

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 07-12-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Crl.O.P.No.28000 of 2015

1. P. Vijayakumar
 2. R. Rangaraj
 3. A.R. Srinivas
 4. K. Hanumant Raju
- ...Petitioners

Vs.

The State represented by
Deputy Superintendent of Police
Crime Branch CID, OCU-II
Crime No.46 of 1996
Chennai - 600 008

...Respondent

For petitioners:: Mr. V. Gopinath, SC
M/s.N. Manokaran
R. Renukadevi

For respondent :: Mr. P. Govindarajan
Addl.P.P.

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 Special Calendar Case No.1/2014 pending on the file of the X Additional Special Judge, Chennai and quash the same.

2. It is averred in the petition that during the relevant period, the first petitioner has acted as Process Manager and second petitioner has acted as Janata Scheme Manager in Co-optex. The third petitioner is nothing but a businessman in Bangalore. The fourth petitioner is a Secretary of Kamatchipalaya Silk Handloom Weavers' Co-operative Society, Bangalore. Further, it is averred in the petition that the petitioners have been shown as accused Nos.5,6,8 and 10 in Special Calendar Case No.1 of 2014. Further, it is averred in the petition that the petitioners have been falsely implicated in Special C.C.No.1 of 2014 and no materials are found place against them. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

3. The learned Senior Counsel appearing for the petitioners has befittingly contended that the accused Nos.1 and 2 have already filed Crl.O.P.Nos.7249 and 7263 of 2015 on the file of this Court for identical relief wherein after hearing arguments of both sides, this Court has allowed the same on 29-10-2015 and in the order passed by this Court it has been specifically held that there is no scope for proceeding further against the petitioners mentioned therein. In the said circumstances, the same yardstick can also be applied to the present petitioners.

4. It is an admitted fact that the accused Nos.1 and 2 have filed Crl.O.P.Nos.7249 and 7263 of 2015 on the file of this Court for identical relief, wherein after hearing elaborate arguments of both sides, this Court has allowed both the petitions. In the order at Paragraph Nos.8 to 12, this Court has observed as follows:

"8. It is an admitted fact that the Investigating Officer has submitted a report on 05-04-2004 wherein at Paragraph No.4, it is stated like thus:

"However, when the materials gathered so far in this case have been scrutinized thoroughly, it came to light some irretrievable shortcomings, which would prove fatal to prosecution in the event of launching of prosecution. A detailed report narrating the shortcomings is enclosed. The report and the C.D files were already perused by Senior Legal Advisor, CBCID and approved."

9. The Inspector General of Police has submitted a report on 28-04-2004, wherein it is stated thus:

"During investigation, no evidence has come forth whether the accused public servants had gained any pecuniary benefit following the commercial decision taken by the accused in the purchase of silk sarees, directly purchased from the two Societies (i) M/s. Mahalakshmi Silk Handloom Weavers Co-operative Society, Bangalore and (ii) M/s. Kamakshipala Silk Handloom weavers Production and Sales Co-operative Society Ltd., Bangalore, Karnataka State. Further witnesses have clearly spoken that the sarees procured from the two Societies were good in quality and there is no material available to establish that Co-optex actually incurred loss due to the transaction made with the two Societies.

It is further stated that due to efflux of time

and change of circumstances it will not throw any new light in this case even if further investigation is conducted."

10. In a confidential report it is stated like thus:

"On the assumption that the various lacunae are found upon the records perused by me, I am of the considered opinion that in the context of the short comings in the investigation, the case may not be pursued further and further action against all the accused may be dropped."

11. In the concluding report, it is stated that,

"During investigation, no evidence has come forth whether the accused public servants had gained any pecuniary benefit following the commercial decision taken by the accused in the purchase of silk sarees directly purchased from the two societies (i) M/s. Mahalakshmi Silk Handloom Weavers Co-operative Society, Bangalore and (ii) M/s. Kamakshipalya Silk Handloom weavers Production and sales Co-operative Society Ltd, Bangalore, Karnataka State. Further witnesses have clearly spoken that the the sarees procured from the two Societies were good in quality and there is no material available to establish that Co-optex actually incurred loss due to the transaction made with the two Societies."

