

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.OP No.22332 of 2015
& M.P.No.1 of 2015

S.Soundappan

.. Petitioner/Accused

Vs

Inspector of Police,
Vigilance and Anti Corruption
Salem

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 17.6.2015 made in Crl.M.P.No.260 of 2015 in Spl.C.C.No.15 of 2014 on the file of Special Judge (Special Court for Trial of Cases under Prevention of Corruption Act), Salem and to allow the above Criminal Original Petition.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

The learned Additional Public Prosecutor has taken notice for the respondent.

2. The impugned order dated 17th day of June, 2015 passed in Crl.M.P.No.260 of 2015 in Special Calendar Case No.15 of 2014 by the Special Judge (Special Court for Trial of Cases under Prevention of Corruption Act), Salem is being challenged in the present Criminal Original Petition.

3. The petitioner herein, as petitioner, has filed Crl.M.P.No.260 of 2015 in Spl.C.C.No.15 of 2014, pending on the file of Special Judge (Special Court for Trial of Cases under Prevention of Corruption Act), Salem, wherein the present respondent has been shown as sole respondent.

4. It is averred in the petition that the petitioner has been arrayed as sole accused in Special Calendar Case No.15 of 2014, wherein some witnesses have been examined on the side of the prosecution. For the purpose of clarifying G.O.Ms.No.512 dated 23.3.1984, P.W.1 has to be recalled. Under the said circumstances, the petition in question has been filed for getting the relief sought for therein.

5. The trial court, after considering the divergent contentions raised on either side, has dismissed the petition. Against the dismissal order, the present Criminal Original Petition has been filed.

6. The learned counsel appearing for the petitioner has contended that as per G.O.Ms.No.512 dated 23.3.1984, only the concerned District Revenue Officer is empowered to appoint Village Administrative Officers or to remove them. Under the said circumstances, for making proper clarification, P.W.1 has to be recalled and therefore, the petition in question has been filed, but the court below has dismissed the same.

7. The learned Additional Public Prosecutor has represented that in paragraph 9 of the order passed by the trial court, G.O.No.2600 dated 18.11.1980 has been properly interpreted and the petition in question has been filed unnecessarily and therefore, the dismissal order passed by the court below is not liable to be set aside.

8. In fact, this Court has perused the impugned order passed by the Court below, wherein the Court below has simply relied upon G.O.No.2600 dated 18.11.1980.

9. The present petition has been filed only on the strength of G.O.Ms.No.512 dated 23.3.1984.

10. Considering the fact that the present petition has been filed only on the strength of G.O.Ms.No.512 dated 23.3.1984, the conclusion arrived at by the court below is totally erroneous and further sufficient opportunity must be given to the petitioner to clarify as to whether G.O.Ms.No.512 dated 23.3.1984 is applicable to the present case? Under the said circumstances, the impugned order passed by the Court below is liable to be set aside.

In fine, this Criminal Original Petition is allowed. The order dated 17th day of June, 2015 passed in CrI.M.P.No.260 of 2015 in Spl.C.C.No.15 of 2014 on the file of Special Judge (Special Court for Trial of Cases under Prevention of Corruption Act), Salem is set aside. The petition filed in CrI.M.P.No.260 of 2015 is allowed and the Court below is directed to follow proper procedure so as to recall P.W.1. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge (Special Court for Trial of Cases
under Prevention of Corruption Act),
Salem

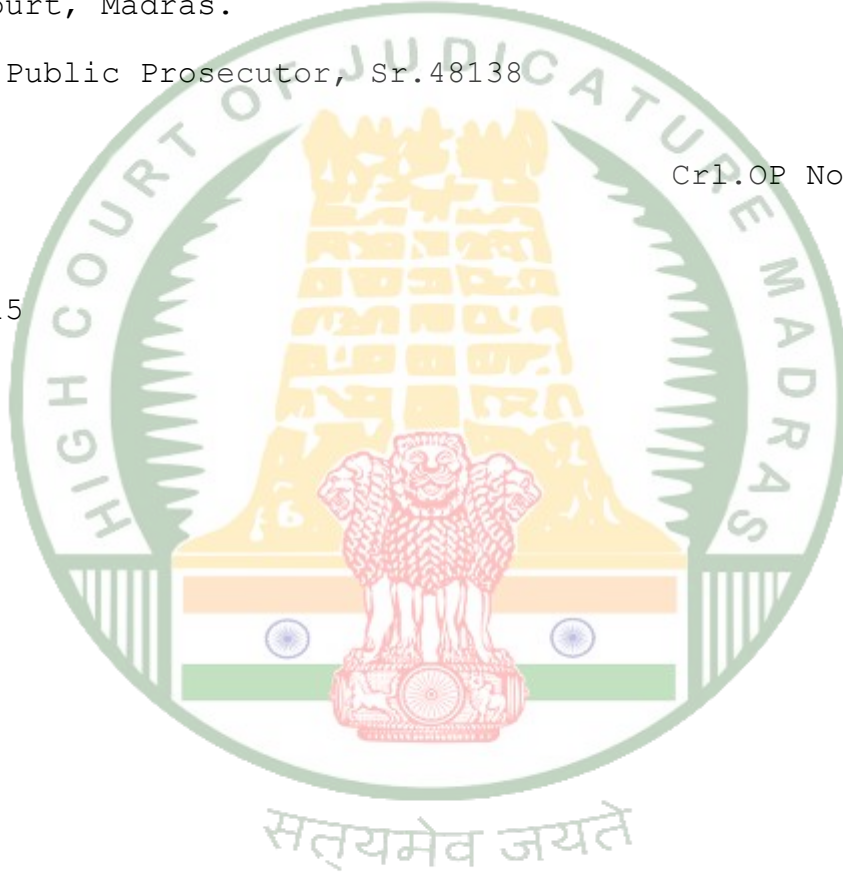
2. The Inspector of Police,
Vigilance and Anti Corruption
Salem

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Public Prosecutor, Sr.48138

Cr1.OP No.22332 of 2015

MG(CO)
Eu 23.09.15



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