

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Crl.O.P.No.31165 of 2014

Farmers Sangam (Regd.)

Rep. By its General Secretary,

Kandasamy, S/o.Ponnae Gounder,

7/6, Kaveri Nilayam, Old Post Office Road,

Coimbatore District - 641 018.

.. Petitioner

vs

The State of Tamil Nadu,

Rep. By its Inspector of Police,

Vigilance and Anti Corruption,

Coimbatore.

.. Respondent/ Complainant

Prayer:- This Criminal Original Petition is filed under Section 482 Cr.P.C. to direct the respondent herein to file the final report in Crime No.16 of 2009 as detailed in the FIR pending before the Vigilance and Anti Corruption Court, Coimbatore within the stipulated time.

For Petitioner : Mr.C.R.Prasanan

For respondent : Mr.V.Arul

Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner/Farmers Sangam (Regd.) seeking for direction, directing the respondent police to investigate the matter and file a final report in Crime No.16 of 2009 within the time stipulated by this Court.

2.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials available on record.

3.The learned counsel appearing for the petitioner would submit that on the basis of the complaint given by one Karunakaran stating that the proposed accused has committed lot of irregularities and forged the signature of the farmers, FIR has been filed under

Sections 120-B, 409, 157, 420, 465, 468, 471, 477-A and 13(2) r/w. 13 (1)(C) and (d) of the Prevention of Corruption Act, 1988. Even though, the case has been registered on 06.08.2009, the respondent police has not shown any interest to investigate the matter and file a charge sheet. Hence, the above petition has been filed for the relief stated above. He would also relied upon the decision of the Hon'ble Apex Court reported in 2012 (4) SCC 1 (Lalita Kumari vs. State of Uttar Pradesh and others).

4. Resisting the same, the learned Government Advocate (Crl. Side) filed a detailed counter and submit that the petitioner is not a competent person and he has not given any complaint. The de-facto complainant is one Karunakaran and on the basis of the complaint given by the said Karunakaran, preliminary enquiry has been conducted and then only, case has been registered. During the investigation, it was found that it is a fit case for ordering disciplinary proceedings and not to file a final report. Thereafter, on the basis of the letter given by the Agricultural Production Commissioner and Secretary to Government, disciplinary proceeding has been ordered and the final report has also been filed. So, there is no need to file a charge sheet. Hence, he prays for dismissal of the petition.

5. Considered the rival submissions made on both sides and perused the typed set of papers.

6. The FIR shows that the complaint has been given by one Karunakaran, son of Sankara Narayanan on 06.08.2009 and on that basis, a case has been registered in Crime No.16/2009/AC/CB. It is true that investigation has been done and during the investigation, it was found that it was not fit case for filing charge sheet and it is only a case for taking departmental action as per Rule 87 of Manual of the Directorate of Vigilance and Anti-Corruption, wherein it was stated whether disciplinary proceeding is necessary or criminal proceeding is necessary and it was also stated that in cases involving flouting of Government Orders/norms/procedures, etc. only departmental action is necessary.

7. It is appropriate to incorporate Rule 87 of Manual of the Directorate of Vigilance and Anti-Corruption, which reads as follows:

87. Recommendations for Enquiry by Tribunal for Disciplinary Proceedings or for Departmental Action - Criteria

(1) In Detailed Enquiries and Regular Cases or Trap Cases where enquiry by Tribunal for Disciplinary Proceedings or Departmental Action, is preferred to prosecution, recommendations are made in the Final Reports either for enquiry by the Tribunal for Disciplinary Proceedings or for Departmental Action, depending on the nature of the allegations held substantiated or the quality of evidence that have come

forth. In making the recommendation as to the forum to which the case is to be referred, the criteria will be as follows:-

- | | | |
|--|---|--------------------------------|
| (i) Cases involving corruption
Tribunal for
Proceedings | - | Enquiry by the
Disciplinary |
| (ii) Cases involving possession
of disproportionate assets | - | -do- |
| (iii) Cases involving misappropriation
of Government funds through
forgery or falsification of
accounts indicating lack of
integrity on the part of the
Accused Officers | - | -do- |
| (iv) Cases involving huge loss of
Government funds and
resultant pecuniary advantage
to Private Individuals. | - | -do- |
| (v) Cases where there is a gross
neglect on the part of AOs,
deviation from norms and
procedures, resulting in
pecuniary gain to Private
Individuals and leading to an
inference that corrupt intention
has come into play. | - | -do- |
| (vi) Cases involving violation of
conduct rules | - | Departmental Action |
| (vii) Cases involving flouting of
Government Orders/norms/
procedures, etc. | - | -do- |

(2) While making their recommendations in accordance with the above criteria, brief reasons for such a recommendation should be incorporated in the Final Reports, by the Investigating Officers.

8. Furthermore, this petitioner is not a de-facto complainant and if the de-facto complainant is aggrieved against the non-filing of the charge sheet, he must take action as contemplated in Criminal Procedure Code. This petitioner is only a third party even though he is alleged to be a beneficiary under the Government Order passed. In such circumstances, I am of the view that this petitioner has no locus standi to agitate the same. Further, the learned counsel appearing for the petitioner has also relied upon the decision of the Hon'ble Apex Court reported in 2012 (2) SCC 1, wherein the case has been referred to the Constitutional Bench and in that, direction has been given to register a case and not for filing a final report or for filing a charge sheet and hence, the above citation is not applicable to the facts of the present case.

9.Further, as per the memo filed by the respondent police, wherein it was specifically stated that further action against the accused was dropped and it was directed to take departmental action against the erred official. In such circumstances, I do not find any merits in this petition and the petition deserves to be dismissed.

10.Recording the memo filed by the respondent police, this Criminal Original Petition is dismissed.

Sd /-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

cse

To

1.The Inspector of Police,
Vigilance and Anti Corruption,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

+ 1 C.C. TO MR.C.R.Prasanan Advocate Sr.7064

+ 1 C.C.TO Public Prosecutor Sr.6759

सत्यमेव जयते

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