

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

W.P. Nos.33733 of 2013, 34744 of 2013 and 25713 of 2014

CrI.O.P. Nos.32096 of 2013 and 17395 of 2016

CrI.R.C. No.1298 of 2013

&

connected Miscellaneous Petitions

A.R. Shridharan Petitioner in WP No.33733 of 2013

vs.

- 1 The District Collector
O/o the District Collector
Kancheepuram- 631 502
- 2 The Public Information Officer
Personal Assistant to District Collector (General)
O/o the District Collector
Kancheepuram 631 502
- 3 The District Revenue Officer
O/o the District Revenue Officer
Kancheepuram 631 502
- 4 The Principal Information Officer
State Information Commission
376 Anna Salai
Teynampet
Chennai 600 018 Respondents in WP No.33733 of 2013

A.R. Shridharan Petitioner in WP No.34744 of 2013

vs.

- 1 The Secretary to Government
Revenue Department
Fort St. George
Chennai 600 009

- 2 The Special Commissioner & Commissioner of
Revenue Administration
O/o the Special Commissioner and Commissioner of
Revenue Administration
Ezhilagam
Chepauk, Chennai 600 005
- 3 The District Collector
O/o the District Collector
Kancheepuram
- 4 The Revenue Divisional Officer
O/o the Revenue Divisional Officer
Tambaram
Chennai 600 045 Respondents in WP No.34744/2013

A.R.Shridharan Petitioner in W.P. No.25713 of 2014

vs.

- 1 The Director General of Police
O/o the Director General of Police
Kamarajar Salai
Mylapore
Chennai 600 004
- 2 The Secretary to Government
Home Department
Fort St. George
Chennai 600 009
- 3 The Additional Director General of Police
O/o the Additional Director General of Police
CB CID Headquarters
SIDCO Industrial Complex
Guindy, Chennai 600 032
- 4 The Deputy Superintendent of Police
O/o the Deputy Superintendent of Police
CB CID Headquarters
SIDCO Industrial Complex
Guindy, Chennai 600 032
- 5 Ravee Raman Malhotra
- 6 Rajesh Malhotra Respondents in W.P.No.25713 of 2014

L. Ameer

Petitioner in Crl.O.P. No.32096 of 2013

vs.

1 The State represented by
the Deputy Superintendent of Police
Crime Branch CID
Headquarters
Guinidy
Chennai 600 032

2 VAK Engineering Co. Pvt. Ltd.
represented by its Director George Thous
326, MKN Road
Alandur
Chennai 600 016 Respondents in Crl.O.P. No.32096/2013
(R2 impleaded as per the order
dated 13.12.2013 in Crl.O.P.No.32096/13)

A.R. Shridharan Petitioner in Crl.O.P. No.17395/2016

vs.

1 State by
The Deputy Superintendent of Police
CBCID Headquarters
Egmore
Chennai - 600 008

2 V.A.K. Engineering Pvt. Ltd.
represented by its Managing Director
Rajesh Malhothra
No.294, Thambhu Chetty Street
Chennai Respondents in Crl.O.P. No.17395/2016

(R2 impleaded as per order dated 10.11.2016
in Crl.O.P. No.17395 of 2016)

A.R. Shridharan
of 2013

Petitioner in Crl.R.C. No.1298

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vs.

1 State by
The Deputy Superintendent of Police
CB-CID Headquarters
Chennai 600 002

2 VAK Engineering Pvt. Ltd.
represented by its Managing Director
Rajesh Malhothra
294, Thambu Chetty Street
Chennai Respondents in Crl.R.C.No.1298/2013
(R2 impleaded as per order dated 10.11.2016
in Crl.R.C.No.1298/13)

Prayer in W.P. No.33733 of 2013:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 2 and 3 through the 4th respondent and consequently, direct the 4th respondent to furnish the information sought from the 2nd respondent dated 04.06.2012 and consequently, direct the fourth respondent to dispose the appeal of the petitioner dated 14.08.2012 under the Right to Information Act, 2005.

Prayer in W.P. No.34744 of 2013:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 1 to 3 to direct the 4th respondent to complete the pending enquiry in proceedings RC No.7382 / 1995 dated 02.11.1985 and to dispose of the same in accordance with law and on merits.

Prayer in W.P. No.25713 of 2014:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the fourth respondent to conduct further investigation in Special C.C. No.4 of 2012 pending on the file of the Hon'ble Chief Judicial Magistrate at Chengalpet on the basis of the available material documents and to file the additional charge sheet in accordance with Section 173(8) of Cr.P.c. in accordance with law.

Prayer in Crl.O.P. No.32096 of 2013:

Criminal Original Petition filed under Section 482, Cr.P.C., seeking to call for the records with regard to Special C.C. No.4 of 2012 on the file of the Chief Judicial Magistrate, Chengalpattu and quash the same as far as the petitioner is concerned.

Prayer in Crl.O.P. No.17395 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 Chief Judicial Magistrate Court, Chengalpet in Special Case No.4 of 2012 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 CrI.R.C. No.1298 of 2013:

Criminal Revision Case filed under Section 397 read with Section 401, Cr.P.C., to call for the records relating to the Special Case No.4 of 2012 on the file of the Special Court and Chief Judicial Magistrate Court at Chengalpet and set aside the order of the Special Judge and Chief Judicial Magistrate at Chengalpet in CrI.M.P. No.858 of 2012 in Special Case No.4 of 2012, dated 19.09.2013 and discharge the petitioner/accused A1 from framing of the charges.

