

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.O.P Nos.8435 and 9468 of 2015

1. N.Murali
2. R.Kannan
3. R.Moorthy
4. K.Krishnakutty @ Elamaran

...Petitioners
in Crl.O.P.No.8435/2015

1. P.Pichumani
2. J.Rudrappa
3. T.A.Augustine
4. K.H.Ramakrishnan

...Petitioners in Crl.O.P.No.9468/2015

Vs

State rep.by:

The Deputy Superintendent of Police
Vigilance and Anti Corruption Wing
The Nilgiris Detachment
Udhagamandalam
Nilgiris District.

...Respondent in both Crl.O.Ps.

Prayer in both Crl.O.Ps:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.29 of 2015 on the file of the Assistant Sessions Court cum Vigilance and Special Court for Anti Corruption Cases, Udhagamandalam at Nilgiris and quash the same so far as the petitioners are concerned.

For Petitioners in
Crl.O.P.No.8435/2015

: Mr.K.Varadhakamaraj

For Petitioners in
Crl.O.P.No.9468/2015

: Mr.K.Doraisamy, Sr.Counsel
for Mr.Muthumani Doraisami

For Respondent in
both Crl.O.Ps.

: Mr.P.Govindarajan
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed under section 482 of the Code of Criminal Procedure, 1973 praying to quash the entire proceedings of Calendar Case No.29 of 2015, pending on the file of Assistant Sessions Court cum Special Court for Vigilance and Anti Corruption Cases, Udhamandalam at Nilgiris.

2. In both the petitions, it is averred that the petitioners found in Crl.O.P.No.9468 of 2015 are the employees of Tamil Nadu Water Supply and Drainage Board. Likewise, the petitioners found in Crl.O.P.No.8435 of 2015 are the employees of the contractors. Further it is stated in both petitions that the petitioners have no connection whatsoever with the alleged offences mentioned on the side of the respondent. Under the said circumstances, these petitions have been filed for getting the relief sought for therein.

3. On the side of the respondent, in each petitions, separate counter has been filed, wherein it has been contended inter alia to the effect that all the averments found in both the petitions are false and ultimately praying to dismiss the same.

4. The learned senior counsel appearing for the petitioners in Crl.O.P.No.9468 of 2015 has sparingly contended that the alleged occurrence has taken place during the years 1985-96 and 1986-87 and the First Information Report has been lodged on 14.10.1988 and the investigation has been completed on 23.4.2008 and further the present petitioners have no connection whatsoever with the alleged offences mentioned on the side of the respondent and further similar petitions have been filed in Crl.O.P.Nos.7587/2013, 8097/2012, 16320/2014, 14681/2014 and 29814 of 2014 and those petitions have been allowed by this Court and therefore the same yardstick can also be applied to the present petitions.

5. The learned counsel appearing for the petitioners in Crl.O.P.No.8435 of 2015 has contended that the petitioners are nothing but employees of contractors and they have no connection whatsoever with the alleged offences and since they have been falsely implicated, the present petition has been filed.

6. In order to remonstrate the contentions put forth on the side of the petitioners, the learned Additional Public Prosecutor has contended that mere delay is not a criteria so as to allow the present type of petitions and further the Investigating Officer has collected voluminous documents and due to that, such a delay has occurred and that itself cannot be a basis for allowing the present petitions and therefore, present petitions are liable to be dismissed.

7. As stated earlier, the present petitioners have been shown as accused in C.C.No.29 of 2015. The petitioners found in CrI.O.P.No.9468 of 2015 are the employees of the Tamil Nadu Water Supply and Drainage Board, whereas the petitioners found in CrI.O.P.No.8435 of 2015 are the employees of the concerned contractors.

8. It is an admitted fact that FIR has been registered on 14.10.1988 and after a lapse of two decades, final report has been filed on 23.4.2008.

9. The learned senior counsel appearing for the petitioners in CrI.O.P.No.9468 of 2015 has also drawn the attention of this Court in Pankaj Kumar vs. State of Maharashtra and others reported in (2008) 16 SCC 117, wherein at paragraph No.22, the Hon'ble Supreme Court has observed as follows:

"22. It is, therefore, well settled that the right to speedy trial in all criminal prosecution is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases."

10. A cursory look of the observations made by the Hon'ble Supreme Court would clearly go to show that if there is an inordinate delay in conducting investigation, the same would affect the rights of the concerned accused guaranteed under Article 21 of the Constitution of India.

11. In the instant case, as as stated in many places, FIR has been lodged on 14.10.1988, whereas after a lapse of 20 years, final report has come into existence on 23.4.2008.

12. As per the dictum/observation made by the Hon'ble Supreme Court, this Court is of the considered view that the inordinate delay on the part of the Investigating Officer would be

a sole ground for allowing the present petitions.

13. Further, some of the accused, as petitioners, have filed CrI.O.P.Nos.7587/2013, 8097/2012, 16320/2014, 14681/2014 and 29814 of 2014 on the file of this Court for identical reliefs and this Court has allowed all the Original Petitions by way of relying upon the decision referred to supra. Therefore, viewing from any angle, the contentions put forth on the side of the respondent cannot be accepted and altogether these Criminal Original Petitions are liable to be allowed.

In fine, these Criminal Original Petitions are allowed and the proceedings of C.C.No.29 of 2015 pending on the file of Assistant Sessions Court cum Special Court for Vigilance and Anti Corruption Cases, Udhagamandalam at Nilgiris, are quashed insofar as these petitioners are concerned.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Presiding Officer
Assistant Sessions Court cum
Special Court for Vigilance and Anti Corruption Cases,
Udhagamandalam
2. The Deputy Superintendent of Police
Vigilance and Anti Corruption Wing
The Nilgiris Detachment,
Udhagamandalam, Nilgiris District.
3. The Public Prosecutor,
High Court, Madras.

2CCs to Public Prosecutor, SR 45657, 45652
4CCs to M/s. Muthurmani Doraisamy, Advocate, SR 45794
4CCs to M/s. Varadha Kamaraj, Advocate, Sr 45798

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RSI [CO]
PSI 04.09.2015