IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 17.06.2016

Orders Pronounced on: 30.06.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.2576 of 2016

T.Annadurai ... Petitioner

Vs

The Inspector of Police,
Vigilance and Anti Corruption,
Cuddalore,
Crime No.5 of 2012. ... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Special Case No.4 of 2014 on the file of the Chief Judicial Magistrate Court (Special Court, V.A.C) Cuddalore, and to quash the chargesheet.

For Petitioner :Mr.S.T.Rajesh Murugan

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

ORDER

The present criminal original petition has been filed by the petitioner praying to quash the chargesheet in Special Case No.4 of 2014 on the file of the Chief Judicial Magistrate Court (Special Court, V.A.C) Cuddalore, in respect of the petitioner herein who has been arrayed as 1st accused.

2.The case of the prosecution is that the petitioner herein (A1) was working as Village Administrative Officer at Vatharayanthethu Village from 23.12.2005 to 01.12.2006. The 2nd accused Mr.Devarajan was working as Revenue Inspector of Sethiathoppu Firka from 21.09.2005 to 15.03.2006, under whose jurisdiction Vatharayanathethu Village situated. Both of them are public servants within the meaning of Section 2(c) of Prevention of Corruption Act, 1988 at the relevant point of time. During the period between 23.12.2005 and 01.12.2006, the petitioner(A1) was entrusted with the duty of identifying and preparing the list of beneficiaries for distribution of relief for the damage caused to the crops in Vatharayanthethu Village by the North-East Monsoon during the year 2005 and the 2nd accused D.Devarajan, Revenue Inspector of concerned jurisdiction, was entrusted with the work of 100% verification of the list of beneficiaries prepared by the petitioner(A1), during the period between 23.12.2005 and 01.12.2006, before the same being forwarded and proceeded by the Taluk Office for further process and sending it to the Government. The petitioner (A1) was again entrusted with the work of identification of beneficiaries during the period between 23.12.2005 and 01.12.2006 to the Primary Agricultural Co-operative Bank (PACB) by issuing tokens for the purpose of getting relief. It is alleged that both the accused 1 & 2 framed incorrect documents, falsified the accounts and committed forgery, for the purpose of cheating the public exchequer. They recommended for payment of 22 non-existent persons in the village; thus, they caused loss to the public exchequer. Hence, the complaint was lodged by one Arivazhagan. A case was registered in Crime No.5 of 2012 on the file of the respondent-police under Section 468, 471, 420 and 409 IPC r/w Section 13(2) and 13(1)(c) of Prevention of Corruption Act, 1988. After completion of investigation, chargesheet was filed and the same was taken on file as Special Case No.4 of 2014 on the file of the Chief Judicial Magistrate Court, (Special Court, V.A.C), Cuddalore. Now, the petitioner has come forward with the present petition before this Court seeking to quash the chargesheet.

3.The learned counsel for the petitioner submitted that while the petitioner was working as Village Administrative Officer at Vatharayanthethu Village, he was entrusted with the duty of identifying and preparing the list of beneficiaries for distribution of relief for the damage caused by the north-east monsoon to the crops in Vatharayanthethu Village during the year 2005. But, one Arivazhagan lodged a complaint, as if the petitioner herein and 2nd accused used forged documents, as genuine document, to grant relief to twenty two persons who were non-existent and thus, cheated the public exchequer. In this regard, the learned counsel for the petitioner submitted that for the same allegation, a departmental enquiry was conducted by the Revenue Divisional Officer and on completion of the departmental enquiry, the Revenue Divisional Officer sent a report vide Na.Ka.A7/2385/2008, dated 24.03.2009, to the District Collector, Cuddalore, stating that during the enquiry, the very same complainant Arivazhagan, who had lodged the complaint before the respondent-Police, had stated that the beneficiaries were identified by the petitioner and that after identification, the relief was given to all the beneficiaries and that absolutely, there was no misappropriation of the amount. The Revenue Divisional Officer has also stated in the said enquiry report dated 24.03.2009 addressed to the District Collector, that the complainant Arivazhagan is prepared to withdraw his complaint.

