



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.O.P. (MD) No.20805 of 2015

WEB COPY

K.S.Krishnamurthy

... Petitioner

Vs.

State rep. by
1.The Inspector of Police,
Vigilance and Anticorruption,
Dindigul.
Crime No.3 of 2015.

2.K.R.Kanchidurai

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to Crime No.3 of 2015 dated 20.03.2015 on the file of the 1st respondent police and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.S.Karthik

For respondents : Mr.P.Kandasamy

Government Advocate (Crl. Side)

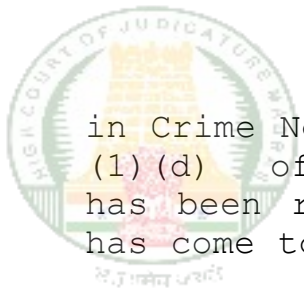
For R1.

Mr.V.Sasikumar

For R2.

O R D E R

The petitioner/Krishnamurthy/A1 came forward under Section 482 Cr.P.C. to quash the FIR in Crime No.3 of 2015 registered by the first respondent/Inspector of Police, Vigilance and Anti-corruption, Dindigul. Selection of Assistant-cum-Typist on a consolidated pay, was conducted, to the Juvenile Justice Board, Dindigul and Child Welfare Committee, Dindigul, which comes under Social Welfare Department. A list of candidates was called for from the District Employment Office. Two lists, each consisting of 10 persons were prepared. Typing test was conducted and it was monitored by A2. The petitioner/A1 was the then Superintendent of the Regional Social Defence Office, Madurai and his duty is to collect and put up the papers of all the participated candidates to the Deputy Director. From each list, one Sujatha and one Nagarajan were selected. The second respondent herein is one of the participated candidates. He was not selected. He was upset. In the circumstances, he preferred a complaint alleging irregularities and commission of cognizable offence in the matter of selection of the said two posts. Based on R2's complaint, FIR



in Crime No.3 of 2015 for the offences under Sections 13(2) r/w.13 (1)(d) of Prevention of Corruption Act, 1988 and 120(B) of IPC has been registered as against A1/petitioner. Now the petitioner has come to this Court to quash the FIR.

2. Under Section 482 Cr.P.C. High Courts have inherent jurisdiction, which may be invoked when there is abuse of process of court or otherwise to secure the ends of justice.

3. The FIR in this case has been registered under Section 154 Cr.P.C. Section 154 deals with the first information, which will become FIR. The FIR is disclosing a cognizable offence. When an FIR is registered, if it does not disclose any cognizable offence, then it will be an abuse of process of Court. The inherent power under Section 482 Cr.P.C. could be sparingly exercised to quash the FIR. However, when there is abuse of process of Court or in the interest of justice, inherent power of this Court can be exercised. This Court will not hesitate to exercise this inherent power. In **State of Haryana and Others vs. Bhajan Lal (1992 Supp (1) SCC 355)** in Paragraph No.102, the Hon'ble Supreme Court observed as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156

(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the



FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

4. Admittedly, the petitioner was then Superintendent in the office at the relevant time, when the typing test is conducted. In the FIR it is stated that the two selected candidates, namely, Sujatha and Nagarathinam in the typing examination, each had few mistakes that were left unnoticed, which should have been noticed by the selection authority. For the fault of the selection authority, the petitioner cannot be blamed. So also A2 of course, she is not before us. Krishnamurthy / A1/petitioner discharged his clerical duty. He has put up the papers. That will not be a cognizable offence.

5. The learned counsel for the petitioner would submit that the FIR in this case does not disclose any cognizable offence. Thus registering FIR against the petitioner is clearly an abuse of process of the Court.

6. The learned Government Advocate(Crl. Side) would submit that FIR has been registered, after investigation as there is no sufficient evidence to sustain the allegations, it is proposed to drop the action and a report to that effect has been submitted to the Government.

7. The learned counsel for the second respondent, who is the disappointed person would submit that there is mal-practice.



8. It is seen that an offence under Section 120-B IPC has also been alleged. The offence of conspiracy is defined in Section 120-A of IPC. Lawful meeting of two or more persons to do a legal act or to do an illegal act in an illegal manner, it is punishable under Section 120-B IPC. For conspiracy, each and every conspired act should have been performed. In furtherance of conspiracy, if a single act is committed, it is enough.

9. Now in this case, there is no allegation as regards hatching of a conspiracy as between A1 and A2 the allegation in the FIR must be sufficient to attract the penal provisions. Though at the stage of FIR, the entire evidence need not be given, so far as the FIR is concerned a reading of it on its face value must disclose a cognizable offence.

10. Now in this case reading the FIR from line one to the last line do not disclose any cognizable offence more particularly under Sections 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1988 and 120-B IPC. This is a fit case that this Court should exercise its inherent jurisdiction under Section 482 of Cr.P.C. as there is abuse of process of the Court.

11. In view of the foregoing reasons this Criminal Original Petition is **allowed** and the FIR in Crime No.3 of 2015 on the file of the Inspector of Police, Vigilance and Anticorruption, Dindigul is quashed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Inspector of Police, Vigilance and Anticorruption,Dindigul.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

+1 cc to M/s.S.Karthik, Advocate in SR.No.27788

+1 cc to M/s.V.Sasikumar, Advocate in SR.No.27931

PJL

CSL/PEK/10.06.2016 : 4P/5C

Cr1.O.P. (MD) No.20805 of 2015

03.06.2016