

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22/9/2015

C O R A M

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K.SASIDHARAN

W.A. Nos.293 and 294 of 2014
a n d
M.P.Nos.1 and 1/2014 and 1/2015

1. The Director
Central Bureau of Investigation
CGO Complex, Lodhi Road
New Delhi 3.
2. The Deputy Inspector General of Police
Head of Branch
Central Bureau of Investigation
Anti Corruption Branch
Shastri Bhavan, Chennai 6.
3. L.S.Padmakumar
Additional Superintendent of Police
Central Bureau of Investigation
Anti Corruption Branch
Shastri Bhavan
Chennai 6.
4. Vellai Pandi
Additional Superintendent of Police
Investigating Officer
Central Bureau of Investigation
Anti Corruption Branch
Shastri Bhavan, Chennai 6.
5. C.S.Moni
Deputy Superintendent of Police
Central Bureau of Investigation
Anti Corruption Branch
Shastri Bhavan, Chennai 6.

... Appellants in both W.As/
Respondents 3 to 7

Vs

1. C. Rajan
2. Union of India
rep. By the Secretary to Government
Revenue Department
North Block
New Delhi 110 001.
3. The Director General of Directorate of
Revenue Intelligence
D-Block
I.P.Bhavan, I.P Estate
New Delhi 110 002.
4. F. Ubaidullah
5. Stalin Joseph. Respondents 1 to 5 in both the
appeals/Respondents 1,2,8 & 9
6. Hyundai Motor India Ltd
rep. By R.Sethuraman
Director - Finance
SIPCOT Industrial Park
Irungattukottai
Sriperumbudur
Kancheepuram 602 117. 6th respondent in W.A.No.294 of
2014/Respondent 10

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order passed in W.P.Nos.22374 and 22373 of 2012 dated 20/12/2013.

W.P.Nos.22373 and 22374 of 2012 : Petitions under Article 226 of the Constitution of India, praying for the issuance of Writs of Mandamus

i) Directing investigation by a special investigation team, investigate the circumstances in which FIR in R.C.M.A. 1 2012 A 0011 on the file of 4th Respondent was registered against the petitioner and take action against those responsible for fabricating false evidence and initiating the illegal criminal proceedings against the petitioner. (WP.22373 of 2012);

ii) Forbearing the respondents 3 to 7 from taking any further action on the basis of FIR in R.C.M.A. 1 2012 A 0011 on the file of 4th Respondent. (WP.22374 of 2012)

For appellants : Mr.K.Srinivasan in both W.As.

For respondents : Mr.V.Selvaraj
for R.1 in both W.As.

Mr.Velayutham Pichaiya
for R.2 in both W.As.

RR3 to 5 not ready in notice
in W.A.No.293 of 2014

RR3 and 6 not ready in notice
in WA No.294 of 2014

C O M M O N J U D G M E N T
(Delivered by SATISH K. AGNIHOTRI, J.,)

With the consent of the parties, the main appeals itself are taken up for final disposal.

2.Both appeals are directed against the common order dated 20th December, 2013 passed in W.P.Nos.22374 and 22374 of 2012.

3.The writ petitions were filed by the first respondent herein, seeking writ of mandamus directing investigation by a special investigation team to investigate the circumstances in which FIR in R.C.M.A.No.1 2012 A 0011 was registered against the writ petitioner and forbearing the respondents 3 to 7 therein from taking any further action on the basis of said FIR.

4.Both writ petitions were disposed of with the following directions :

"87.In view of the above, the writ petitions are disposed of, directing the first respondent, either to inquire by himself, into the representation of the petitioner dated 12.7.2012 about the circumstances under which the writ petitioner was allegedly fixed or in the alternative, to forward a copy of the petitioner's representation dated 12.7.2012 to the third respondent viz., the Director of the Central Bureau of Investigation, for a detailed inquiry into the same. In either case, the result of such inquiry shall be communicated to the petitioner within a

period of 8 weeks. If the outcome of such inquiry is indicative of any foul play, it will be open to the petitioner to seek appropriate remedy either in terms of the provisions of the Criminal Procedure Code or in terms of Article 226. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed."

5.The appellants herein are not aggrieved by the directions and also the consequential decision to be taken by the concerned authority. However, according to the learned counsel for the appellants, certain observations have been made against the appellants, without appreciating the same in proper context. The said observations may have ramifications on the decisions to be taken by the authorities and courts thereon and as such, the said observations deserve to be expunged in the interest of justice.

6.The learned counsel appearing for the first respondent / writ petitioner fairly submits that if such observations are expunged, that would not affect the merits of the case and the writ petitioner has no objection to the same.

7.We have considered the aforestated submissions carefully and also perused the pleadings and the impugned order. We are of the considered view that the said observations are obiter and criminal courts, wherein the cases are pending against the first respondent herein for consideration shall not be influenced by the said observations while considering the case on merit independently. Therefore, such observations, which are obiter dicta may not be taken as final, conclusive and binding on the courts while the matters pending in respect of the writ petitioner are considered. The competent court is required to deal with the matter independently, uninfluenced by any of the observations made by the learned Single Judge in the impugned order dated 20th December, 2013.

8.The writ appeals are disposed of. No costs. Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

mvs/vvk

Sub Assistant Registrar

To

1. The Secretary to Government
Union of India
Revenue Department
North Block
New Delhi 110 001.
2. The Director General of Directorate of
Revenue Intelligence
D-Block
I.P.Bhavan, I.P Estate
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3. The Director
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CGO Complex, Lodhi Road
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4. The Deputy Inspector General of Police
Head of Branch
Central Bureau of Investigation
Anti Corruption Branch
Shastri Bhavan, Chennai 6.

+1cc to Mr.V.Selvaraj, Advocate, S.R.No.51570

+1cc to Mr.K.Srinivasan, Special P.P. for CBI, S.R.No.51580

W.A. Nos.293 and 294 of 2014

TEJ(CO)
CA(07/10/2015)

सत्यमेव जयते

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