

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.375 of 2016 and C.M.P. No.5521 of 2016

A.P. Murugan

Appellant/Petitioner

vs.

1 The State of Tamil Nadu
represented by its Secretary to Government
Home Department
Fort St. George
Chennai 600 009

2 The Director General of Police
Kamarajar Road
Mylapore, Chennai 600 004

3 The Registrar
Vigilance
High Court
Madras - 104

4 The Sub-Judge
Subordinate Court
Dharapuram
Tiruppur District

5 The Inspector of Police
Dharapuram Police Station
Crime No.951 of 2015
Tiruppur District

Respondents/Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 19.01.2016 passed in W.P. No.38903
of 2015.

Writ Petition filed under Article 226 of the Constitution of
India, praying for issuance of a Writ of Certiorarified Mandamus
calling for the records relating to the case in Crime 951 of
2015 on the file of the 5th respondent Police quash the same in
so far as the petitioner is concerned or in the alternative

direct the respondents 1 and 2 to withdraw the investigation in Crime No.951 of 2015 from the file of the 5th respondent and to transfer the same either to CBI or CB CID for fair and impartial investigation by considering his representation dt 20.11.2015.

For appellant Mr. N. Manokaran

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

This intra-Court appeal is focussed against the order dated 19 January 2016 passed in W.P. No.38903 of 2015.

2 To avoid verbosity, the parties are referred to as per their arraignment in this intra-Court appeal.

3 The appellant came up with the instant writ petition seeking quashment of the registration of a case in Crime No.951 of 2015 on the file of the fifth respondent, insofar as it relates to him and further, for a direction to withdraw the investigation in the said crime number from the fifth respondent and transfer the same either to CBI or CB-CID, by considering his representation dated 20 November 2015.

4 The case of the appellant, who is basically an advocate clerk, is that a First Information Report was lodged alleging involvement of one V. Baskaran, Sherishtadar, Sub-Court, Dharapuram (now retired) in missing of original promissory notes relating to five suits being O.S. Nos.170 to 175 of 2015 on the file of the said Court. On the basis of subsequent investigation, particularly, on the letter of the said Baskaran, the appellant has also been impleaded as Accused No.2. Thus, the First Information Report leading to registration of the criminal case, be quashed.

5 The learned counsel for the appellant would contend that if the First Information Report is taken as a whole, no case is made out against the appellant, no charge sheet can be filed against him and the First Information Report is liable to be quashed, as observed in State of Haryana and Others v. Bhajan Lal and others¹.

6 The learned Single Judge, recording the factum of a letter dated 28 July 2015 of the first accused, wherein, it is clearly stated that the appellant had a role in missing of the promissory notes and noticing that during investigation, 29 witnesses were examined and all the witnesses have corroborated the version of the first accused to the extent of involvement of the appellant in the missing of original promissory notes in

1 1992 Supp (1) SCC 335

regard to the pending suits and observing that while the investigation is pending, the scope for quashment of First Information Report is very narrow, dismissed the writ petition.

7 Be that as it may, a prima facie case has been made out for registering the criminal case against the appellant as well. Without making any observation on the merits of the case, which, in every likelihood, may prejudice not only investigation but also further prosecution, we desist ourselves from making any observation. However, regard being had to the subsequent statements made by the witnesses during investigation, we do not find any merit in the appeal, seeking quashment of the criminal case.

8 Insofar as the relief of transferring the investigation from the file of the fifth respondent to CBI or CB CID, the appellant has not produced any material attributing bias or mala fides or prejudice, necessitating transfer of case. Thus, on the basis of sheer apprehension that if the investigation is conducted by the fifth respondent, the appellant will be implicated falsely, the investigation cannot be directed to be transferred from the regular investigating authority to any other agency. Accordingly, the relief qua transfer of investigation to CID or CB CID also is rejected.

As a sequitur, the intra-Court appeal being devoid of any merit, stands dismissed. Costs made easy. Connected C.M.P. is closed.
cad

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

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Home Department
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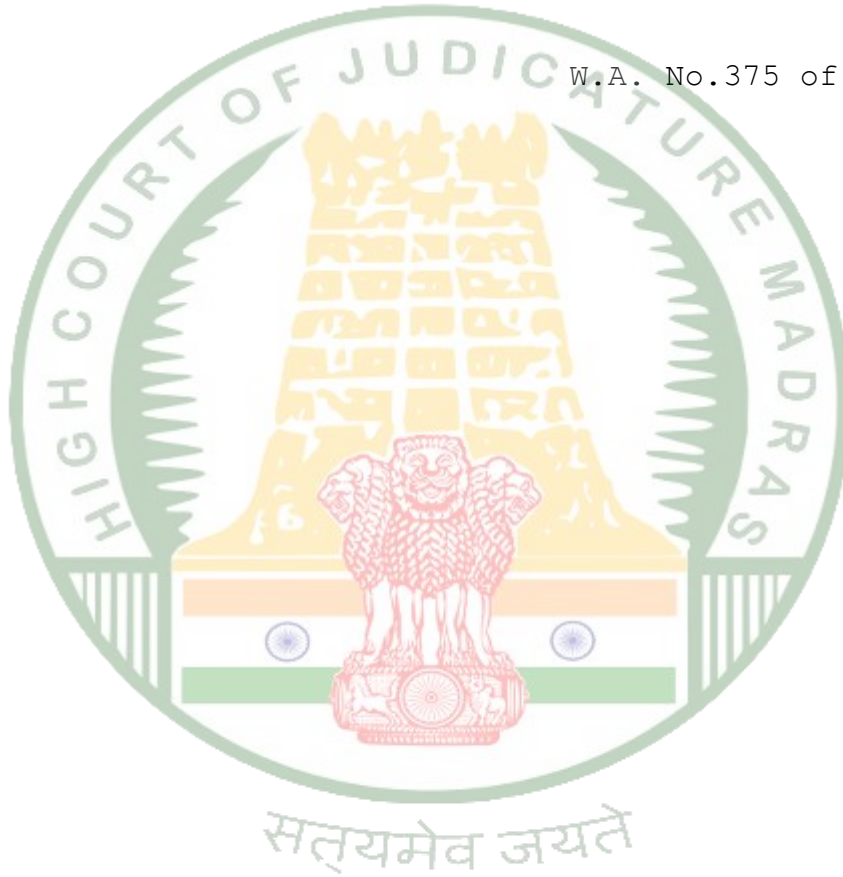
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+ 1 cc to Mr.N.Manokaran, Advocate SR 20023

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W.A. No.375 of 2016



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