For petitioner in
all the WPs

Mr. Xavier Felix

For official
respondents in all
the WPs

Mr. R.Rajarathinam
State Public Prosecutor

For petitioner in
CrI.O.P.No.32096/2013

Mr. P. Thyagarajan

For R1 in
CrI.O.P.No.32096/2013

Mr. R. Rajarathinam
State Public Prosecutor

For R2 in
CrI.O.P.No.32096/2013

Mr. G. Krishnakumar

For petitioner in
CrI.O.P. No.17395/2016
and CrI.R.C.
No.1298/2013

Mr. S. Xavier Felix

For R1 in CrI.O.P.
No.17395/2016 and
CrI.R.C. No.1298/2013

Mr. R. Rajarathinam
State Public Prosecutor

For R2 in CrI.O.P.
No.17395/2016 and
CrI.R.C. No.1298/2013

Mr. G. Krishnakumar

COMMON ORDER

Since the issues involved in the cases at hand, viz., writ petitions, criminal original petitions and criminal revision case are intertwined, they are considered and decided by this common order.

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

3 Firstly, the writ petitions are taken up for disposal. W.P. No.33733 of 2013 has been filed seeking a writ of mandamus directing the respondents 2 and 3 through the 4th respondent and consequently, direct the 4th respondent to furnish the information sought from the 2nd respondent dated 04.06.2012 and consequently, direct the fourth respondent to dispose of the petitioner's appeal dated 14.08.2012 under the Right to Information Act, 2005.

4 W.P. No.34744 of 2013 has been filed seeking a writ of mandamus directing the respondents 1 to 3 to direct the 4th respondent to complete the pending enquiry in proceedings RC No.7382 / 1995 dated 02.11.1985 and to dispose of the same in accordance with law and on merits.

5 W.P. No.25713 of 2014 has been filed seeking a writ of mandamus directing the fourth respondent to conduct further investigation in Special C.C. No.4 of 2012 pending on the file of the Chief Judicial Magistrate Court, Chengalpet, on the basis of the available material documents and to file the additional charge sheet in accordance with Section 173(8) of Cr.P.C.

6 Heard Mr. Xavier Felix, learned counsel for A.R. Shridharan, Mr.P.Thiagarajan, learned counsel for Ameer, Mr. R. Rajarathinam, learned Public Prosecutor appearing for the State and Mr. Abudu Kumar Rajaratinam, learned counsel for V.A.K. Engineering Pvt. Ltd. (for brevity "VAK Engineering")

7 During the hearing of these petitions, documents in pile in the form of huge typed set of papers were placed before this Court and arguments were advanced for several days by the learned counsel on either side.

8 To appreciate the rival contentions, it may be necessary to set down in brief, the history of the case.

9 The land in Adambakkam Village is the epicentre of the dispute. Certain portions of Adambakkam Village were brought into the fold of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 (Act 30 of 1963), pursuant to which, those lands vested with the Government from 15.02.1965. Sri Kunrakkudi Tiruvannamalai Mutt (for brevity "the Mutt") contended that they hold both melvaram and kudivaram rights in the said land. However, pattas were issued by the

Government to various persons, challenging which, the Mutt initiated proceedings before the Revenue authorities and ultimately, the dispute culminated in S.T.A. Nos.36 and 37 of 1982 and a Division Bench of this Court (R. Jayasimha Babu and F.M. Ibrahim Kalifulla, JJ), in Adheenakartha, Sri Kundrakkudi, Tiruvannamalai Mutt, Kundrakkudi vs. M. Pattabhiraman and others [(2001) 3 LW 97], disallowed the claim of the Mutt and upheld the pattas granted to various persons. The Mutt went on appeal to the Supreme Court and the appeal was dismissed on 20.08.2015. A.P. Rajagopalan (father of A.R. Sridharan - A1) was staking claim to the land on the alleged authority given by the Mutt.

10 While so, A.R. Shridharan (A1) was the Triune Officer of Adambakkam Village from 1975 to 1980 and he was the Village Administrative Officer of Adambakkam Village from 31.12.1991 to 27.07.1996. Incidentally, he is also a resident of Adambakkam Village.

11 The father-son duo was filing petitions before the Revenue authorities claiming right through the Mutt in respect of about 3.80 acres of prime land in Adambakkam Village. It must be noted that they were not claiming title to the land via any registered document. In other words, they were trying to establish their rights through patta. This Court is constrained to record this feature, because, only if any right is claimed via a registered document, will there be entry in the encumbrance register with regard to the land in the office of the Sub-Registrar. While so, one VAK Engineering purchased about 11.40 acres of land in Adambakkam Village from Empire Dyeing and Manufacturing Company vide document no.7935 of 1973 dated 30.07.1973. Thus, on the one hand, VAK Engineering was claiming title to the land through documents, whereas, the father-son duo was claiming title to the land via pattas.

12 When the father-son duo tried to interfere with the possession of the property, VAK Engineering filed O.S. No.1283 of 1979 for bare injunction before the District Munsif Court, Poonamallee, which appears to have been dismissed on 17.10.1981. A.P. Rajagopalan filed a suit in O.S. No.18 of 1984 against VAK Engineering, which was later re-numbered as O.S.No.1714 of 1997 after it was transferred to the District Munsif Court, Alandur and the said suit was decreed in favour of Rajagopalan on 28.02.2002. While these suits and cross suits were going on, the father-son duo was silently prosecuting the matter before the Revenue authorities for patta.