4.The learned counsel for the petitioner has also invited the attention of this Court to the letter of the Tahsildar, dated 15.02.2009, addressed to the Revenue Divisional Officer, and submitted that in the said letter, the Tahsildar has stated that the relief was granted to the beneficiaries in Vatharayanthethu Village and there was no malpractice or misappropriation of fund.

5.Further, the learned counsel for the petitioner has also drawn the attention of this Court to the order dated 01.07.2014 passed by this Court in W.P.No.3998 of 2014 which was filed by this petitioner and submitted that in the said order, in para 11, this Court has observed that the complaint against the petitioner herein is false. The learned counsel for the petitioner submitted that the collective reading of the above said documents would show that absolutely there is no material against the petitioner herein to file chargesheet against him. Thus, the learned counsel for the petitioner sought for quashing the chargesheet.

6.Per contra, the learned Additional Public Prosecutor, by filing a detailed counter, submitted that during the period from 23.12.2005 to 01.12.2006, the petitioner herein/A1 was entrusted with the duty of identifying and preparing the list of beneficiaries for distribution of relief for the damage caused to the crops in Vatharayanthethu Village by the north-east monsoon during the year of 2005. But, by creating forged document as if the relief was granted to 22 persons, actually who were non-existent, the petitioner has caused loss to the public exchequer. According to the prosecution, the petitioner/A1 had created false documents in the name of 22 fictitious persons. Further, the petitioner along with 2nd accused, by deceiving the State, fraudulently and dishonestly induced the State to believe that the list prepared and verified by them was proper and by such deception, the State granted the relief; thereby, the petitioner/A1 and 2nd accused committed the offence of cheating punishable under Section 420 IPC. In this regard, the learned Additional Public Prosecutor has also made a detailed submission by inviting the attention of this Court to the Statements of the witnesses recorded under Section 161 of Cr.P.C. Thus, the learned Additional Public Prosecutor sought for dismissal of the petition.

7.Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

8.The main submission of the learned counsel for the petitioner is based on the Enquiry Report sent by the Revenue Divisional Officer dated24.03.2009 sent to the District Collector and the letter dated15.02.2009 addressed by the Tashildar to the Revenue Divisional Officer. According to the learned counsel for the petitioner, in the departmental enquiry, the complainant Arivazhagan had stated that there is no need to take action on his complaint. Based on that, the Tahsildar made a recommendation to the Revenue Divisional Officer not to take any action on the said complaint. Hence, based on those documents, the petitioner sought for quashing the complaint.

9.But, it is the submission of the learned Additional Public Prosecutor that during the investigation, it has been revealed that the petitioner/A1 along with the 2nd accused created false documents in the fictitious names and caused loss to the public exchequer. In this regard, the learned Additional Public Prosecutor has invited the attention of this Court to the statements of the witnesses recorded under Section 161 of Cr.P.C.

10.It is a settled law that for quashing the chargesheet, only the allegations in the complaint can be taken into consideration. The allegations made in the chargesheet *prima facie* make out a case against the petitioner herein. For the purpose of quashing the complaint, the petitioner cannot rely upon the different proceedings initiated by the department. Therefore, the report of the Revenue Divisional Office and the letter of the Tahsildar relied upon by the learned counsel for the petitioner cannot be taken into consideration as a material for quashing the complaint. Since the allegations in the chargesheet make out a *prima facie* case against the petitioner, absolutely there is no scope for quashing the complaint.

11.Hence, the Criminal Original Petition fails and the same is dismissed. However, the petitioner is at liberty to take his all defence during the course of trial before the Trial Court.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssv

To

1.The Chief Judicial Magistrate,
(Special Court, V.A.C), Cuddalore.

2.The Government Advocate (Crl.Side),
High Court, Madras.

+1 cc to S.T.Rajesh Murugan Advocate sr.37193
+1 cc to Public prosecutor sr.36894

Crl.O.P.No.2576 of 2016

aa22/07/2016