



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Cr1.O.P(MD)No.1418 of 2015

WEB COPY

1.S.Perumal

2.Tmt.M.Thenmozhi

..Petitioners

Vs

The State rep. By its
Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Opposite Anna Stadium,
Race Course Road,
Kajamalai, Trichy - 23.

..Respondent

Prayer: Petition under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned F.I.R. Registered in Crime No.2 of 2013, dated 10.01.2013 on the file of the respondent police and quash the same.

For Petitioner : Mr.S.Veeranasamy

For Respondent : Mr.P.Kandasamy

Govt.Advocate(Crl.Side)

* * * * *

ORDER

This petition has been filed to quash the First Information Report in Crime No.2 of 2014, dated 10.01.2013, on the file of the respondent police.

2.The respondent herein has registered an FIR in Crime No.2 of 2013 against the petitioners herein, who are husband and wife for the alleged commission of the offences under Sections 13(2) r/w 13(1) (e) of the Prevention of Corruption Act, 1988, alleging that during the check period between 01.04.2006 to 30.04.2010, it has been revealed that both of them have acquired properties and pecuniary sources in their name which are disproportionate to their known sources of income.

3.The respondent served the petitioners with questionnaires calling upon them to furnish certain information and in response to the same, both the petitioners had submitted detailed representation along with relevant documents and contended that the allegations are *per se* false and they have not committed any offence punishable under the provisions of Prevention of Corruption Act.

4.The learned counsel for the petitioners would submit that the FIR came to be registered as early as in the year 2013 and in response to the questionnaires the petitioners had also submitted their explanation on 02.01.2015 and subsequently on 03.01.2015 the first petitioner was also promoted to the higher post and he is going to retire on 31.01.2015 and hence the FIR is liable to be quashed.

5.Per contra, the learned Government Advocate (crl. side) would submit that so far investigation is not completed and only notice was issued to the petitioners and their reply is also received and it is for the court to consider. The learned Government Advocate (crl. side) would further submit that so far 46 witnesses have been examined and 49 documents were collected and as per the case of the respondent both the



petitioners have acquired assets worth about Rs.58,85,975/- which are disproportionate to their known sources of income and that the investigation would be completed as expeditiously as possible and final report would be filed before the concerned learned Judicial Magistrate.

6. The learned counsel for the petitioner had invited the attention of this Court to the explanation offered by the petitioners dated 03.01.2015 and would urge that in the explanation the petitioners would clearly states their legal sources of income for acquiring the properties in their name and that the petitioners have not acquired the properties disproportionate to their known sources of income and hence prayed for the quash of FIR.

7. However, this Court is of the view that at this stage, this Court cannot quash the FIR. In a decision reported in 2014 (11) SCC 709 (STATE OF TAMIL NADU v. N.SURESH RAJAN) wherein the scope of power of this Court to discharge the accused came for consideration, the Hon'ble Supreme Court held that the Court to proceed with assumption that materials brought on record by prosecution are true and that only probative value of materials has to be gone into to see if there is a *prima facie* case for proceeding against accused and that the Court is not expected to go deep into the matter and hold that materials would not warrant a conviction. It is further held that if Court on basis of materials, thinks that accused *prima facie* might have committed offence, it can frame the charge.

8. Admittedly, the investigation is not completed and the apprehension expressed by the petitioners that the explanation offered by them on 03.01.2015 may not be properly taken into consideration is only an apprehension. Since the petitioners herein offered their explanation in response to their questionnaires given to them by the respondent/prosecution, they are also bound to consider the explanation offered by the petitioners herein in proper perspective and take a decision, as they are duty bound to do so.

9. Therefore, the Criminal Original Petition is dismissed subject to the above said observations.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

TO

1. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Opposite Anna Stadium, Race Course Road,
Kajamalai, Trichy - 23.

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

+1cc to Mr.S.Veerassamy, Advocate in SR.4440

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