

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 05.12.2016

DELIVERED ON: 06.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. Nos.17394 & 19849 of 2016 & Crl.R.C. No.948 of 2016
&
connected Miscellaneous Petitions

A.R. Shridharan Petitioner in Crl.O.P.
No.17394/2016

vs.

1 State by
the Inspector of Police
CB-CID Headquarters
Egmore
Chennai - 600 008

2 VAK Engineering Pvt. Ltd.
represented by its Managing Director
Rajesh Malhotra
No.294, Thambu Chetty Street
Chennai Respondents in Crl.O.P.
No.17394/2016

(R2 impleaded vide order dated 10.11.2016 in
Crl.O.P. No.17394 of 2016)

L. Ameer Petitioner in Crl.O.P.
No.19849/2016

vs.

1 State by the Inspector of Police
CB-CID Headquarters
Egmore
Chennai - 600 008

2 VAK Engineering Pvt. Ltd.
represented by its Managing Director
Rajesh Malhotra
No.294, Thambu Chetty Street
Chennai Respondents in Crl.O.P.
No.19849/2016

(R2 impleaded vide Court order dated 10.11.2016
in Crl.O.P. No.19849 of 2016)

A.R. Sridharan Petitioner in Crl.R.C.
No.948/2016

vs.

1 The State of Tamil Nadu
 represented by the Inspector of Police
 Crime Branch CID
 Headquarters
 Guindy, Chennai 600 032

2 VAK Engineering Pvt. Ltd.
 represented by its Managing Director
 Rajesh Malhothra
 No.294, Thambu Chetty Street
 Chennai Respondents in Crl.R.C.No.948/2016

(R2 impleaded vide Court order dated 10.11.2016
in Crl.R.C. No.948 of 2016)

Prayer in Crl.O.P. No.17394 of 2016:

Criminal Original Petition filed under Section 482, Cr.P.C.
seeking to call for the entire records pending on the file of
the Judicial Magistrate Court No.1 at Thiruvallur in C.C. No.361
of 2011 and order for conducting fresh/further investigation and
direct the respondent to submit additional or final report as to
refer the case either as mistake of fact or civil in nature.

Prayer in Crl.O.P. No.19849 of 2016:

Criminal Original Petition filed under Section 482, Cr.P.C.
seeking to call for the entire records pending on the file of
the Judicial Magistrate Court No.1 at Thiruvallur in C.C. No.361
of 2011 and to quash the same.

Prayer in Crl.R.C. No.948 of 2016:

Criminal Revision Petition filed under Section 397 read with
Section 401 Cr.P.C. to call for the records relating to C.C.
No.361 of 2011 on the file of the Judicial Magistrate No.1 at
Tiruvallur and set aside the order of the Judicial Magistrate
No.1 at Tiruvallur in C.M.P. No.5546 of 2015 in C.C.No.361 of
2011 dated 27.04.2016 and discharge the petitioner/accused A1
from framing of the charges.

For petitioner in
Crl.O.P. No. 17394 &
19849/2016 and Crl.R.C. No. 948/2016 Mr. S. Xavier Felix

For R1 in Crl.O.P.
Nos.17394 & 19849/2016 and Crl.R.C. No. 948/2016 Mr. R. Rajarathinam
State Public Prosecutor

For R2 in Crl.O.P. Nos.
17394 & 19849/2016 and Crl.R.C. No.948/2016 Mr. G. Krishnakumar

COMMON ORDER

In view of commonality of the issue involved, all these cases are considered and decided by this common order.

2 For the sake of convenience, the parties will be referred to by their name.

3 On the complaint lodged by one Rajesh Malhotra, Director of VAK Engineering Pvt. Ltd. (for brevity "VAK Engineering"), the Central Crime Branch, Chennai, registered a case in Crime No.64 of 2009 under Sections 120-B, 467 and 468 IPC read with Sections 471, 466 and 420 IPC against A.R. Shridharan (A1) and others on 09.06.2009 and on the orders of the Director General of Police, the case was transferred to CB-CID on 25.06.2009. The CB-CID completed the investigation and filed a final report in C.C. No.361 of 2011 before the Judicial Magistrate Court No.I, Tiruvallur, for offences under Sections 120B, 465, 468, 470, 471, 420, 421 and 109 IPC against A.R. Shridharan (A1) and 7 others.