13 Totally exasperated, VAK Engineering submitted two representations on 07.06.1997 to the Hon'ble Minister for Revenue, Government of Tamil Nadu, alleging that A.R. Shridharan (A1) is manipulating the Revenue records to claim title over the lands belonging to VAK Engineering. The Hon'ble Minister for Revenue directed the Collector of Anna District to conduct an enquiry and take action in accordance with law. The District Collector, Anna District, directed the Deputy Collector, to conduct a preliminary enquiry. The preliminary enquiry conducted by Mr. Antonysam, P.A. to the Collector, opened a Pandora's box. When the matter was placed before the Government, the Government decided to launch a prosecution against A.R.Shridharan (A1) and his group, pursuant to which, on the complaint launched by the District Collector, Kancheepuram, the CB-CID registered a case in Cr. No.4 of 1998. A.R.Shridharan (A1) filed Crl.O.P. No.11431 of 2002 under Section 482, Cr.P.C. for quashing the FIR and the said case was dismissed by this Court on 21.06.2002. The CB-CID, after completing the investigation, filed a final report before the Judicial Magistrate Court No.II, Poonamallee, against A.P. Rajagopalan (deceased), A.R.Shridharan (A1), Kannan, Ameer, Bhuvanammal and Ahmad in C.C. No.321 of 2002 for offences under Sections 120-B read with Sections 465, 471, 420, 423, 193 and 109, IPC on 14.06.2002. The CB-CID obtained permission from the Trial Court on 30.07.2002 for conducting further investigation under Section 173(8), Cr.P.C. and after completing the further investigation, the offences under Sections 423 and 193, IPC were dropped and offences under Sections 466, 467 and 167, IPC were included and a supplementary charge sheet was filed before the Judicial Magistrate Court No.II, Poonamallee in C.C. No.321 of 2002. A.R. Shridharan (A1) filed an application under Section 239, Cr.P.C. in C.C.No.321 of 2002 for discharging him from the prosecution and the same was dismissed by the Judicial Magistrate Court No.II, Poonamallee on 14.10.2004. Aggrieved by the order of dismissal, A.R.Shridharan (A1) filed a revision petition in C.R.P. No.112 of 2005 before the Sessions Court, Chengalpet and the same was dismissed on 25.04.2006. Challenging the dismissal, A.R. Shridharan (A1) filed Crl.O.P. No.12166 of 2006 before this Court, the fate of which will be stated below.

14 To cut a long story short, patta proceedings culminated in the order dated 04.01.2007 passed by the Special Commissioner, Commissioner of Land Administration, Chepauk, which was challenged by A.R. Shridharan (A1) in W.P. No.7890 of 2007 before this Court. Similarly, the suits in O.S.Nos.1635, 1826 and 1714 of 1997 between VAK Engineering and A.R.Shridharan (A1) and company ultimately reached this Court in S.A.Nos.2007 to 2009 of 2004.

15 A.R. Shridharan (A1) was representing to the Hon'ble Chief Justice that his CrI.O.P. No.12166 of 2006 also should be heard along with W.P.No.7890 of 2007 and S.A. Nos.2007 to 2009 of 2004 and therefore, CrI.O.P. No.12166 of 2006 was posted along with W.P. No.7890 of 2007 and S.A. Nos.2007 to 2009 of 2004 and was heard by a Division Bench of this Court (Prabha Sridevan and M.Sathyanarayanan, JJ.).

16 W.P. No.7890 of 2007 was allowed by the Division Bench on 01.12.2009 and the matter was remanded to the Settlement Officer for fresh consideration to verify the allegations with regard to the alteration in the relevant records.

17 The same Division Bench, by order dated 02.12.2009, adjourned S.A. Nos.2007 to 2009 of 2004 in view of the order passed in W.P. No.7890 of 2007 to await the outcome of the findings of the Settlement Officer.

18 As regards CrI.O.P. No.12166 of 2006, which relates to the challenge of the prosecution in C.C. No.321 of 2002, the same Division Bench, by a detailed order dated 09.12.2009, dismissed the same with the following finding:

"58. This Court, on a careful consideration and appreciation of the submissions made by the counsel appearing on either side and also by applying the ratio laid down in the above cited decision, is prima facie of the view that the accusation made against the petitioner is not without basis or substance.
(emphasis supplied)

59. The points urged by the learned counsel appearing for the petitioner are touching upon the merits of the case including appreciation of documentary evidence and in the present proceedings, it cannot be done. The said exercise can be done only in trial wherein the burden is on the prosecution to prove guilt of the petitioner/A1 beyond reasonable doubt. The petitioner is also at liberty to put forth his defence.

60. This Court finds no merit in this Criminal Original Petition and therefore, it is dismissed.

61. The findings/observations made herein are only for the disposal of this Criminal Original Petition and the Trial Court need not be influenced by such observations. It goes without saying the Trial Court is to decide the guilt on the part of the petitioner/A1 based on the evidences available on record.

62. Since the Calendar Case is of the year 2002, the Trial Court is required to give priority for its early disposal and as far as possible, on day-to-day basis.

63. Since direction has been given in Crl.O.P. No.12166 of 2006, for expeditious disposal of C.C. No.321 of 2002, no orders are necessary in this Criminal Original Petition and therefore, it is closed."

19 Thus, there is a clear cut finding of a Division Bench of this Court that there are sufficient materials for the prosecution to proceed against A.R.Shridharan (A1) and company in C.C. No.321 of 2002.

20 At this juncture, it may be relevant to state here, yet another development that took place with regard to criminal cases. VAK Engineering filed petitions in Crl.O.P. No.14395 of 2010 before this Court for a direction to transfer the case in C.C. No.321 of 2002 pending on the file of the Judicial Magistrate Court No.II, Poonamallee, to the Special Court for Prevention of Corruption Act Cases and Crl.O.P. No.15996 of 2010 seeking a direction to the respondent police to take action for obtaining sanction to prosecute A.R. Shridharan (A1) under Section 19 of the Prevention of Corruption Act. This Court (C.T. Selvam, J.), vide order dated 22.07.2010, went into the entire facts and circumstances of the case and found that A.R. Shridharan (A1) had abused his official position as Village Administrative Officer and had manipulated the village land records in order to set up a bogus claim on the lands of VAK Engineering and other lands in tandem with his father. Therefore, this Court felt that on the materials collected by the police, a case under the Prevention of Corruption Act has been made out and hence, directed the transfer of the case from the file of the Judicial Magistrate Court No.II, Poonamallee, to the Special Court for Prevention of Corruption Act Cases and

