

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P No.23612 of 2013
& M.P.Nos.1 and 2 of 2013

Kulandaivelu

.. Petitioner

Vs

The State rep. by:

Deputy Superintendent of Police,
Vigilance and Anti Corruption
Dharmapuri District.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records which are pending on the file of Chief Judicial Magistrate, Krishnagiri, pertaining to C.C.No.3 of 2011 (in Crime Number 6/AC/2009/K.G. of 2010 on the file of respondent police) and quash the same.

For Petitioner : Mrs.Selvi George

For Respondent : Mr.R.Jayapratap
Govt.Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed under section 482 of the Code of Criminal Procedure, 1973 praying to call for records relating to Calendar Case No.3 of 2011 pending on the file of Chief Judicial Magistrate, Krishnagiri and quash the same.

2. It is averred in the petition that the petitioner has served as Assistant in Municipal Office, Hosur. On the basis of the complaint preferred by the defacto complainant, investigation has been done and a final report has been filed on the file of Chief Judicial Magistrate Court, Krishnagiri, wherein the petitioner has been arrayed as 2nd accused. In the final report, it is stated that the petitioner and the first accused have committed offences punishable under sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. Further it is averred in the petition that the petitioner has no connection whatsoever with the alleged offences and he has been falsely implicated in the final report filed in C.C.No.3 of 2011. Under the said circumstances, present petition has been filed for getting the relief sought for therein.

3. The only point that comes up for consideration in the present Criminal Original Petition is as to whether for the reasons stated therein, the petitioner/accused NO.2 can be discharged from the proceedings of C.C.No.3 of 2011, pending on the file of Chief Judicial Magistrate, Krishnagiri.

4. The learned counsel appearing for the petitioner has contended that during the relevant period, the petitioner has served as an Assistant in Municipal Office, Hosur and he has no connection whatsoever with the alleged offences and in fact, even in the complaint alleged to have been given by the defacto complainant, no mention has been made about the petitioner and the respondent without conducting proper investigation and also without considering the role alleged to have been played by the petitioner, has erroneously implicated him as second accused in C.C.No.3 of 2011. Under the said circumstances, the present petition has been filed for getting the relief sought for therein.

5. Per contra, the learned Government Advocate (crl.side) has also equally contended that in the statement alleged to have been given by one Muthuveerappa, the actual role played by the petitioner/second accused has been specifically mentioned. Under the said circumstances, he has been arrayed as second accused in C.C.No.3 of 2011 and further in C.C.No.3 of 2011, necessary charges have been framed and some of the prosecution witnesses have been examined. Under the said circumstances, relief sought for in the petition cannot be granted.

6. In fact, this Court has perused the complaint alleged to have been given by the defacto complainant, wherein no mention has been made about the present petitioner, but, on the other hand, necessary allegations have been made so as to proceed against one Vajiravelu, who has been arrayed as first accused in C.C.No.3 of 2011. Further, this Court has perused the statement of the official witness by name Muthuveerappa, wherein also no specific allegations have been made with regard to demand and also receipt of Rs.5,000/- from the defacto complainant on the part of the present petitioner. In the statement given by the said Muthuveerappa, it has been specifically stated that the first accused has received Rs.5,000/- from the defacto complainant and placed the same on a register. Except the allegations made against the first accused, no specific allegations with regard to demand and also receipt of Rs.5,000/- from the defacto complainant have been mentioned in the statement given by the said Muthuveerappa.

7. It has already been pointed out that no specific allegations have been made against the present petitioner with regard to demand and receipt of Rs.5,000/- by way of bribe from the defacto complainant. Likewise, in the statement given by official witness, no specific allegation has been made against the present petitioner and therefore it is quite possible to state that the respondent, without conducting proper investigation and also without considering the lack of evidence with regard to demand as well as receipt of Rs.5,000/- from the defacto complainant on the

part of the petitioner, has erroneously implicated him as second accused in C.C.No.3 of 2011. Under the said circumstances, the relief sought for in the present petition can be granted.

In fine, this Criminal Original Petition is allowed. The proceeding of C.C.No.3 of 2011 pending on the file of Chief Judicial Magistrate, Krishnagiri against the petitioner is quashed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ajr

To

1. Chief Judicial Magistrate, Krishnagiri.

2. Deputy Superintendent of Police,
Vigilance and Anti Corruption
Dharmapuri District.

3.The Public Prosecutor,
High Court, Madras.

+2 cc to Mrs.Selvi George, Advocate, sr.43948, 43691.

Cr1.O.P No.23612 of 2013

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