12. Further, it is observed in the concluding report that "Dropping of further action as Mistake of fact."

5. Considering the fact that the Investigating Officer has already conducted investigation and filed a report by way of stating that no materials are available so as to proceed further against the accused concerned and also considering that in Crl.Nos.7249 and 7263 of 2015, this Court has accepted the contentions put forth on the side of the petitioners, it is needless to say that the same yardstick can also be applied in the present petition and the relief sought in the present petition can easily be granted.

In fine, this petition is allowed. The proceedings against the petitioner in Spl.C.C.No.1 of 2014 pending on the file of the X Additional Special Judge for the cases under Prevention of Corruption Act, Chennai is quashed.

Sd/-
Assistant Registrar(CCC)

True Copy

Sub Assistant Registrar

To

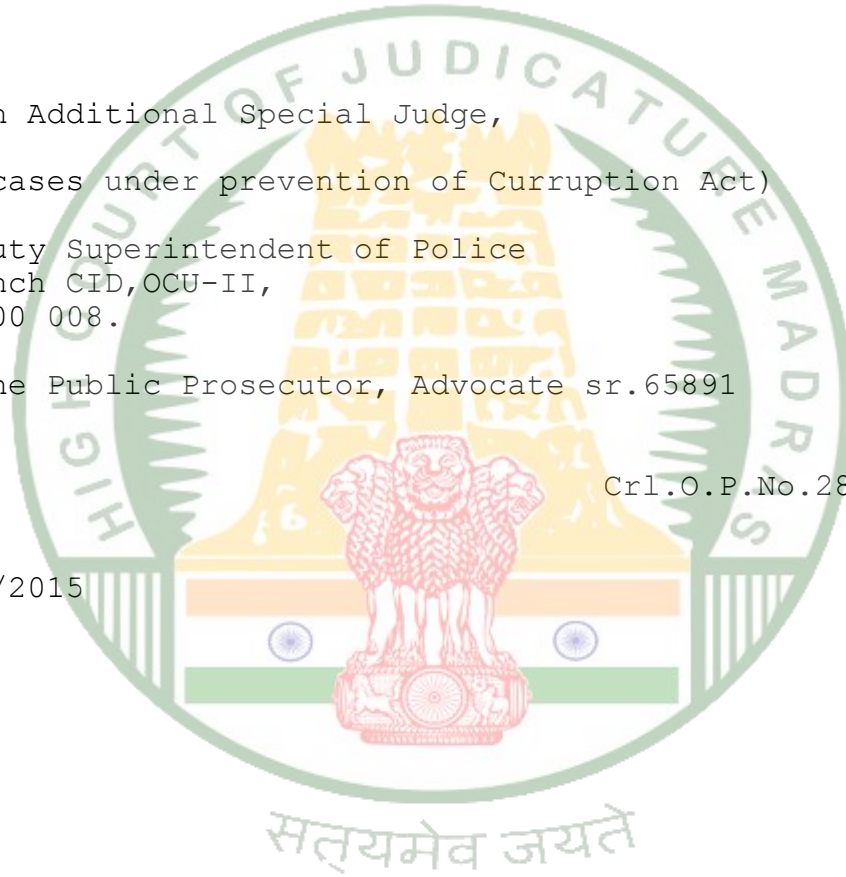
1. The Xth Additional Special Judge,
Chennai.
(for the cases under prevention of Corruption Act)

2.The Deputy Superintendent of Police
Crime Branch CID,OCU-II,
Chennai- 600 008.

+1cc to The Public Prosecutor, Advocate sr.65891

Cr1.O.P.No.28000 of 2015

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