Corruption
Chennai
(Crime No.2/Ac/88/HQ)

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.55 of 2011 on the file of the Special Court for Vigilance and Anti Corruption, Chennai and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.Prabhakaran for
Mr.A.Saravanan

For Respondent : Mr.P.Govindarajan
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed under section 482 of Code of Criminal Procedure, 1973 praying to quash the entire proceedings of Calendar Case No.55 of 2011 pending on the file of Special Court for Vigilance and Anti Corruption, Chennai.

2. It is averred in the petition that the petitioners have been arrayed as accused Nos.1, 7, 10, 11 and 12 and they have been falsely implicated in the case registered in Crime No.2/AC/88/HQ. Further it is averred in the petition that these petitioners have been implicated merely on the basis of a statement alleged to have been given by an approver by name Elango on 29.7.1992. Under the said circumstances, present petition has been filed for getting the relief sought therein.

3. On the side of the respondent, a detailed counter has been filed, wherein it has been stated inter alia to the effect that the averments made in the petition are false and ultimately, praying to dismiss the same.

4. The only point that has now winched to the fore is as to whether the proceeding of C.C.No.55 of 2011 pending against the petitioners is liable to be quashed?

5. The learned counsel appearing for the petitioners has contended that a case has been registered in Crime No. No.2/AC/88/HQ on 14.10.1988. The concerned approver by name Elango has given a statement on 29.7.1992. Then only, the present petitioners have been roped in and further a final report has been filed on 23.9.1994 and some of the accused have filed a similar petition and this Court has quashed the entire proceedings merely on the ground of delay in conducting investigation and therefore, the same yardstick can also be applied to the present petitioners.

6. Per contra, the learned Additional Public Prosecutor has contended that against the petitioners and others, a case has been registered in Crime No. No.2/AC/88/HQ under section 120-B r/w Sections 167, 409, 420, 465, 467, 471 and 109 of Indian Penal Code and also under section 5(1)(d) r/w 5(2) of Prevention of Corruption Act and the respondent has conducted a detailed investigation and filed a final report on 23.9.1994 and therefore, on the basis of mere delay, which occurred due to frequent transfer of Investigating Officers and also obtaining necessary sanction, the proceeding against the petitioners cannot be quashed.

7. It is an admitted fact that an FIR has been registered in respect of offences alleged to have been committed from the year 1986 to 1987. It is also equally an admitted fact that the concerned case has been registered on 14.10.1988. The present petitioners have been roped in on 29.7.1992 simply on the basis of a statement alleged to have been given by an approver by name Elango and subsequently, the said approver has also passed away. Therefore, it is quite clear that six years delay has occurred in conducting investigation. In similar matter, this Court has quashed the entire proceedings.

8. Considering the fact that these petitioners have been arrayed as accused only on the basis of approver's statement alleged to have been given by 29.7.1992 and the said approver has passed away and also considering that an inordinate delay has occurred in conducting investigation, this Court is of the view that the entire proceeding relating to C.C.No.55 of 2011 is liable to be quashed.

In fine, this Criminal Original Petition is allowed and the proceeding of C.C.No.55 of 2011 on the file of Special Court, Vigilance and Anti Corruption, Chennai is quashed in respect of the present petitioners.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

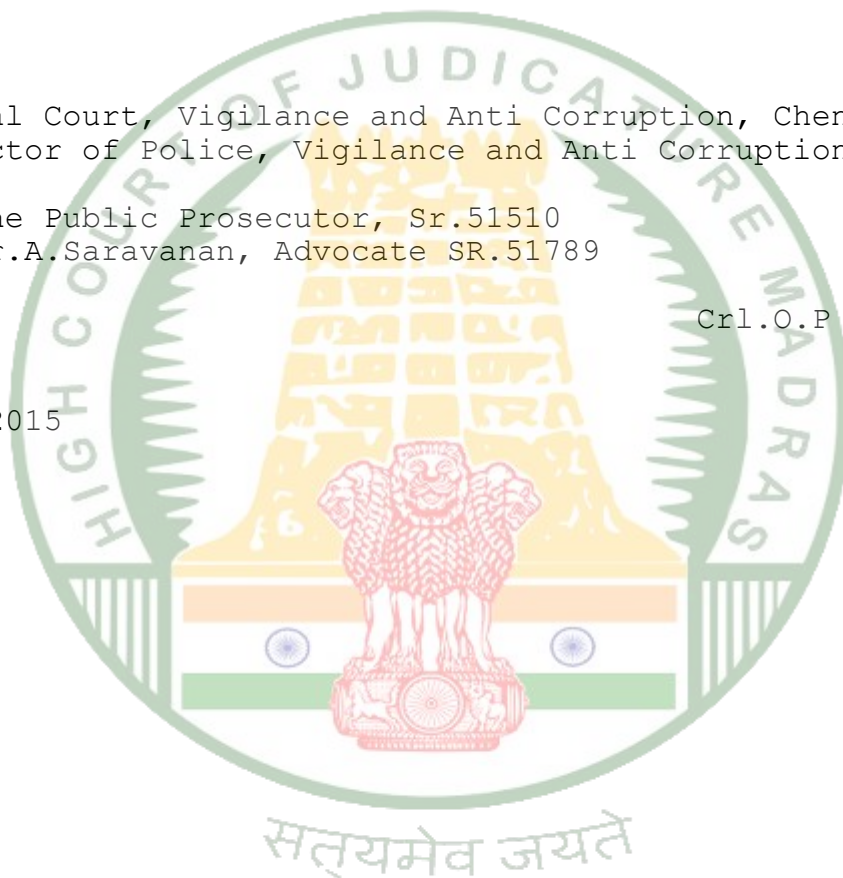
To

1. Special Court, Vigilance and Anti Corruption, Chennai
2. Inspector of Police, Vigilance and Anti Corruption, Chennai

+1cc to The Public Prosecutor, Sr.51510
+5cc to Mr.A.Saravanan, Advocate SR.51789

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srg 1.10.2015



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