

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08-01-2016

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Criminal Original Petition No.411 of 2016

D. Dwarakanadha Reddy (A1)
son of Nagi Reddy aged about 48 years
and residing at Old No.829, New No.5,
89th Street, 13th Sector,
K.K. Nagar, Chennai 600 078 Petitioner

Vs.

State by the Addl.Suptd of Police
SPE/CBI/ACB
Chennai Respondent

Criminal Original Petition filed under Section 482, Cr.P.C.,
to quash the charge sheet in C.C.No.13 of 2015 on the file of
XIII Addl. Special Judge for CBI Cases, Chennai.

For petitioner :: Mr. K. Suresh Babu
For respondents :: Mr. K. Srinivasan,
Spl.P.P. for CBI cases

ORDER

This criminal original petition has been filed under
Section 482 of the Code of Criminal Procedure, 1973 praying to
call for records relating to Calendar Case No.13 of 2015,
pending on the file of the XIII Additional Special Judge for
CBI cases, Chennai and quash the same.

2. It is averred in the petition that the petitioner
has been shown as first accused and further, it is averred in
the petition that the respondent has filed a final report
against the petitioner and others under Sections 13(2) read
with 13(1)(e) of the Prevention of Corruption Act, 1988.
Further, the accused Nos.2 and 3 have filed CrI.O.P.Nos.11101
and 15873 of 2015 on the file of this Court for identical
relief and this Court has allowed the same by way of holding
that after closure of First Information Report, further,
investigation is totally unwarranted. Under the said
circumstances, the present petition has been filed for getting
the relief sought therein.

3. It is an admitted fact that the present petitioner
and the petitioners found in CrI.O.P.Nos.11101 and 15873 of

2015 have been shown as accused in Calendar Case No.13 of 2015. It is also equally an admitted fact that the respondent has filed a final report on the file of the Trial Court against the present petitioner under Sections 13(2) read with 13(1)(e) of the Prevention of Corruption Act, 1988 and against the second and third accused under Section 109, IPC read with Section 13(1)(e) of the Prevention of Corruption Act, 1988.

4. The second and third accused have filed Crl.O.P.Nos.11101 and 15873 of 2015 on the file of this Court wherein it has been contended on the side of the petitioners that the FIR against all the accused has already been closed as mistake of fact and subsequently, the concerned Magistrate has granted permission to conduct further investigation. On that basis, further investigation has been done and subsequently, filed a final report in question.

5. This Court after considering the divergent contentions raised on either side has held that after closure of FIR as mistake of fact, the concerned Magistrate cannot grant permission to conduct further investigation and on that score alone, Crl.O.P.No.11101 and 15873 of 2015 are allowed. Considering the fact that already this Court has held in Crl.O.P.Nos.11101 and 15873 of 2015 to the effect that permission to conduct further investigation by the concerned Magistrate is totally illegal. The same principle of law can also be applied in the present criminal original petition and therefore, the present criminal original petition is liable to be allowed.

In fine, this petition is allowed. The final report filed in Calendar Case No.13 of 2015 against the petition is quashed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

glp
To
The Addl.Suptd of Police
SPE/CBI/ACB Chennai

+1cc to Mr.K. Srinivasan, Advocate, S.R.No.1532
+2ccs to Mr.K. Sursh Babu, Advocate, S.R.No.1591

KSJ(CO)
EU(21/01/2016)

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