further, directed the Judicial Magistrate Court No.II, Poonamallee, to return the final report and records in C.C. No.321 of 2002 to the CB-CID with a further direction to the CB-CID to obtain necessary sanction from the Government under the Prevention of Corruption Act for prosecuting A.R. Shridharan (A1) under Section 13(1)(d) of the Prevention of Corruption Act. Sanction was accorded by the Revenue Divisional Officer, Tambaram, vide Rc.No.2424/2009/B dated 14.12.2011 under Section 19 of the Prevention of Corruption Act, 1988 to prosecute A.R. Shridharan (A1) for offences under the Prevention of Corruption Act. A.R.Shridharan (A1) filed W.P. No.24384 of 2012 before this Court challenging the sanction order and a learned Single Judge of this Court (S.Nagamuthu, J.) dismissed the same on 06.09.2012 observing as under:

"6. In my considered opinion, this petition deserves to be dismissed for more than one reason. First of all, satisfaction as contemplated in Section 19 of the Prevention of Corruption Act is only a subjective satisfaction. It is not necessary that there should be a detailed documentation and the reasons for granting sanction. It is well settled by a catena of judgments of the Hon'ble Supreme Court that even, if there is any omission in the sanction order, the same can be explained away before the criminal court by the sanctioning authority. Apart from that, if the sanction order is defective, the same can be raised before the Trial Court at the time of trial. Simply because, there is a mention in the sanction order that the Sanctioning Authority had occasion to consider the statement of the accused, it does not mean that the other materials would not have been sufficient for the authority to come to a required satisfaction for the purpose of granting sanction. At any rate, the petitioner has got alternative remedy to raise the question of validity at the time of trial before the criminal court. In such view of the matter, I do not find any merit in the writ petition."

21 Pursuant to the sanction accorded by the Revenue Divisional Officer, Tambaram, the CB-CID filed the third charge sheet for offences under Sections 465, 466, 467, 471, 420, 167 and 109 IPC read with Section 13(1)(d) of the Prevention of Corruption Act, against A.R.Shridharan (A1), Kannan and Ameer before the Chief Judicial Magistrate-cum-Special Judge for Prevention of Corruption Act Cases, Chengalpet and the case has been numbered as Special C.C. No.4 of 2012. A.R. Shridharan (A1) filed Crl.M.P. No.858 of 2012 in Special C.C. No.4 of 2012 for discharge under Section 239 Cr.P.C., which was dismissed on 19.09.2013, aggrieved by which, he has filed Crl.R.C.No.1298 of 2013.

Writ Petitions filed by A.R. Shridharan (A1):

22 A.R. Shridharan (A1) came to understand that Mr. S. Iyyar, I.A.S., Sub Collector, Saidapet, had passed an order dated 02.11.1995 in R.C.No.7362/95/A1, in which, he is said to have questioned the very locus standi of VAK Engineering in making a claim to the property. A.R.Shridharan (A1) has a photocopy of the communication dated 02.11.1995 in R.C.No.7362/95/A1 that was addressed by Mr. S. Iyyar, I.A.S., Sub-Collector, Saidapet, to VAK Engineering and has enclosed it in page no.462 of Volume II of his typed set of papers. In order to give legal sanctity to the said communication, he made an application to the Revenue authorities, for furnishing him the file relating to the communication of Mr.S. Iyyar, I.A.S., Sub-Collector, Saidapet, to VAK Engineering, under the Right to Information Act, 2005 and since he did not get the necessary reply, he has filed W.P. No.33733 of 2013 for the aforesaid relief. He has also filed W.P.No.34744 of 2013 seeking a writ of mandamus to the Sub-Collector, to dispose of the proceedings in R.C. No.7362/95/A1. The third writ petition is W.P. No.25713 of 2014 that has been filed by A.R.Shridharan (A1) for a mandamus to the police to conduct further investigation in Special C.C.No.4 of 2012 on the allegation that the representations dated 06.06.1997 given by VAK Engineering to the Hon'ble Minister for Revenue are forged communications and that the signature of the Hon'ble Minister has been forged.

23 When the hearings began in this batch of cases, Mr. Xavier Felix strenuously contended that the representations given by VAK Engineering on 07.06.1997 to the Hon'ble Minister for Revenue are fabricated ones and that they have forged the signature of the Hon'ble Minister in the communication. He also contended that Mr. S. Iyyar's communication dated 02.11.1995 has been suppressed by the police.

24 To satisfy the judicial conscience, this Court directed Mr.N.Venkataraman, Deputy Superintendent of Police, CB-CID, who was in the Court, to obtain the original file containing Mr. S. Iyyar's report and also file a status report before this Court.

25 Accordingly, the Deputy Superintendent of Police, CB-CID, brought the entire file to this Court for perusal. This Court perused the file. It is true that Mr. S. Iyyar, I.A.S., the then Sub-Collector, Saidapet, has made a file noting questioning the very locus standi of VAK Engineering. Subsequently, the entire proceedings had gone upto the District Collector, Kancheepuram, who, in turn, had directed an officer of the rank of Sub-Collector, to conduct an enquiry and submit a

report. By then, Mr. S. Iyyar, I.A.S, was transferred from that post. Mr. Antonysamy, P.A. to the Collector, conducted the enquiry and submitted a report to the District Collector, Kancheepuram, which was sent to the Government and thereafter, on the directions of the District Collector, Kancheepuram, the FIR in this case has been registered as Cr.No.4 of 1998. Therefore, from 1995 to 1998, much water has flown under the bridge and there is no point in now saying that, just because a stray averment in Mr. S.Iyyar's communication dated 02.11.1995 is in favour of A.R. Shridharan (A1), the proceedings should be quashed or further investigation should be ordered. A photocopy of the relevant records from the file was taken by this Court and the same was also handed over to Mr.Xavier Felix across the Bar so that he need not have to once again complain that the information sought by him under the Right to Information Act, has not been supplied. Criminal prosecutions are not built on averments in enquiry reports, but, only on the strength of credible evidence collected by the police during investigation under Chapter XII of the Code.