4 While so, A.R. Shridharan (A1) filed a petition under Section 239, Cr.P.C. in Crl.M.P. No.5546 of 2015 before the Judicial Magistrate Court No.I, Tiruvallur, for discharging him from the prosecution. The Magistrate dismissed the said petition on 27.04.2016 holding that there are sufficient materials against A.R. Shridharan (A1) for framing charges. Challenging the said order, A.R. Shridharan (A1) has filed Crl.R.C.No.948 of 2016. Notwithstanding that, A.R. Shridharan (A1) has filed Crl.O.P. No.17394 of 2016 under Section 482, Cr.P.C. to set aside the charge sheet in C.C. No.361 of 2011 and for conducting a fresh/further investigation. Similarly, Ameer (A6) in C.C. No.361 of 2011 has filed Crl.O.P. No.19849 of 2016 for quashing the prosecution against him.

5 To appreciate the rival submissions, it may be necessary to extract verbatim, the relevant paragraphs from the charge sheet in C.C.No.361 of 2011:

"1 It is a case of alleged criminal conspiracy, fabricating false documents by committing forgery by the accused A1 to A8 with intent to construct a multi storied building on the 6.2 acres of vacant lands belongings to M/s.VAK Engineering Company Pvt. Ltd. situated at Adambakkam, Chennai by getting a plan permit approval from Chennai Metropolitan Development Authority (CMDA).

5 Investigation in this case disclosed that an application No.29314/04 dated 14.09.2004 which was tendered before the Chennai Metropolitan Development Authority (CMDA) in the name of R. Sridharan, Inner Ring Road, Tiruvalluvar Nagar, Alandur, Chennai 600 016 and 8 others requesting to accord plan permit to develop the property on vacant land measuring about 6.2 acres covered in Alandur Town Survey No.122/1 to 122/6 and 122/9 and T.S. No.138 of Adambakkam Village for to construct multi storied buildings. The application had been purportedly signed by nine persons viz., 1. A.R. Sridharan, (formerly VAO Adambakkam), 2. G.L. Ahmed, 3. K.P. Ramalingam, 4. Zubaitha Khattoon, 5. Fathima Bi, 6. L. Ameer, 7. Ganis Fathima, 8. Abdul Majeed and 9. Chennaram Seni, an executive officer working in M/s. Jain Housing, a building construction company having head office at No.7, Lakshminarasimhan Street, T. Nagar, Chennai and now functioning at No.11, Somasundaram Street, T. Nagar, Chennai. Besides application, the said nine persons have also signed other supporting documents in non judicial stamp papers enclosed with application. In respect of the application submitted, M/s. Jain Housing, No.7, Lakshminarasimhan Street, T. Nagar, address was given for all future correspondence with Chennai Metropolitan Development Authority (CMDA).

6. Investigation revealed in respect to the allegation of the complainant that one of the signatory G.L. Ahmed died on 03.08.2004 but his signatures were found in several records enclosed with the above subject application submitted to Chennai Metropolitan Development Authority on 14.09.2004 is correct. When the existence of the other signatories were verified, it came to light that three other signatories Ganish Fathima, Fathima

Bi and Abdul Majeed were also deceased persons at the time of presenting the subject application to CMDA. Ganish Fathima and Fathima Bi died during year 2002 and 2003, while Abdul Majeed died way back in the year 1996. The other signatories A.R. Shridaran, S/o Rajagopal Pillai, No.51, Yadaval Street, Adambakkam, Chennai - 88, L.Ameer, S/o. Abdul Latif, No.66/B, Thiruvalluvar Nagar, Alandur, Chennai-16, K.P. Ramalingam, S/o Pattabi Viswanatha Reddiar, Adambakkam, Chennai - 16 and Zubaida Khatoon, W/o Abdul Aziz Khan, 27/66C, Thiruvalluvar Nagar, Alandur, Chennai - 16 are alive and living in their respective addresses. Chennaram Seni, S/o Rithramji is residing at Door No.89/90, B-10 Apartments, Arcot Road, Vadapalani, Chennai - 26. Deceased Fathima Bi is a relative of Zubaida Kattoon. All the signatories except Chennaram Seni had given their addresses as Inner Ring Road, Thiruvalluvar Nagar, Alandur, Chennai. This address is vague and not a specific one. It is a vacant area and no one lives in 6.2 acres of land in question. The application was admitted in CMDA and assigned SBC No.923, dated 14.09.2004 and taken into a File No.B1/28058/04. The application was submitted by N. Sivakumar on behalf of M/s. Jain Housing, T. Nagar, Chennai, he was then working in M/s. Jain Housing. One of the signatory Chennaram Seni had signed in the application and other documents representing M/s. Jain Housing for it was Sandeep Mehta, the Managing Partner of M/s. Jain Housing, who lead from the front not only by meeting all the expenditure but also providing all other supports for getting the plan permit from Chennai Metropolitan Development Authority for developing the landed property.

