IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders reserved on 24.08.2016)
DATED : 08.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.18005 of 2016

R.Maheswaran ... Petitioner

Vs.

1. The Chief Secretary,
   Government of Tamil Nadu,
   Secretariat, Chennai-600 009.

2. The Principal Secretary,
   Home, Prohibition & Excise Department,
   Government of Tamil Nadu,
   Chennai-600 009.

3. S.M.Suresh,
   District Inspection Committee Officer,
   Coimbatore-600 018.

4. The Inspector of Police,
   Vigilance and Anti-Corruption,
   Coimbatore District,
   (Crime No.1/2012/AC/CB). ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 4th respondent to further investigate the FIR in Crime No.1/2012/AC/CB dated 10.01.2012 and consequently also register the F.I.R. as against (1)C.Subramani, (2) M.Radhakrishnan, (3)A.Sugumaran, (4)P.Selvam Amalraj, who were working as District Managers of Coimbatore Region, at the relevant point of time, under the provisions of Prevention of Corruption Act, 1988.

For Petitioner : Mr.R.Prabhakaran

For respondents : Mr.P.Govindarajan,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner praying to direct the 4th respondent to conduct further investigation in connection with the F.I.R. in Crime No.1/2012/AC/CB dated 10.01.2012 and consequently, to register the F.I.R. as against one (1)C.Subramani, (2)M.Radhakrishnan, (3)A.Sugumaran, (4)P.Selvam Amalraj, who were working as District Managers of Tamil Nadu State Marketing Corporation (in short 'TASMAC'), Coimbatore, at the relevant point of time, under the provisions of Prevention of Corruption Act, 1988.

2.The brief facts of the case are as follows:- The petitioner herein is working as Senior Regional Manager of TASMAC, Coimbatore. The Monthly Review Meeting of TASMAC was schedule to be held on 10.01.2012 at TASMAC Regional Office situated in Kumaran Complex, Goundampalayam. While so, the 3rd respondent had sent a complaint vide Na.Ka.No.12 of 2012, dated 10.01.2012 to the 1st respondent herein stating that during the Monthly Review Meeting proposed to be conducted at Regional Office, TASMAC, Goundampalayam, the petitioner herein (Senior Regional Manager of TASMAC) proposed to collect bribe from District General Managers. As per the information, the 4th respondent made a surprise inspection at the Office of the petitioner on 10.01.2012 at about 3.05 pm and found Rs.1,75,000/- from the table drawer of the petitioner herein. Further, on enquiry with the District Managers, they informed that they are providing such bribe regularly and further, one Radhakrishnan, District Manager, Udagamandalam stated that he is routinely giving bribe and he brought Rs.93,000/- to give as monthly bribe and he kept the same in his car. Similarly, one Mr.Sugumaran, District General Manager, Erode informed that he is keeping Rs.20,000/- with him to be given as bribe to the petitioner. Further, on enquiry with one P.Selvam Amalraj, District Manager, Thiruppur, he informed that an amount of Rs.2 lakhs has been demanded by the petitioner as bribe and he managed to bring Rs.1,90,500/- in which Rs.1,55,000/- has been already given to the petitioner and remaining amount of Rs.35,000/- has been kept with him for providing as bribe, if the petitioner demands and as the petitioner has not demanded the same, he kept the same in his right side inner shirt pocket. Similarly, the District Manager, Coimbatore informed that the petitioner demanded bribe monthly and as he was unwell, he did not bring the bribe money. Thus, totally Rs.3,03,500/- was seized by the 4th respondent on 10.01.2012. Subsequently, a case in Crime No.1/2012/AC/CB was registered under Sections 7 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 by the 4th respondent. The petitioner was arrested and subsequently, enlarged on bail. After completion of investigation, chargesheet was filed and the same has been taken on file as Spl.C.C.No.3 of 2014 on the file of the Special Court for Cases under Prevention of Corruption Act, Coimbatore. Now, the petitioner has come forward with the present petition before this Court seeking to direct the 4th respondent to conduct further investigation in the case and to include some of the District Managers of TASMAC as accused .

3.It is the submission of the learned counsel appearing for the petitioner that it is alleged by the prosecution that the petitioner was caught red-handed on the spot, which fact proves that all the subordinate officers had joined together to bribe the petitioner. The petitioner did not accept the bribe, but the tainted money was kept by those subordinate officers in the table drawer of the petitioner, even without the knowledge of the petitioner. But, the Investigating Officer without properly applying the mind wrongly arrayed the innocent petitioner, who was a strict officer, as the accused. The real accused are the subordinate officers/witnesses, which fact had been deliberately omitted by the prosecution for some extraneous reasons. Further, according to the learned counsel for the petitioner, the prosecution ought to have proceeded against the General Managers/subordinate officers, who themselves admitted that they had collected illegal gratification. It is the submission of the learned counsel for the petitioner that even without the knowledge of the petitioner, his subordinate officers kept the money in the table drawer of the petitioner; but, they have not been added as accused in this case. Therefore, according to the learned counsel for the petitioner, further investigation is necessary in this case. Thus, the learned counsel for the petitioner sought for a direction from this Court to the 4th respondent to conduct further investigation in this matter.

