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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2015

CORAM :

THE HONOURABLE MR.JUSTICE C.T.SELVAM

CRL.OP(MD)No.1072 of 2015
and MP(MD)no.1 of 2015

1.Singam @ Muthu Krishnan
2.Prathap

... Petitioners/A3 and A4

Vs.

1.The Inspector of Police,
Anti Land Grab Special Cell (CCB),
Trichy.

...1st Respondent/Complainant

2.Y.Solomon Devaraj

...2nd Respondent/Informant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for records in Crime No.22 of 2014 on the file of the Inspector of Police, Anti Land Grab Special Cell (CCB), Trichy - 1st Respondent herein and quash the same as against the petitioners.

For Petitioner : Mr.N.Shankar Ganesh
For R1 : Mr.K.V.Rajarajan
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking to quash FIR in Crime No.22 of 2014 on the file of the Inspector of Police, Anti Land Grab Special Cell (CCB), Trichy - 1st Respondent herein.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl.side), who takes notice for the first respondent. In the light of the order passed herein below, this Court does not consider it necessary to issue notice to the second respondent.

3. The order of this Court in W.P.No.13550 of 2014 dated 18.08.2014 reflects the conduct of enquiry by the first respondent regards a dispute over property rights and of the first respondent having sought particulars from the revenue authorities there regards. It would be useful to re-produce paragraph Nos.3 to 6.

"3.The learned counsel for the petitioner submitted that the petitioner after referring the observation made by the first respondent in the impugned report would contend that if the third respondent purely proceed based on such report, then the petitioner's right would be jeopardize, since there are several factual mistakes in the report and subsequent event have not been taken into consideration and the report itself is beyond the jurisdiction of the first respondent as the first respondent seeks to adjudicate the question of title to immovable property and it is only for the civil Court to adjudicate such disputed question.



4. The learned Additional Government Pleader submitted that the third respondent police is only enquiring into a complaint received alleging land grabbing. In the pursuance of such enquiry, a report has been called for from the revenue officials viz., the first respondent. It is further submitted that the impugned report is only an internal communication and it is not as if the third respondent will pass an order without conducting an enquiry and register the case solely based on such report. It is further submitted that the impugned report is only to assess and aid in the proceedings of enquiry, which has been sought for by the third respondent. Further it is stated that during the course of further enquiry, it would be always open to the petitioner as well as the private respondents to place their objections which shall be taken note of by the third respondent.

5. In the light of the stand taken by the third respondent the apprehension of the petitioner does not any longer survive since according to the third respondent it is only a fact finding report and an internal communication which has been sought for by the first respondent. In such circumstances, if the third respondent seeks to rely upon any portion of the impugned report submitted by the first respondent without issuing notice to all persons likely to be aggrieved, either the petitioner or the private respondents, they should be afforded an opportunity to place their materials before the third respondent to establish as to whether any portion of the report is factually incorrect or any portion of the report is beyond the jurisdiction of the first respondent. If such liberty is granted to the petitioner as well as to the private respondents then their position is sufficiently safeguarded since the enquiry is at early stage and no final decision has been taken by the third respondent nor any steps taken to register a case against the petitioner.

6. In the light of the above, this Court is of the view that at this stage of the matter the impugned report need not be quashed. But it shall be left open to the petitioner as well as to the private respondents to raise all their objections as against the findings rendered by the first respondent in the impugned report including the contention of the petitioner that the report of the first respondent is beyond his jurisdiction. Since the writ petition is disposed of without notice to the respondents 4 to 12, this Court has not to adjudicate the rival contentions of the parties namely, the petitioner and the private respondents and it is left open to either parties to raise their contentions before the third respondent. There will be a further direction to the third respondent that in the course of further enquiry both the petitioner as well as the private respondents may be furnished copies of all the records which the third respondent has collected from the revenue officials to aid him in the enquiry and on receipt of such copies, it is open to the petitioner as well as the private respondents to put-



forth their objections in writing and thereafter, the third respondent shall proceed with the enquiry in an independent manner, taking into consideration of the facts, which may be placed by the petitioner as well as the private respondents."

4. Thereafter this Court had found objectionable registration of the case in Crime No.22 of 2014 presently sought to be quashed informing in its order passed in W.P.No.14491 of 2014 dated 2.9.2014 in paragraph No.6 as follows:

"6.It is stated that the order copy was received by the petitioner on 28.08.2014. Further in the mean time, the second respondent police has registered a case in Crime No.22 of 2014 on 26.08.2014, on a fair perusal of the First Information Report, it is seen that it has been solely based upon the report given by the Revenue Divisional Officer dated 24.03.2014, which was impugned order in W.P.(MD). No.13550 of 2014. When the Inspector of Police was a party to the earlier writ petition, the Inspector of Police was bound to comply with the direction issued, since the stand was taken in the earlier writ petition that the report of the Revenue Divisional Officer is only a fact finding report to assess and aid the enquiry on a complaint given by the 7th respondent. Thus, it is prima facie clear that the Inspector of Police has registered a case without affording opportunity to the petitioner and the direction issued by this Court in the earlier writ petition in its order dated 18.08.2014, is not properly complied with.

5. Given the above position, this Court would quash the FIR registered in Crime No. 22 of 2014 and direct the first respondent to proceed afresh after conducting preliminary enquiry in the case. Such preliminary enquiry shall be completed within a period of two weeks from the date of receipt of copy of this order. Thereafter, it would be open to the first respondent to proceed to register a case and act further in accordance with law if it is considered necessary so to do.

6.In the result, this Criminal Original Petition is allowed. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Inspector of Police,Anti Land Grab Special Cell (CCB),
Trichy.

2.The Additional Public Prosecutor,Madurai Bench of Madras High
Court,Madurai.

+1CC to M/s.N.Shankar Ganesa, Advocate in SR.367

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