

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.O.P.No.8104 of 2016

K.Thirumurthy

.. Petitioner

Vs.

1. The Director,
Anti Corruption Department,
Pattinapakkam,
Chennai-600 028.
2. The Deputy Superintendent of Police,
Anti-Corruption Department,
Cuddalore District,
Cuddalore.

.. Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) to direct the second respondent to register the complaint of the petitioner, dated 14.11.2015 and investigate the same in accordance with law to secure the ends of justice.

For petitioner : Mr.M.Velmurugan

For respondents: Mr.P.Govindarajan, Addl.P.P.

ORDER

This Crl.O.P. is filed to direct the second respondent to register the complaint of the petitioner, dated 14.11.2015 and investigate the same in accordance with law to secure the ends of justice.

2. It is the stand of the petitioner in the Crl.O.P. that he is residing along with his family members in Melathanur Village, Thittagudi Taluk, Cuddalore District. One Sivakami, wife of Arumugam, is the President of Melathanur Village Panchayat. During her tenure from 2013 to 2015, with common intention to cheat the people living in the said Panchayat, she misused her official position with the help of unknown officials and her relatives, thereby, created forged Bills for withdrawal of Rs.17,92,164/- from the funds of the said Panchayat, thereby, swindled the money without any work being done to the said Panchayat and acquired assets beyond her sources of income. In

this regard, the petitioner submitted a complaint to the respondents on 14.11.2015; thereafter, the second respondent enquired into the matter and informed that action would be taken; till date, according to the petitioner, no action is taken; no investigation is done and no FIR is filed, and hence, he has filed this Crl.O.P. for the relief stated supra.

3. On behalf of the respondents, the Inspector of Police, Vigilance and Anti-Corruption, Cuddalore has filed a status report on behalf of the respondents, stating that on receipt of the petition, dated 14.11.2015 of the petitioner, the Directorate of Vigilance and Anti-Corruption (DVAC), Chennai, ordered for conducting preliminary enquiry, based upon which, PE.450/2015/RDP/HQ was registered in Department of VAC, Cuddalore on 26.11.2015 and the Inspector of Police, Vigilance and Anti-Corruption, Cuddalore conducted enquiry. In the preliminary enquiry, 20 witnesses were examined and 14 documents were procured. The persons who carried out the Panchayat works as alleged to have been done by the petitioner, were examined and they received entire wages for the works. It is stated that on perusal of the expenditure statements in respect of the alleged works done for two consecutive years relating to the period of allegations, it is found that there was no misappropriation of funds. The persons who conducted audit in regard to the alleged works, were also examined, along with their audit reports, which also showed that there is no misappropriation of funds in respect of the funds allotted for the said works. It is found that there is only violation of procedures and there was improper maintenance of records, as is evident in regular audit and inspection. The mistakes were rectified as per routine process, which were accepted by the Panchayat officials and the appellate authority. It is further stated in the final report that in the preliminary enquiry, no witnesses, except the de-facto complainant and his acquainted persons, allege any misappropriation, but they were unable to produce any evidence for the same and they merely stated that they have no faith in the expenditure statements received under the Right to Information Act.

4. It is further averred in the above final report that the Block Development Officer, who has no connection with the affairs of the execution of the work and also the people of the Village Panchayat, who are all independent and not connected with the execution of the work, were also examined and they also did not speak about any misappropriation of funds. On thorough enquiry, it is revealed that no evidence is available for suspicion of commission of any cognizable offence. As stated supra, the procedural violation and improper maintenance of records found out, were rectified based on the action taken by the superior authority and also based on the audit report. Not even a specific allegation under the Prevention of Corruption

Act is raised in the petition. On enquiry, it also revealed that the Government land, where the Melathanur Panchayat Village Officer buildings had been constructed, was previously encroached upon by the petitioner. In this regard, the petitioner also sent a petition to Ramanathapuram Police Station, Deputy Superintendent of Police, Thittagudi and also to the District Collector, Cuddalore, for stopping the construction of the Panchayat Office buildings in the said land. It is further stated that the petitioner also moved this Court in Crl.O.P.No.8957 of 2015 impleading the Deputy Superintendent of Police, Thittagudi Sub-Division, Cuddalore District and the Inspector of Police, Ramanathapuram Police Station, Cuddalore District as respondents, with a prayer to register a case against Tmt.Sivagami, Panchayat President of Melathanur Village. This Court, by order dated 09.04.2015, disposed of the said Crl.O.P., directing the respondents-Police to conduct enquiry and either register a case or drop action expeditiously, based upon which, CSR.No.117/2015 was registered in Ramanathapuram Police Station against the said Sivagami.

5. It is the further stand of the Police in the said final report that the said Sivagami preferred a complaint before Ramanathapuram Police Station against the petitioner to take action for creation of false records and objecting to the construction of the Village Panchayat Office building. She also moved this Court in Crl.O.P.No.368 of 2016 impleading the Inspector of Police, Ramanathapuram Police Station, Cuddalore District and the Superintendent of Police, Cuddalore District as respondents, with a prayer to register a case against the petitioner for the allegation of land grabbing by forged document. This Court, by order dated 08.01.2016, disposed of the said Crl.O.P., directing the first respondent therein, i.e. the Inspector of Police, Ramanathapuram Police Station, to proceed further in accordance with law as early as possible, and if no prima-facie case is made out for registering FIR, the Inspector of Police was directed to pass appropriate orders on the said complaint. In that regard, a case was also registered in Ramanathapuram Police Station in Cr.No.37 of 2016 for the offences under Sections 468, 471 and 506 (Part-2) IPC against the petitioner. It is further stated in the final report that on enquiry, it revealed that the petitioner had enmity with the said Sivagami (Panchayat President), because of which, the petitioner had motive to file the present Crl.O.P. against her. Thus, in the final report, it is prayed for passing necessary orders.

6. Heard both sides.

7. Taking into consideration the fact that already, preliminary enquiry was conducted, which revealed that there is no misappropriation of funds as alleged by the petitioner and

that, actually, there is no prima-facie case made out for registering a case against the said Village Panchayat President, it is not necessary for this Court to issue any direction as sought for by the petitioner in this Crl.O.P. In view of the above statements made in the final report, this Crl.O.P. is liable to be dismissed, which is accordingly dismissed.

cs

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Copy to

1. The Director,
Anti Corruption Department,
Pattinapakkam,
Chennai-600 028.
 2. The Deputy Superintendent of Police,
Anti-Corruption Department,
Cuddalore District,
Cuddalore.
 3. The Public Prosecutor, High Court, Madras.
- + 1 cc to Public Prosecutor, High Court, Madras SR 29374

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