17 In addition to the above fabricated documents, one more document purportedly registered as Doc No.442/04, dated 31.05.2004 had been filed along with the C.M.D.A. application. This document is intended to establish that the accused Sridharan (A1), Kannan (A4) and some members of their family had appointed the accused Chennaram Seni (A5) as their power agent for a portion of the subject property covered in T.S. No.138. One of their family member Malliga had purportedly signed the document. But, she died long back in 11.04.2003. Hence, it is a fabricated document created by forging the signature of deceased Malliga. Further when the authenticity of the Doc. No.442/04 was verified with the records maintained at Sub Registrar Office,

Alandur, it came to light that DOC No.442/04 is a different document, wherein, one Kalyani of Mylapore, Chennai had appointed one S. Shanmugavel, S/o R. Sanjeev as her power agent. Further, it came to light that two of the employees of M/s. Jain Housing namely P. Senthil and A. Anandaraj had signed in the DOC No.442/04 as witnesses. When examined they categorically stated that the accused Sandeep Mehta (A3) had told them to sign the papers whenever produced by any of the persons Sridharan (A1), Rajasekaran (A2) and as directed, they had signed the DOC No.442/04 as witness when produced by Sridharan (A1) and Rajasekaran (A2). Hence, DOC No.442/04 is yet another forged document filed to get the plan permit for the subject property. . . .

6 The allegations in this charge sheet are different and distinct from the prosecution faced by A.R. Shridharan (A1) and Ameer for offences under the Prevention of Corruption Act in Special C.C. No.4 of 2002 before the Chief Judicial Magistrate-cum-Special Judge for Prevention of Corruption Act cases, Chengalpet.

7 Mr. Xavier Felix, learned counsel, contended that after the filing of final report, much water has flown under the bridge with regard to the land dispute between A.R. Shridharan (A1) and VAK Engineering, to substantiate which, he took this Court through the order dated 12.06.2015 passed by the Minor Inam Tribunal in C.M.A. No.28 of 1993 and paragraph no.18 of the order dated 23.12.2009 passed by this Court in S.T.A. No.2 of 1996, which read as under:

➤ Order of this Court in S.T.A. No.2 of 1996:

"18. For all these reasons, the impugned order is set aside and the matter is remanded back to the Inam Tribunal, where the claims of both the claimants shall be decided. The Tribunal shall issue notice to the Adheenam, the Inamdar, before deciding the matter. It has been held by our Court that the Assistant Settlement Officer, does not have the jurisdiction to decide inter se disputes, but however, he can decide the claim on its own merit with reference to the records produced. In view of the subsequent event that is brought to our notice by the respondents, viz. the initiation of criminal proceedings for falsification of records, the Tribunal shall also examine whether the patta granted by the Izaradar is genuine and also as to whether the Izaradar had the competence to issue such patta. The Tribunal may also receive additional evidence, if produced, in accordance with law. There shall be no

order as to costs. Consequently, S.T.P. Nos.1 and 19 of 2009 are closed.

➤ Order of the Minor Inam Tribunal:

"On considering the entire case records and argument of the respondents and on the basis of the observation made by the Hon'ble High Court, Madras and this Court conclude that the claim of the appellant is not proved and the patta granted by the Izaradar is genuine and also the Izaradar had the competence to issue such pattas.

And thereby there is no doubt as to the genuineness of the claim of the respondents. Hence, the orders issued by the Assistant Settlement Officer dated 09.09.1993 deserves to be confirmed by ordering for issue of patta in favour of the respondents.

In the result, the Minor Inam CMA is dismissed with costs."

Based on the findings of the Minor Inam Tribunal, Mr. Xavier Felix contended that the entire prosecution against A.R. Shridharan (A1) and Ameer should be quashed or at least, further investigation should be ordered in C.C. No.361 of 2011 as prayed for by A.R. Shridharan (A1) and Ameer.

