

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P No.21852 of 2009

&

M.P.No.2 of 2009

1. Kannan

2. E.S.Kumaresan

...Petitioners

Vs.

1. State by the Deputy Superintendent of Police
Vigilance and Anti Corruption
Vellore, Vellore District

2. C.K.Mani

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the learned Chief Judicial Magistrate, Vellore in C.C.No.6 of 2002 on his file and quash the proceedings therein as far as it relate to the petitioners herein.

For Petitioners : Mr.K.S.Rajagopalan

For Respondent-1 : Mr.P.Govindarajan
Addl. Public Prosecutor

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.6 of 2002 pending on the file of the learned Chief Judicial Magistrate, Vellore and quash the same.

2. It is averred in the petition that the petitioners have been arrayed as accused Nos.6 and 7 in C.C.No.6 of 2002. The sixth accused during the relevant period has served as Reveune Officer, whereas the seventh accused has served as Superintendent (Market), Vellore Municipality. The 2nd respondent, as defacto complainant, has given a complaint against the petitioners and other accused and the same has been investigated by the first respondent and ultimately final report has been filed under sections 120-B, 420 and 406 of Indian Penal Code and also under section 13(1)(d) and 13

(1)(e) of Prevention of Corruption Act, 1988. Further, it is averred in the petition that the petitioners have no connection whatsoever with the alleged offences and they have been falsely implicated in C.C.No.6 of 2002 and under the said circumstances, present petition has been filed for getting the relief sought for therein.

3. Before contemplating the rival submissions made on either side, the Court has to look into the consistent case put forth on the side of the first respondent. During the relevant period, the fourth accused has served as Commissioner of Vellore Municipality, fifth accused has served as A.15 Clerk in the said Municipality, sixth accused has served as Revenue Officer and the seventh accused has served as Market Superintendent in the said Municipality. The accused 1 to 3 are private persons. With regard to granting of license in respect of Cycle stands, which situate in the Bus Stand, Vellore, auction has been conducted. The remaining accused 4 to 7 with their active connivance have failed to collect license amount. Under the said circumstances, all the accused are said to have committed offences mentioned in the final report.

4. The learned counsel appearing for the petitioners has sparingly contended that with regard to sixth accused, the present petition is being not pressed. The seventh accused, during the relevant period has acted as Superintendent in Vellore Municipality and he has had no connection whatsoever with the alleged offences and therefore, the proceedings against the seventh accused are liable to be quashed.

5. The learned Additional Public Prosecutor has contended that the accused 4 to 7 with their active collusion with the accused 1 to 3, have failed to collect auction fees from the accused 1 to 3 and under the said circumstances, a complaint has been lodged and the same has been properly investigated and ultimately final report has been filed under sections 120-B, 420 and 406 of Indian Penal Code and also under section 13(1)(d) and 13(1)(e) of Prevention of Corruption Act, 1988 and therefore, the present petition is liable to be dismissed.

6. For the purpose of analyzing the rival submissions made on either side, the Court has to look into the abstract (G.O.Ms.No.1773, Rural Development and Local Administration Department dated 18.11.1982) furnished on the side of the respondent, wherein at stage 6, it is mentioned as follows:

"Stage 6: The Revenue Inspector and Revenue Officer should collect the lease amount and remit them regularly. The Revenue Inspector should bring to the notice of the Revenue Officer about the defaulters in the payment of

lease amount. The Revenue Officer should bring it to the notice of the Executive Authority for information and necessary action. The Clerks who are maintaining the M.D.R. should also put up to the Executive Authority through the Revenue Officer for its cancellation or re-auction. With all this, the Executive Authority should be vigilant at all stages in the matter of collection of lease amount and supervision over the staff."

7. Even from a mere reading of Stage 6, the Court can easily discern that no mention has been made with regard to 7th accused. Further, it is learnt that the remaining accused are liable for the alleged offences. Since no mention has been made with regard to 7th accused, it is needless to say that the proceeding against the 7th accused is liable to be quashed. Further, the learned counsel appearing for the petitioners has made an endorsement to the effect that he is not pressing the petition with regard to A.6. Under the said circumstances, present petition is liable to be allowed in part.

In fine, this Criminal Original Petition is allowed in part. The proceeding of C.C.No.6 of 2002 pending on the file of the Chief Judicial Magistrate Court, Vellore, in respect of 7th accused is quashed and the Criminal Original Petition is dismissed in respect of 6th accused. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ajr
To

1. The Chief Judicial Magistrate,
Vellore

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

3. The Public Prosecutor,
High Court, Madras. (SR 50403)

+1 cc to K.S.Rajagopal, Advocate (sr.50067) 2/11/2015

Cr1.OP No.21852 of 2009

KGK (CO)
PSI (01.10.2015)