



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.O.P. (MD)No.1207 of 2015

WEB COPY

N.Sankarapandi

... Petitioner

Vs.

1.The Superintendent of Police (Southern Region),
Vigilance and Anticorruption Cell,
Post Box No.487, NCP 23,
P.S.Kumarasamy Raja Salai,
Chennai 600 028.

2.The Deputy Superintendent of Police,
Vigilance and Anticorruption Cell,
No.16/53/A/1, Maril Mani Nagar,
Near Central Prison, Palayamkottai.

... Respondents

PRAYER: This Criminal Appeal filed under Section 482 Cr.P.C., to register a case against the proposed accused mentioned in the petitioner's complaint dated 28.12.2014.

For Petitioner : Mr.M.Thirunavukkarasu

For Respondents : Mr.C.Mayilvahana Rajendran, APP

ORDER

The petitioner has come up with this Criminal Original Petition, seeking a direction to the respondents to register a case on his complaint dated 28.12.2014 and to investigate the same in accordance with law.

2.I have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State and also perused the records carefully. The 2nd respondent is present before this Court today.

3.A perusal of the complaint dated 28.12.2014 submitted by the petitioner would go to show that the misappropriation of the public funds had been committed by public servants. This, according to the petitioner, amounts to offence punishable under the Prevention of Corruption Act, warranting investigation by the 2nd respondent. Since no case has been registered on the complaint, the petitioner has come up with this Criminal Original



4. The learned Additional Public Prosecutor for the respondents would submit that it is true that the said complaint was received by the 2nd respondent. The 2nd respondent has also filed a status report before this Court, wherein also he has admitted the receipt of the said complaint. According to the status report, the said complaint dated 28.12.2014, was received on 31.12.2014 and the same was forwarded by the 2nd respondent to the Director of Vigilance and Anti Corruption, Chennai, as per the instruction issued in paragraph 10(4) of the Directorate of Vigilance and Anti Corruption Manual. It is further stated that the Director of Vigilance and Anti Corruption in turn has forwarded the said complaint to the Chief Secretary to Government, Secretariate, Chennai vide reference No.84/2014/CORPOR/TI, dated 07.01.2015 for necessary action. Thus, according to the status report, neither any preliminary enquiry was held nor any case was registered on the complaint of the petitioner.

5. It is also brought to my notice by the learned Additional Public Prosecutor that the Director of Municipal Administration, Chepauk, Chennai, by his proceedings in Roc.No.7181/2015/M3, dated 13.04.2015, has appointed one Mr.R.Venkatachalam, the Chief Engineer, Office of the Director of Municipal Administration as Enquiry Officer to enquire into the allegations against the public servant mentioned in the complaint and to submit an enquiry report.

6. I have considered the above submissions.

7. In this regard, I have to refer to the judgment of the Constitution Bench of the Hon'ble Supreme Court in **Lalita Kumari Vs. Government of U.P. and others** reported in **2013(4) Crimes 243 (SC)** wherein the Hon'ble Supreme Court has held that as and when a complaint is made, making out cognizable offences, it is mandatory for the station house officer to register a case and investigate the same. The Hon'ble Supreme Court has further held that in respect of the cases under the Prevention of Corruption Act, preliminary enquiry may be made without registering a case under Section 154 Cr.P.C. forthwith. This law laid down by the Hon'ble Supreme Court is binding on all authorities including the respondents. But, the 2nd respondent has taken a plea that as per the Manual of Directorate of Vigilance and Anti Corruption, Tamil Nadu, the respondents are debarred either from registering a case or from holding a preliminary enquiry. Sub Clause (4) of Clause 10 of the said Manual, upon which much reliance, is made by the 2nd respondent, reads as follows:

"10(4). Action on petitions received-

Every petition received, either in the Directorate of Vigilance and Anti Corruption, will be affixed seal and assigned a current number. Petitions received directly in the



To

1.The Superintendent of Police (Southern Region),
Vigilance and Anticorruption Cell,
Post Box No.487, NCP 23,
P.S.Kumarasamy Raja Salai,
Chennai 600 028.

2.The Deputy Superintendent of Police,
Vigilance and Anticorruption Cell,
No.16/53/A/1, Maril Mani Nagar,
Near Central Prison, Palayamkottai.

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

+1cc Mr.m.Thirunavukkarasu, Advocate Sr.No.27275
nbj
AA/15.06.2015/4p- 5c/

Cr1.O.P. (MD) No.1207 of 2015
02.06.2015