

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS

CrI.O.P. No.1938 of 2016

S.Gunasekaran

.. Petitioner

Vs.

The Director,
Vigilance and Anti-Corruption,
Post Box No.487,
NCB 21, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.

.. Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to register a case on the complaint given by the petitioner dated 10.12.2015 and to proceed with the investigation according to law.

For Petitioner : Mr.V.Elangovan

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

For Intervenor : Mr.S.Thirumavalavan

ORDER

S.Gunasekaran, the petitioner herein came forward with this petition under Section 482 Cr.P.C seeking a direction to the respondent to register a criminal case based on his complaint dated 10.12.2015.

2. The petitioner belongs to Konthalam Village in Paramathi Velur Taluk in Namakkal District. One Senthil is the President of the Village Panchayat. The petitioner alleged that the said President being a public servant misused the panchayat/public funds in spending the amounts towards certain panchayat development activities.

3. Petitioner gave complaint dated 10.12.2015 to the respondent. Since there was no concrete action thereon, he came to this Court for a direction under Section 482 Cr.P.C.

4. The respondent's side filed the status report. The matter is being enquired into by C.R.Boopathi Rajan, Inspector, Vigilance and Anti-Corruption, Namakkal District.

5. The said Senthil intervened by filing an M.P. through Mr.S.Thirumavalavan, Advocate. His Junior, Ram Senthil

for a cognizable offence. Without such basis, a straight-away issue direction for registration under Section 482 Cr.P.C. If without any viable case, if a direction is so issued then it is not productive, as against the objective of the provision for an opposite parties. Because Section 482 is intended to advance cause of justice, intended to be used only, it cannot be used to advance cause of an accused or injustice. Registering a criminal case against a person leads to many disastrous consequences. Nobody likes to go near police or police station. Nobody love to go near police or police station. Nobody like to ride in being an accused.

However, in fit cases, the Court has to issue a direction. But it must practice extreme care and caution. So far as the plea of the petitioner is concerned, particularly, when it relates to corruption allegations, the Court may embark upon an enquiry to find out whether it is viable. It is in tune with the dictum of a Bench in *Lalitha Kumari vs. Govt. of U.P & others* [2014 (1) 123 SC 243 (SC)].

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further submit that

mitted by the president (Thiru.C.Senthil) issued a warning and dropped further action against Thiru.C.Senthil vide his proceedings No 2863/2012/C/en 3 dated 23.09.2015.

conduct by abusing official position by public

servants against Thiru.C.Senthil President, Thiru.M.Subramani @ Chinnathambi, Vice-President, Thiru.S.Vijayakumar, Panchayat Secretary of Konthalam Panchayat and few other private individuals. And further submit that, the enquiry is pending for the collection of more documents and for the examination of more witnesses. Hence, I submit this status report before this Hon'ble Court and pray to pass appropriate orders and thus render justice."

9. Thus, it is seen that still the preliminary enquiry is going. It should exhibit its fairness to the petitioner and to the intervenor.

10. In the circumstances,

The respondent is directed to proceed with the enquiry and if it discloses any cognizable offence, then it will register a case and proceed further in accordance with law. It is made clear that while doing so, the respondent shall strictly follow the mandate directions and guidelines issued by the Constitution Bench of the Hon'ble Supreme Court in Lalitha Kumari vs. Govt. of U.P & others [2013 (4) Crimes 243 (SC)].

11. Accordingly, this Criminal Original Petition is disposed of.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

Jrl

To

1. The Director,
Vigilance and Anti-Corruption,
Post Box No.487,
NCB 21, P.S.Kumarasamy Raja Salai,
Chennai - 600 028.

2. The Public Prosecutor,
High Court, Madras.

1 cc to Public Prosecutor, Sr. 27073

1 cc to Mr.S.Doraisamy, Advocate, Sr. 26590

1 cc to Mr.S. Thirumalavan, Advocate, Sr. 26364

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RSY (CO)