

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Original Petition No.1976 of 2016

P.Chandrasekaran

... Petitioner

Vs.

1. The Director of Vigilance & Anti Corruption,
Tamil Nadu, Chennai

2. Dr.S.Dhalapathy

3. The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

... Respondents

(Respondents 2 and 3 are impleaded as
per order of this Court dated 14.03.2016
made in Crl.M.P.Nos.1695 & 1696/2016 respectively)

PRAYER : Criminal Original Petition filed under Sec.482 of
Criminal Procedure Code, to pass an order directing the first
respondent to register FIR on the report of the petitioner
dated 14.01.2016 and investigate the same.

For Petitioner : Mr.Sirajudin, Senior Counsel
for Mr.R.Adhinarayamoorthy

For Respondents: Mr.R.Rajarathinam,
Public Prosecutor,
Assisted by Mr.P.Govindarajan, APP for RR-1 & 2
A.V.Arumugam for Ms.K.Kala for R3

ORDER

This criminal original petition is filed under Section
482 of the Criminal Procedure Code directing the first
respondent to register an FIR on the report of the petitioner,
dated 14.01.2016 and investigate the same.

2. The main allegation is that the second
respondent/Dr.Dhalapathy is working as an Assistant Professor
in the Department of Endocrine Surgery, MMC, Chennai, at
present. In the Department of Endocrine Surgery, the faculty
matrix is one Professor, one Associate Professor and two

Assistant Professors, which are adequate as per MCI norms. Now, the Department is having full staff strength and it fully satisfies the MCI norms. Though there are no vacancies in the post of Associate Professor and there is no necessity to create this post in the Department, in order to get personal benefit to the petitioner, he has influenced the former Director of Medical Education (DME) to favour him.

3. It is the further allegation that the second respondent/Dr.Dhalapathy has illegally influenced and convinced the Chief Secretary of Tamil Nadu and Special Secretary to Health, Tamil Nadu for creating a new post. He has illegally influenced and convinced both the Chief Secretary and Health Secretary, through one of the post-graduate namely, Dr.Thalavai Sundarraman, who is supposed to be related to the Chief Secretary. Because of the mala-fide involvement of the Chief Secretary, the Health Secretary/Mr.Radhakrishnan and Dean/Dr.Vimala, who is also in-charge of DME, made a file to create a new post of Associate Professor and it was only to favour the second respondent/Dr.Dhalapathy. The new post is sought to be created apparently to satisfy MCI norms, whereas, the post already available and the staff already posted, fully satisfy the MCI norms. So, the proposed action of the above stated persons are mala-fide and only to illegally benefit the second respondent/Dr.Dhalapathy. The creation of file for creating new post of Associate lecturer is only to promote the second respondent/Dr.Dhalapathy and it is without any public interest. It is only to satisfy the private interest of the second respondent/Dr.Dhalapathy and it is a mala-fide one.

4. The learned counsel for the petitioner would submit that the petitioner has lodged a report/complaint to the first respondent on 14.01.2016. On receipt the said report/complaint, the first respondent, without conducting preliminary enquiry, simply forwarded the same to the Vigilance Commissioner stating that the second respondent has not followed the norms.

5. Mr.R.Rajaratnam, learned Public Prosecutor assisted by Mr.P.Govindarajan, learned Additional Public Prosecutor appearing for the respondents 1 and 2 would submit that on receipt of the complaint, it is found that there is no specific allegation levelled against the second respondent and this is the policy decision of the Government and hence, the petition filed under Section 482 of Cr.P.C. is not maintainable.

6. The learned counsel appearing for the third respondent would submit that he has prescribed qualifications and the allegations levelled against him, are totally without materials and based on the conjecture and surmises, a false complaint has been lodged against him, and hence, the petition filed under Section 482 Cr.P.C. is not maintainable. This

Court cannot interfere with the policy decisions of the Government.

7. On a perusal of the rejoinder filed by the petitioner and the counter affidavit filed by the respondents 1 to 3 and also the complaint filed before the first respondent, it is seen that there is no specific allegations regarding the corruption and further, the petitioner is not the aggrieved party and the complaint is filed for some unknown reason without any reliable materials.

8. Considering the fact that there is no prima facie material available for giving direction to the first respondent, this Court is not inclined to direct the first respondent to register an FIR on the basis of the report/complaint submitted by the petitioner dated 14.01.2016. Hence, this Criminal Original Petition is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vsi2

To

1. The Director of Vigilance & Anti Corruption,
Tamil Nadu, Chennai
2. The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

3. The Public Prosecutor
High Court, Madras

1 cc to Mr.R.Adhinarayamoorthy, Advocate, Sr. 61740
2 ccs to Ms.K.Kala, Advocate, Sr. 61950
1 cc to Public Prosecutor, Sr. 62203

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KJI (CO)
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