



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE **P.DEVADASS**

Crl.O.P.(MD)No.15449 of 2016

S.M.Raja

... Petitioner

-vs-

1. The Director,
(Vigilance and Anti corruption),
21/28, P.S.Kumarasamy Raja Road,
Raja Annamalaipuram,
Chennai-28.

2. The Inspector of Police,
(Vigilance and Anti corruption),
Theni District.

... Respondents

PRAYER: Criminal Original Petition is filed, under Section 482 Cr.P.C., to direct the second respondent to register a case on the basis of petitioner's complaint dated 17.06.2016.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.P.Kandasamy

Govt. Advocate (Crl.Side)

O R D E R

S.M.Raja, the petitioner herein seeks a direction under Section 482 Cr.P.C., to direct the second respondent viz., Inspector of Police, Vigilance and Anticorruption, Theni District, to register a case on the basis of his complaint dated 17.06.2016, investigate and file the final report.

2. The Raja presented his complaint on 17.06.2016 to the first respondent viz., Director General of Vigilance and Anticorruption, Chennai. As there was no further action, Raja invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C.

3. The learned counsel for the petitioner would contend that Ganesan, who was formally associated with the running of a Temple called Muthumariamman Temple situate in Andipatti. As he has processed the petitions of R.D.O., VAO, Thasildar, Collector, Judges, it requires investigation, bring the offender to justice.



4. The learned counsel for the petitioner submitted that in the facts and circumstances of this case, investigation is required.

5. On the other hand, the learned Government Advocate (Crl.side) would submit that it is actually Raja vs. Ganesh, in their affairs with regard to the said Temple. Raja wants to settle scores with him and for this purpose he has taken the Courts for his jolly ride. He wish to threaten Ganesan and his supporters. No cognizable offences much less any offence is disclosed in his petition.

6. I have anxiously considered the rival submissions and perused the materials on record.

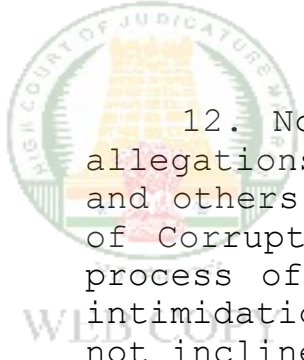
7. The petitioner has invoked the inherent jurisdiction of this Court under Section 482 of Cr.P.C. Inherent power is to do justice and also undo justice. It is also to prevent abuse of process of any Court. The word 'process' refers institution of any legal proceedings before a public such as Court or Police. When resort is made to abuse the process of the Court by filing a petition under Section 482 for registering of an F.I.R. then it is misuse of process of the Court.

8. The essential requirement is that the petition must disclose a cognizable offence as mentioned in the concerned enactment. When it so discloses, the Court will direct the police to undertake investigation. Ganesan and other persons mentioned in this petition are private persons. company are private persons. Further, acting upon a chit or voucher alleged to have been made by the Ganesan and others that they have bribed certain public officials including judge it would not warrant a case.

9. A fervent appeal has been made by the learned counsel for the petitioner atleast the police may asked to do investigation.

10. The word 'investigation' is too simple word, some times it results in some serious consequences. Investigation arises only upon registration of F.I.R., so if no F.I.R., no investigation. Once F.I.R. is registered without any basis, then anticipatory bail, arrest and regular bail are the normal fell out of the same. When no strong case is made out for directing investigation, then the liberty of the person will be at stake.

11. For each and every case, the inherent power of the Court under Section 482 Cr.P.C., cannot be used. Inherent power must be exercised sparingly. Where the power is to be exercised, it must be exercised. Where it is not required to be exercised, it should not be so exercised.



12. Now, applying the above principles to this case and the allegations made by the petitioner as against his rival Ganesan and others does not disclose a cognizable offence under Prevention of Corruption Act. It is a ploy of the petitioner to abuse the process of Court to threaten Ganesan and others. It is criminal intimidation to them through Court. In the circumstances, we are not inclined to issue the direction sought for.

13. Accordingly, this criminal Original Petition is dismissed.

Sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

akv

To

1. The Director,
(Vigilance and Anti corruption),
21/28, P.S.Kumarasamy Raja Road,
Raja Annamalaipuram,
Chennai-28.
2. The Inspector of Police,
(Vigilance and Anti corruption),
Theni District.
3. The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr. K.GOKUL, Advocate, Sr.No: 47559

JAM/SS 2/14.09.16/ 3P-5C

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