



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P(MD)No.3904 of 2015

R. NAGARAJAN
S/O. RAJENDRAN T4 MILK BOOTH STOP ELLIS
NAGAR MADURAI- 620 010. ... Petitioner

Vs.

- 1 THE DIRECTOR,
DIRECTORATE OF VIGILANCE AND ANTI CORRUPTION,
NCB 21/ 28 PS KUMARASAMY RAJA SALAI,
RAJA ANNAMALAIPURAM, CHENNAI- 600 028
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
DEPARTMENT OF VIGILANCE AND ANTI CORRUPTION,
NO. 165G ALAGARKOIL ROAD,
MADURAI- 625 002.
- 3 THE GOVERNMENT OF TAMIL NADU,
REP. BY ITS CHIEF SECRETARY, FORT ST.GEORGE,
CHENNAI.
- 4 THE MANAGING DIRECTOR,
TAMIL NADU HOUSING BOARD, 493 ANNA SALAI,
NANDHANAM, CHENNAI. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 1 and 2 to conduct an enquiry considering the representation of the Petitioner datd 11.02.15 regarding the offences under Prevention of Corruption Act in the construction of the multistoried building in Survey No.217/1B3 and 220/3A Madalulam Village Madurai North taluk Madurai and to take necessary action on the basis of such enquiry.

For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondents	: Mr.M.Govindan for R1 to R3 Spl. Government Pleader Mr.S.Nagarajan for R4

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner has come up with this petition seeking a direction to the respondents 1 and 2 to initiate appropriate action under law against whom certain allegations have been made by the petitioner including the allegations of corruption and criminal misconduct.

2. The receipt of the said complaint by the respondents 1 and 2 dated 11.02.2015 has not disputed by the respondents. But, in the counter filed by the Deputy Superintendent of Police, Vigilance and Anti Corruption, Madurai, it is stated in paragraph No.5 as follows:

"5.It is respectfully submitted that another copy of the above said petition, dated 11.02.2015, which was sent to the 1st respondent directly through post by the petitioner was received at the Directorate of Vigilance and Anticorruption, Chennai on 16.02.2015. In Para 10(2) of the DVAC Manual, it is stipulated that "Petitions received against All India Service Officers, Heads of Departments and Collectors are to be forwarded to the Chief Secretary to Government straightaway for necessary action without conducting any form of enquiry". Accordingly, both the petitions were forwarded to the Chief Secretary to Government, Secretariat, Chennai, vide Ref. Nos.1269/2015/PUB/MU dated 17.02.2015 and 1449/2015/HB/MU, dated 24.02.2015."

3. We have heard the learned counsel for the petitioner and the learned counsel for the respondents and we have also perused the records.

4. The law on the issue as to whether the Station House Officer, who receives the complaint making out a cognizable offence, could hold it without registering any case or without making any preliminary enquiry, has been well settled by the Constitution Bench of the Hon'ble Supreme Court of India in **Lalita Kumari v. Government of Uttar Pradesh and others** reported in **2013(4) Crimes 243 (SC)**, wherein, the Hon'ble Supreme Court has held that information passed on need not be either a credible information or reliable information, at the stage, when the complaint is received by the Station House officer, he need not go into these aspects. The only option available for him, according to the Hon'ble Supreme Court, is to register a case and to investigate, provided, the allegations made out a cognizable offence. But, so far as, in a case, the allegations relating to offences under the Prevention of Corruption Act are concerned, the Hon'ble Supreme Court has directed that in an appropriate case, the police officer should hold preliminary enquiry and after completing the preliminary enquiry, if it is found that



any offence has been committed, then, he should register a case.

5. In the instant case, the Deputy Superintendent of Police, in his counter, has stated that following the Vigilance Manual, he has forwarded the complaint to the Chief Secretary, instead of taking any action, as directed by the Hon'ble Supreme Court. We wish to appraise the respondents 1 and 2 that the direction issued by the Hon'ble Supreme Court, that too by a Constitution Bench, cannot be simply ignored relying on an administrative instruction issued by the Head of the Department.

6. In other words, such administrative instructions cannot override the judgment of the Hon'ble Supreme Court. As per the provisions of the Constitution, any direction issued by the Hon'ble Supreme Court is to be scrupulously followed and the authorities concerned are bound by the same. Therefore, it is not legal on the part of the Deputy Superintendent of Police to claim that he followed the Vigilance and Anti Corruption Manual instead of following the directions of the Hon'ble Supreme Court. Atleast, by now, we are hopeful that the officials of the Government would have been appraised of the direction of the Hon'ble Supreme Court in *Lalita Kumari's* case and we are further hopeful that they would scrupulously follow the said directions to avoid any contempt proceedings against them.

7. When this was pointed out, the learned Special Government Pleader submitted that the 2nd respondent would hold necessary enquiries into the allegations as directed by the Hon'ble Supreme Court in *Lalita Kumari's* case and proceed further in accordance with law. We make it very clear that these directions should not be misconstrued, as though we have found out a prima facie case in the allegations made by the petitioner in the complaint. It is for the 2nd respondent to go into these allegations and to find out the truth. We further clarify that we have not even expressed that the complaint makes out any cognizable offence. It is also a matter for the 2nd respondent to go into.

8. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



To

1 THE DIRECTOR,
DIRECTORATE OF VIGILANCE AND ANTI CORRUPTION,
NCB 21/ 28 PS KUMARASAMY RAJA SALAI,
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3 THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU,
FORT ST.GEORGE
CHENNAI.

4 THE MANAGING DIRECTOR,
TAMIL NADU HOUSING BOARD,
493, ANNA SALAI,
NANDHANAM, CHENNAI.

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 70237

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 70281

+ 1 CC TO Mr.S.NAGARAJAN, ADVOCATE IN SR No. 70370

RR

TE/CK/AR CS-II : 25/11/2016 : 4P/8C

ORDER MADE IN
W.P (MD) No.3904 of 2015
17.11.2016