8 The CB-CID has filed counter affidavit, in which, the allegations levelled by Ameer have been refuted.

9 To substantiate the accusation against A.R. Shridharan (A1) and Ameer, the police have recorded the statements of 65 witnesses. This Court called for the case diary and perused the same. Apart from recording statements under Section 161, Cr.P.C., the prosecution had the statements of one P. Sivakumar (LW 17) and Nandakumar (LW 18) recorded by a Magistrate under Section 164 of the Code. Nandakumar (LW 18) is a relative of A.R. Shridharan (A1) and he has clearly implicated him. The crux of the allegation against A.R. Shridharan (A1) and Ameer and the other conspirators is that they had submitted applications to C.M.D.A. for planning permission with the signatures of dead persons. These allegations have nothing to do with the patta dispute before the Minor Inam Tribunal. That has been projected only to sidetrack and confuse the issues. The findings of the Minor Inam Tribunal can have no ramification on the criminal proceedings in C.C. No.361 of 2011. Sections 41 to 43 of the Indian Evidence Act set down the relevance of the judgment of a Court in another judicial proceedings. Even if it is proved beyond doubt that the disputed land does not belong to VAK Engineering, that cannot absolve A.R. Shridharan (A1) and Ameer of their criminal liability for having submitted forged

documents to C.M.D.A. for getting plan approval. Even if the accused arrive at a compromise with VAK Engineering, the prosecution in this case cannot be quashed, because, the allegation in the charge sheet is that the accused have affixed the signatures of dead persons and have submitted applications to C.M.D.A. for plan approval. Under such circumstances, there is no necessity to order any further investigation in this case, just because in some collateral civil proceedings, orders in favour of the accused have been passed.

10 Coming to Crl.R.C. No.948 of 2016, the Supreme Court, in State of Bihar vs. Ramesh Singh [1977) 4 SCC 39], has held that even a strong suspicion is enough to frame a charge. On a perusal of the materials collected by the police, it cannot be stated that the accusation against A.R.Shridharan (A1) and Ameer lacks any ground. That apart, the forged signatures and the admitted signatures of the accused were sent to the handwriting expert and a report has been obtained from the Deputy Director of Tamil Nadu Forensic Sciences Department.

11 Before parting with the matter, this Court is constrained to extract paragraph no.16 of the counter affidavit filed by the CB-CID in Crl.O.P. No.19849 of 2016 which reads as follows:

"16. It is submitted that the petitioner/accused L.Ameer and other accused had filed petitions in various courts one by one with an interior motive to drag on the case and to hamper the process of Law. The petitions filed by the accused in various courts and the disposals are as follows:

S.No.	Petitioner	Name of the Court	Petition & No.	Order & Date
1.	A-7 Fazullah Khan & A-8 Zubaitha Khathoon	Hon'ble JM-I Court, Thiruvallur	Discharge Petition in Crl.M.P.No.15 12/14	Dismissed on 12.12.2014
2	A-3 Sandeep Metha	Hon'ble JM-I Court, Thiruvallur	Discharge Petition in Crl.M.P.No.34 91/12	Dismissed on 10.01.2014
3	A-5 Chennaramsen i	Hon'ble JM-I Court, Thiruvallur	Discharge Petition in Crl.M.P.No.34 90/12	Dismissed on 10.01.2014

S.No.	Petitioner	Name of the Court	Petition & No.	Order & Date
4	A3 Sandeep Metha	Hon'ble JM-I Court, Thiruvallur	IInd Discharge Petition filed UN.R.No.10126/16	Dismissed on 07.03.16
5	A3 Sandeep Metha	Hon'ble District Sessions Court, Thiruvallur	CrI.Rc.No.3/2016 Against to UN.R.No.10126/16	Pending
6	A-1 A.R.Sridharan	Hon'ble High Court of Madras	Quash Petition CrI.OP.No.19526/10	Dismissed on 30.08.2010
7	A-1 A.R.Sridharan	Hon'ble High Court of Madras	Direction Petition CrI.OP.No.9913/13	Order Dismissed on 18.04.2013
8	A1 AR.Sridharan	Hon'ble JM I Court Thiruvallur	Discharge Petition CrI.M.P.No.5546/15-16.07.15	Dismissed on 27.04.16
9	A1 AR.Sridharan	Hon'ble High Court of Madras	CrI.R.C.No.948/2016 against CrI.MP.No.5546/15	Pending
10	A1 AR.Sridharan	Hon'ble High Court of Madras	CrI.OP.No.17394/16 & 17395/16	Pending"

12 At this juncture, it may be very apt to quote the wordings of the Supreme Court in Ganesh Narayan Hedge vs. S.Bangarappa and others [(1995) 4 SCC 41], where, it was poignantly remarked thus:

"18. We do not know who is responsible for this delay. As observed by Krishna Iyer, J. in Special Courts Bill, 1978, [(1979) 1 SCC 380] at p.442: (SCC para 15)

"(I)t is common knowledge that currently in our country criminal courts excel in slow motion. The procedure is

dilatory, the dockets are heavy, even the service of process is delayed and, still more exasperating, there are appeals upon appeals and revisions and supervisory jurisdictions, baffling and baulking speedy termination of prosecutions...." (emphasis supplied).