4.But, the learned Additional Public Prosecutor, by filing a detailed counter, would contend that the petitioner was the Senior Regional Manager of TASMAC, Coimbatore and an information was received that the petitioner is demanding and accepting bribe as monthly mamool/bribe from the District Managers of TASMAC during the review meeting to be conducted by him. Hence, a surprise check was conducted between 15.05 hours and 19.15 hours on 10.01.2012 by the District Inspection Cell Officer with the assistance of the officials of Directorate of Vigilance and Anti-Corruption, Coimbatore. During the surprise check, a sum of Rs.1,75,000/- was seized from the left side table drawer of the petitioner/accused. While examining one Radhakrishnan, District Manager, TASMAC, Nilgiris District, he stated that the petitioner has demanded bribe of Rs.1,00,000/- as monthly bribe from him and he could arrange only Rs.93,000/- and took the amount to be given to the petitioner/accused and he produced the amount of Rs.93,000/- from his car and it was seized. Further, the Investigating Team came to know that the petitioner was threatening the District Managers stating that if they fail to give the bribe, he would make adverse remarks in their Annual Confidential Reports (ACR) and recommend for disciplinary action against them. Therefore, left with no other option, the District Managers, TASMAC, struggled and arranged the demanded money and paid the bribe to the petitioner/accused. In this regard, the District Managers also gave a written complaint to the District Inspection Cell Officer. Therefore, the case was registered against the petitioner and after completion of investigation, the chargesheet was filed before the concerned Court. The learned Additional Public Prosecutor has also submitted that only if the Investigating Officer receives any further evidence in a case where a final report has already been filed, the question of conducting further investigation would arise. In the instant case, a perusal of the statements of the Subordinate Officers/witnesses recorded under Section 161(3) as well as 164 of Cr.P.C would show that the Subordinate Officers had not collected bribe from any person; on the other hand, they borrowed the money by way of loan in order to give the same as bribe to the petitioner; therefore, they cannot be arrayed as accused in this case. Thus, the learned Additional Public Prosecutor sought for dismissal of the petition.

5.Heard both sides and perused the materials available on record.

6.It is the main submission of the learned counsel for the petitioner that the petitioner is an innocent person and that if the statements made by the Subordinate Officers are taken into consideration, it would show that the Subordinate Officers, who made an attempt to bribe the petitioner, are liable for the alleged offence; but, the case has been registered against the petitioner only and not against the subordinate officers. Further, the prosecution without conducting the investigation in a proper perspective has arrayed the petitioner as an accused; but, the real accused are only the Subordinate Officer. Thus, the learned counsel for the petitioner sought for a direction to the 4th respondent to conduct further investigation.

7.But, according to the prosecution, the Subordinate Officers did not receive any bribe from any person and on the other hand, they borrowed loan and paid the same to the petitioner as bribe regularly, because of the reason that the petitioner threatened the Subordinate Officers stating that if they fail to give bribe, he would make adverse remarks in their

ACRs and recommend for initiating disciplinary action against them; that is why, the District Managers/Subordinate Officers were shown as witnesses in this case.

8.Considering the facts and circumstances of the case, I am of the opinion that absolutely there is no need for any further investigation in this case. The question of conducting further investigation would arise, only if the Investigating Officer receives any new information or new material; but, that is not so in this case. Further more, the materials available on record would show that in the instant case, the investigation has been done in accordance with the settled principles of investigative canons. Therefore, in the absence of any new material/evidence, the question of giving direction to the 4th respondent to conduct further investigation, does not arise in this case. This Court cannot given any direction to conduct further investigation based on the bald and vague allegations made by the learned counsel for the petitioner.

For the foregoing reasons, the Criminal Original Petition is liable to be dismissed and accordingly, the same is dismissed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Chief Secretary,
   Government of Tamil Nadu,
   Secretariate, Chennai-600 009.

2. The Principal Secretary,
   Home, Prohibition & Excise Department,
   Government of Tamil Nadu,
   Chennai-600 009.

3. The District Inspection Committee Officer,
   Mr.S.M.Suresh,
   Coimbatore-600 018.

4. The Inspector of Police,
   Vigilane and Anti-Corruption,
   Coimbatore District,
   (Crime No.1/2012/AC/CB).

5. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Prabhakaran, Advocate, S.R.No.51556

Crl.O.P.No.18005 of 2016

SKV(CO)
CA(27/09/2016)