26 In the considered opinion of this Court, nothing comes out of the file and it is only an attempt by A.R. Shridharan (A1) to create a red herring. Now that the photocopies of the relevant papers of the file containing Mr.S.Iyyar's communication have been furnished to Mr. Xavier Felix, he can have no further grievance that the same has not been supplied to him under the Right to Information Act.

27 Mr. Xavier Felix strenuously reiterated the averments in the affidavit and submitted that a further investigation should be conducted to unravel the truth about the genuineness of the representations dated 07.06.1997 given by VAK Engineering to the Hon'ble Minister for Revenue and also to know the outcome of the enquiry by Mr. S. Iyyar, I.A.S., Sub-Collector, Saidapet in R.C. No.7362/95/A1.

28 It must be borne in mind that A.R. Shridharan (A1) is an accused in Special C.C. No.4 of 2012 and he cannot maintain a petition for further investigation on such frivolous grounds. It is for the police to establish the charge against him during trial, where, opportunity will be given to A.R.Shridharan (A1) to cross-examine the witnesses produced by the prosecution and dislodge their version and earn his acquittal.

29 Similarly, the allegation that the signature of the Hon'ble Minister of Revenue has been forged in the representations given by VAK Engineering also lacks substance.

Mr. Nanjil K. Manoharan, the then Hon'ble Minister for Revenue, who had made endorsement on the representation given by VAK Engineering is not alive today. Knowing full well of this aspect, A.R.Shridharan (A1) is attempting to sidetrack the whole issue and deflect the course of trial.

30 Mr. Xavier Felix, learned counsel for A.R. Shridharan (A1) placed reliance on the judgment of this Court in Sugesan Transport Pvt. Ltd. vs. The Assistant Commissioner of Police, J2, Adyar Police Station, Adyar, Chennai 600 020 and another [2016 (5) CTC 577: 2016-2-LW (Crl.) 499] and submitted that in the said judgment, this Court has held that FIRs cannot be registered based on complaints given to Ministers and higher officials in the State and that the same should be given only to the Station House Officer under Section 154, Cr.P.C.; hence, the present FIR is vitiated.

31 In Sugesan Transport Pvt. Ltd. (supra), this Court has deprecated the practice of litigants sending complaints to the Chief Minister and higher officials and immediately filing applications under Section 482, Cr.P.C. for registration of FIR. Only in that context, it has been held that such representations cannot form the basis of FIR. In this case, the FIR has not been registered on the complaint of VAK Engineering. The representation of VAK Engineering was forwarded by the Minister for Revenue to the District Collector, who directed the Sub-Collector to conduct an enquiry and during enquiry, it turned out that A.R. Shridharan (A1), who was in charge of the village records, had committed wholesale manipulation of records, not only to the disadvantage of VAK Engineering, but also, to usurp the other lands belonging to the Government. Therefore, the de facto complainant in this case is not VAK Engineering, but, only the District Collector, who is the representative of the State. In fact, all these have already been discussed threadbare by the Division Bench of this Court in Crl.O.P. No.12166 of 2006, whereby and whereunder, A.R. Shridharan's claim has been turned down, despite which, these arguments are being urged again and again by A.R.Shridharan (A1) only to scuttle the criminal proceedings against him.

32 In view of the aforesaid discussion, all the three writ petitions fail and they are accordingly dismissed. No costs. Connected Miscellaneous Petitions are closed.

Crl.O.P. Nos.32096 of 2013 & 17395 of 2016:

33 While Crl.O.P. No.32096 of 2013 is filed by Ameer seeking quashment of his prosecution in Special C.C. No.4 of 2012 on the file of the Chief Judicial Magistrate Court,

Chengalpattu, CrI.O.P. No.17395 of 2016 is filed by A.R. Shridharan (A1) seeking quashment of his prosecution in the very same case.

34 It is Mr. Xavier Felix's contention that A.R. Shridharan (A1) is being prosecuted by the CB-CID based on the enquiry report of the Sub-Collector without anything more. He submitted that a report of an officer can never be treated as a substantive evidence in a criminal trial and that there should be credible evidence to prove the facts in issue and relevant facts.

35 On a thorough reading of the charge sheet in Special C.C. No.4 of 2012, this Court finds that the representations given by VAK Engineering to the Hon'ble Minister for Revenue had only ignited an enquiry by the District Collector, Kancheepuram, on whose direction, Mr. Antonysamy, P.A. to the Collector, of the rank of the Sub-Collector, conducted an enquiry and submitted a report to the Government, based on which, the Government directed the District Collector, Kancheepuram, to launch a prosecution resulting in the FIR being registered on the complaint given by the District Collector himself.

36 Assuming for a moment that there are some infirmities in the manner in which the investigation had commenced, that by itself, cannot be a reason, to quash the charge sheet, because, a competent court has taken cognizance of the offences based on the charge sheet and the accompanying documents like Section 161 statements, 164 statements, mahazars, opinion of the hand writing expert, etc. and has also dismissed the petition for discharge filed by the accused under Section 239, Cr.P.C.

37 What are the allegations against A.R. Shridharan (A1) and Ameer (A2) as disclosed in the charge sheet in Special C.C. No 4 of 2012?

38 A.R. Shridharan (A1) was working as Triune Officer of Adambakam Village from 1975 to 1980 and subsequently, he was the Village Administrative Officer of the same village from 31.12.1991 to 27.06.1996. It is beyond cavil that the Village Administrative Officer has access to all the land records of the village. Incidentally, A.R. Shridharan (A1) is also a resident of the same village.