The slow motion becomes much slower motion when politically powerful or rich and influential persons figure as accused. FIRs are quashed. Charges are quashed. Interlocutory orders are interfered with. At every step, there will be revisions and applications for quashing and writ petitions. In short, no progress is ever allowed to be made. And if ever the case reaches the stage of trial after all these interruptions, the time would have taken its own toll: the witnesses are won over; evidence disappears; the prosecution loses interest -- the result is an all too familiar one."

13 In the teeth of such overwhelming materials, it cannot be stated that the accusation against the accused are groundless. It is made clear that the accused shall cross-examine the witnesses on the day they are examined-in-chief, as laid down by the Supreme Court in Vinod Kumar vs. State of Punjab [2015 (1) MLJ CrL.288]. If they adopt any dilatory tactics, they shall be remanded to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319].

14 A.R. Shridharan (A1) and Ameer are accused in another case, viz., Spl. C.C. No.4 of 2012 and both of them have challenged the said prosecution in CrL.O.P. Nos.32096 of 2013 and 17395 of 2016 and CrL.R.C. No.1298 of 2013, which have been dismissed by this Court vide separate order of even date.

In view of the foregoing, CrL.O.P. Nos.17394 and 19849 of 2016 and CrL.R.C. No.948 of 2016 stand dismissed. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1 The Inspector of Police
CB-CID Headquarters
Egmore
Chennai - 600 008

2 The Judicial Magistrate Court No.1
Thiruvallur

3 The Public Prosecutor
Madras High Court
Chennai 600 104

4 The Inspector of Police
CB-CID Headquarters
Guindy,
Chennai - 600 008

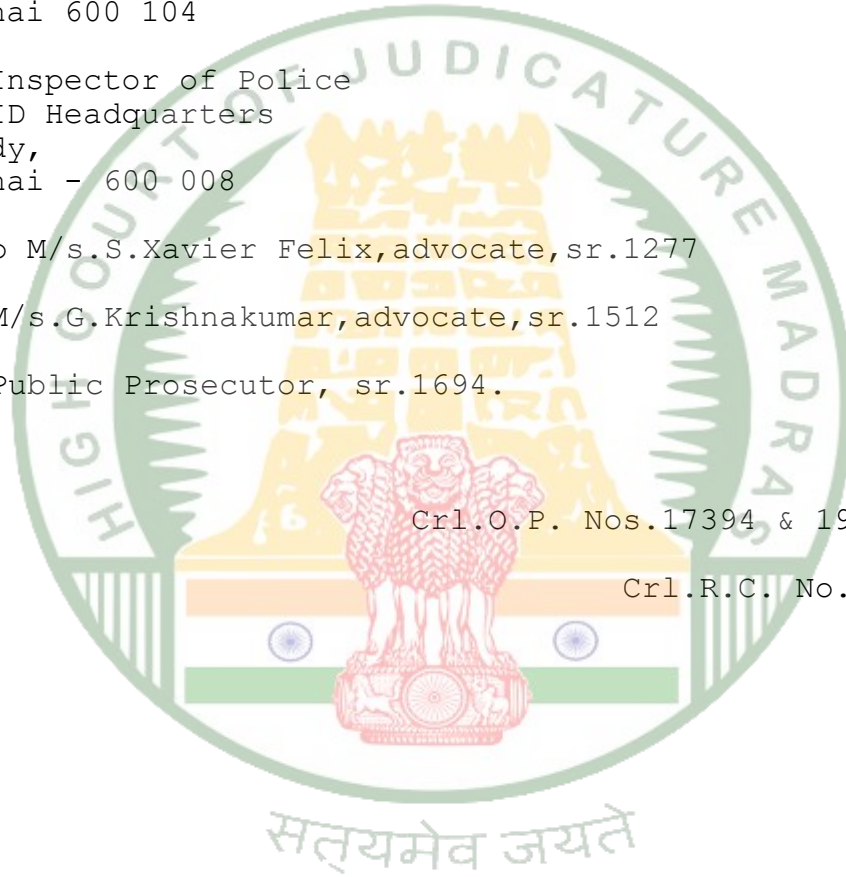
+5 cc's to M/s.S.Xavier Felix,advocate,sr.1277

+1 cc to M/s.G.Krishnakumar,advocate,sr.1512

+1 cc to Public Prosecutor, sr.1694.

mp(co)
krd 13/2

Crl.O.P. Nos.17394 & 19849 of 2016
&
Crl.R.C. No.948 of 2016



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