39 The allegation in the charge sheet is as follows:

"A-1 A.R. Sridharan being a public servant, in pursuant of the same criminal conspiracy and during the said period and places in the course of the same

transactions by abusing his official position by illegal means, had inserted his father's name A.P. Rajagopal, S/o A. Parthasarathy Pillai in the fair land register of Adambakkam Village against Town Survey Number 138 and fabricated and forged Government records and thus A-1 A.R. Sridharan appears to have committed the offences punishable under Section 120(b), r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

In pursuance of the said criminal conspiracy and during the said period and places and in the course of the same transactions A1 A.R. Sridharan was made to abuse his official position by abetments of A-2 A.R. Kannan, had prepared a false document by inserting his father's name A.P. Rajagopal, S/o A. Parthasarathy Pillai in the fair land register of Adambakkam Village against Town Survey Number 138 and fabricated and forged Government records which would not have happened but for such abetment and thus A-2 A.R. Kannan appears to have committed the offences punishable under Section 109 IPC r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

A-1 A.R. Sridharan being a public servant, in pursuance of the said criminal conspiracy and during the said period and places in the course of the same transactions was made to abuse his official position by abetments of A-2 A.R. Kannan, and A-3 L. Ameer, had fabricated and forged the Adangal extract for the year 1978, for the fasli year 1398 and issued the same to the effect that in Re-Survey number 20/1 Part from Settlement Officer's which offence would not have happened but for which abetment and thus A-2 A.R. Kannan and A-3 L. Ameer appear to have committed the offences punishable under Section 109 IPC, r/w 13 (1)(d) of the Prevention of Corruption Act, 1988.

In pursuance of the said criminal conspiracy and during the said period and places and in the course of the same transactions, A-1 Sridharan was made to abuse his official position and by such abetments of A-2, A.R. Kannan and A-3 L. Ameer, A-1, A.R. Sridharan, the VAO had fabricated and forged the Adangal Extract for the year 1979, for the fasli year 1389 and issued same to the effect that in Re-survey No.20/1 Part, his father A.P. Rajagopalan (deceased) R. Bhuvanammal (deceased) and G.L. Ahamed (deceased) were in possession of the lands in order to facilitate A-3, husband of Bhuvanammal to make a claim for patta in Re-survey no.20/1 Part from the

settlement officers and which offence would not have happened but for such abetment and thus A-2 A.R. Kannan and A-3 L. Ameer appear to have committed the offences punishable under Section 109 IPC r/w 13(1) (d) of the Prevention of Corruption Act.

A-1 A.R. Sridharan being a public servant, in pursuance of the said criminal conspiracy and during the said period and places and in the course of the same transactions was made to abuse his official position, by the abetments of A-2 A.R. Kannan and A-3 L. Ameer, had issued a fabricated and forged certificate, purportedly issued on 21.03.1979 containing false statement that R. Bhuvanammal was in possessions of the lands in Paimash number 717, Re-survey number 20/1 Part in order to facilitate A-2 A.R. Kannan and A-3 L. Ameer to claim their right by such act, which would not have happened but for such abetment had committed the offences punishable under Section 109 IPC r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

A-1 A.R. Sridharan being a public servant, in pursuant of the said criminal conspiracy and during the said period and places and in the course of the same transactions was made to abuse his official position by the abetments of A-2 A.R. Kannan and A-3 L. Ameer had issued a fabricated and forged certificate, purportedly issued on 21.03.1979 containing false statement that R. Bhuvanammal was in possession of the lands in Paimash number 717 Re-Survey number 20/1 Part in order to facilitate A-2 A.R. Kannan and A-3, L. Ameer to claim their right by such illegal means which would not have happened but for such abetment appear to have committed the offences punishable under Section 109 IPC r/w 13(1) (d) of the Prevention of Corruption Act, 1988."

40 Thus, there are specific allegations that A.R. Shridharan (A1) had inserted his father's name A.P. Rajagopalan in the fair land register of Adambakkam Village in T.S. No.138 and together with his brother Kannan and Ameer, had fabricated and forged the Adangal extract for the year 1978 and 1979, based on which, they had obtained land pattas, which, they started using in various judicial proceedings to make claims over lands in Adambakkam Village, which do not belong to them.

41 The police have examined and recorded the statements of 100 witnesses including that of the handwriting expert, who had compared the admitted handwritings of A.R. Shridharan (A1) with that of the insertions in the land register. The handwriting

expert's opinion shows that the insertion "A.P. Rajagopalan" made in the survey land register is in the handwriting of A.R. Shridharan (A1). On the application made by the police, the Magistrate has recorded 164 Cr.P.C. statements of Gilani, Singaram, Thamizhannamal, Raj @ Raj Mohan, G.M. Masilamani, P.R. Purushothaman, K. Madhavan, P.Sekar and C.R. Radhakrishnan. The present charge sheet in Special C.C.No.4 of 2012 is the third charge sheet in which offences under the Prevention of Corruption Act have been included as A.R.Shridharan (A1) had committed those offences in his capacity as a public servant, viz., Village Administrative Officer. Apart from this, there is no other fresh evidence or material collected by the police in the interregnum between the second charge sheet and the third charge sheet. The second charge sheet was numbered as C.C. No.321 of 2012 and it was the subject matter of challenge in CrI.O.P. No.12166 of 2006 and a Division Bench of this Court, by order dated 09.12.2009, had gone into all these aspects and had dismissed the quash petition that was filed by A.R.Shridharan (A1)

42 When this was specifically pointed out to Mr. Xavier Felix, he submitted that after the dismissal of the quash application, there is a change in circumstances inasmuch as a declaration suit in O.S. No.397 of 2009 that was filed by VAK Engineering and 13 others was dismissed on 20.02.2012 and that apart, the findings of the Principal Subordinate Judge, Chengalpattu in the order dated 12.06.2015 in M.I.C.M.A. No.28 of 1993 have confirmed that VAK Engineering does not have any kudivaram right or title to the land in question and therefore, the second quash application is maintainable.

43 At the risk of repetition, it is worth stating that the dispute is not between VAK Engineering and the accused. Though VAK Engineering was responsible for igniting the investigation, the de facto complainant in this case is only the District Collector, Kancheepuram and not VAK Engineering. Even if VAK Engineering and A.R. Shridharan (A1) come to an amicable settlement, the prosecution against A.R. Shridharan (A1) and Ameer cannot be quashed, because, the allegation against them is that they had entered into a criminal conspiracy, pursuant to which, A.R.Shridharan (A1), abusing his official position as Village Administrative Officer, has included his father A.P.Rajagopalan's name in the various land registers in order to set up a title. Therefore, the findings of the Minor Inam Tribunal can have no ramification on the proceedings before the Special Court for Prevention of Corruption Act cases. Sections 41 to 43 of the Indian Evidence Act clearly state the binding nature of the judgment of one Court vis-a-vis on the other.

44 The aforesaid view of this Court can be expatiated by way of an illustration. In a Motor Accident case, the accused

may be acquitted for an offence under Section 304-A IPC by the Magistrate on the ground that he had not driven the vehicle in a rash and negligent manner. But, this finding cannot be applied in a proceeding before the Motor Accidents Claims Tribunal to deny compensation to the claimant therein. Similarly, the findings of the Minor Inam Tribunal can have no ramification on the proceedings before the criminal Court against A.R. Shridharan (A1) and company.

45 The learned counsel for Ameer submitted that Ameer has been unnecessarily dragged into this prosecution and that Ameer is totally innocent.

46 Ameer is the husband of Bhuvanammal (deceased). A.R.Shridharan (A1) had issued fabricated and forged Adangal extract for the year 1979 for fasli year 1389 to the effect that in S. No.20/1 part, his father A.P. Rajagopalan, R. Bhuvanammal and G.L. Ahmed were in possession, in order to facilitate Ameer, husband of Bhuvanammal (since deceased) and Ahmed, father of Bhuvanammal (since deceased) to make a claim for patta in S. No.20/1 part from the Settlement Officer. Based on these illegal entries, Ameer had obtained pattas in the name of his deceased wife Bhuvanammal and has been using it in various civil fora not only against VAK Engineering, but also, against other persons in order to claim ownership of Government lands. It is the specific allegation of the prosecution that Ameer had fraudulently executed a sale deed on 25.02.1985 and signed his name as "L.Ameer".

47 In Iqbal Singh Marwah vs. Meenakshi Marwah, [AIR 2005 SC 2119], a Constitution Bench of the Supreme Court has held that, if a document, after coming into the Court, is forged by a person, then, prosecution can be launched only via an enquiry under Section 340, Cr.P.C. Where the document is forged outside the Court and such a document is used in the Court for setting up bogus titles, police investigation and criminal prosecution, without resorting to Section 340, Cr.P.C. is maintainable.

48 In this case, A.R. Shridharan (A1) had conspired to make interpolations in the land records, whereby, he has included his father's name and also Ameer's wife's name, with which, they were claiming title to Government lands and also title to the lands of VAK Engineering. Therefore, it cannot be said that there are no materials as against them.

49 In the considered opinion of this Court, there has not been any substantial change in the fact situation after the dismissal of Crl.O.P.No.12166 of 2006 on 09.12.2009 by a Division Bench of this Court and in fact, the situation has aggravated against the accused with the inclusion of the offences under the Prevention of Corruption Act in the third charge sheet.

50 Mr. Xavier Felix contended that the offences under the Prevention of Corruption Act were included pursuant to the order of this Court in Crl.O.P. Nos.14395 and 15996 of 2010 behind the back of the accused and therefore, the prosecution should be quashed.

51 A reading of the first and second charge sheets clearly shows that A.R. Shridharan (A1) had committed these offences only in the capacity of a public servant and therefore, when the first and second charge sheets were filed before the Judicial Magistrate Court No.II, Poonamallee, he should have applied his mind and returned the papers to the police to file the same before the Special Court for Prevention of Corruption Act cases.

52 Only in those circumstances, this Court, by order dated 22.07.2010 passed in Crl.O.P. Nos.14395 and 15996 of 2010, had directed the police to take back the charge sheet from the Judicial Magistrate Court No.II, Poonamallee and file it before the Special Court for Prevention of Corruption Act cases, after obtaining necessary sanction, if accorded. The sanction was accorded by the Government which was challenged by A.R.Shridharan (A1) in W.P. No.24384 of 2012 and this Court dismissed the writ petition on 06.09.2012. Now, it is not open to A.R. Shridharan (A1) to once again challenge the same in this application.

53 Mr. Xavier Felix cited numerous precedents in support of his submission that the entire prosecution was a mala fide exercise of power and hence, the same deserves to be quashed.

54 It is trite that in criminal jurisprudence, facts occupy the driver's seat and precedents, the back seat. The judgments relied on by Mr. Xavier Felix included the celebrated judgment of the Supreme Court in State of Bihar and another vs. J.A.C. Saldanna and others [AIR 1980 SC 326(1)]. In fact, the following passage in the said judgment supports the case of the prosecution:

"29. ...It must, however, be pointed out that if an information is lodged at the police station and an offence is registered, the mala fide of the informant would be of secondary importance if the investigation produces unimpeachable evidence disclosing the offence. We, therefore, consider the aspersions cast

on the character of respondent 6 and the allegations of mala fides made against him virtually accepted by the High Court in entirety as utterly irrelevant and the same may be treated as expunged for the purposes of this appeal."

55 In the result, Crl.O.P. Nos.17395 of 2016 and 32096 of 2016 are dismissed. Connected M.Ps. are closed.

Crl.R.C. No.1298 of 2013:

56 Coming to Crl.R.C. No.1298 of 2013, the same has been filed by A.R.Shridharan (A1) seeking to call for the records relating to the Special Case No.4 of 2012 on the file of the Special Court and Chief Judicial Magistrate Court at Chengalpet and set aside the order of the Special Judge and Chief Judicial Magistrate at Chengalpet in Crl.M.P. No.858 of 2012 in Special C.C. No.4 of 2012, dated 19.09.2013 and discharge him from framing of the charges.

57 Pursuant to the directions issued by this Court in Crl.O.P. Nos.14395 and 15996 of 2010 on 22.07.2010, the police collected the charge sheet from the Judicial Magistrate Court No.II, Poonamallee and after getting necessary sanction from the Government, filed the third charge sheet, including the offences under the Prevention of Corruption Act before the Special Court/Chief Judicial Magistrate Court, Chengalpet, against A.R.Shridharan (A1) and others.

58 After receipt of the papers under Section 207, Cr.P.C., A.R.Shridharan (A1) filed Crl.M.P. No.858 of 2012 under Section 239, Cr.P.C. for discharging him from the prosecution. Apart from all the other contentions that were raised above, A.R. Shridharan (A1) contended that he cannot be charged for offences under the Prevention of Corruption Act, 1988, in respect of acts that were allegedly committed by him prior to 09.09.1988, because, the alleged acts were not offences under the Prevention of Corruption Act, 1947.

59 Though this argument advanced by Mr. Xavier Felix does look attractive, yet, on a closer scrutiny of the facts, there is a fundamental fallacy in his argument. According to the prosecution, A.R. Shridharan (A1) was a Triune Officer of the Adambakkam Village from 1975 to 1980 and Village Administrative Officer from 31.12.1991 to 27.06.1996. Though the records he had allegedly manipulated could be of dates prior to 1988, it does not mean that he had done these manipulations prior to 1988. In other words, as Village Administrative Officer, when the new Act was in force, he is said to have manipulated the old records by interpolating his father's name and the name of Ameer's wife, viz., Bhuvanammal in various land registers. The

police may not be able to specify the exact date on which he had made these interpolations, because, obviously, the accused will not be a simpleton to make such interpolations in land records publicly for people to witness the act of forgery. He will do it surreptitiously and there cannot be any direct evidence for this unless there is an approver, who was with him, at the time of making the interpolations. In this case, there is no approver and the prosecution is seeking to prove these interpolations based on circumstantial evidence. The circumstances would show that as Village Administrative Officer, he had control over the revenue records, taking advantage of which, it is alleged that, he had included his father's name and the name of Ameer's wife, Bhuvanammal, in the old records.

60 At this juncture, it is felicitous to point out that even a strong suspicion is enough to frame charges, as held by the Supreme Court in *State of Bihar vs. Ramesh Singh* [1977] 4 SCC 39]. The following passage from the judgment of the Supreme Court in *State of Maharashtra vs. Som Nath Thapa* [(1996) 1 Supreme (Crl.) 410] is worth extracting:

"The aforesaid shows that if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the charge, though for conviction, the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage."

61 Thus, when a Division Bench of this Court, in Crl.O.P. Nos.12166 of 2006 and 32450 of 2007 as well, a learned Single Judge of this Court in Crl.O.P. Nos.14395 and 15996 of 2010, has found that there are prima facie materials, A.R. Shridharan (A1) cannot be heard to contend that the allegations levelled against him are groundless.

62 However, this Court called for the case diary from the police and perused the same along with the final report and the accompanying documents and found that there are sufficient materials collected by the police inasmuch as the police have taken steps to have the 164 Cr.P.C. statements of (1) P. Sekar (LW 12), (2) G.M. Masilamani (LW 70), (3) Madhavan (LW 13), (4) Purushothaman (LW 72), (5) Radhakrishnan (LW 21), (6) Singaram (LW 23), (7) Thamizhamma (LW 25), (8) Syed (LW 36) and Mohan @ Raj Mohan (LW 49) recorded by the Magistrate. The witnesses speak of incriminating facts. Applying the law laid down by the

Supreme Court in the aforesaid decisions, the petitioner cannot be discharged from the prosecution under Section 239, Cr.P.C.

63 In view of the foregoing discussion, this Court finds that the allegations against A.R. Shridharan (A1) and company are so enormous that they have been adopting every trick under the sun to scuttle the prosecution by filing petitions after petitions, perhaps, to tire out the memory of the prosecution witnesses who are likely to speak against them, if trial commences.

64 A.R. Shridharan (A1) and Ameer are accused in C.C. No.361 of 2011 before the Judicial Magistrate Court No.I, Thiruvallur and both of them challenged the said prosecution in CrI.O.P. Nos.17394 and 19849 of 2016 and CrI.R.C. No.948 of 2016, which have been dismissed by this Court vide separate order of even date.

65 This Court directs the Trial Court to ensure that the trial in this case is taken up expeditiously and completed within a period of 12 months from the date of receipt of a copy of this order. The Trial Court shall ensure that the accused cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab, [2015 (1) MLJ (CrI.) 288]. If the accused adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence and remand them to custody, as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If, thereafter, the accused abscond, the trial Court shall direct registration of an FIR against them u/s 229-A IPC.

66 CrI.R.C. No.1298 of 2013 stands dismissed with the above directions. Connected M.P. is closed.

To sum up, all the petitions in this batch are dismissed.

सत्यमेव जयते

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

cad

To

- 1 The District Collector
O/o the District Collectorate, Kancheepuram

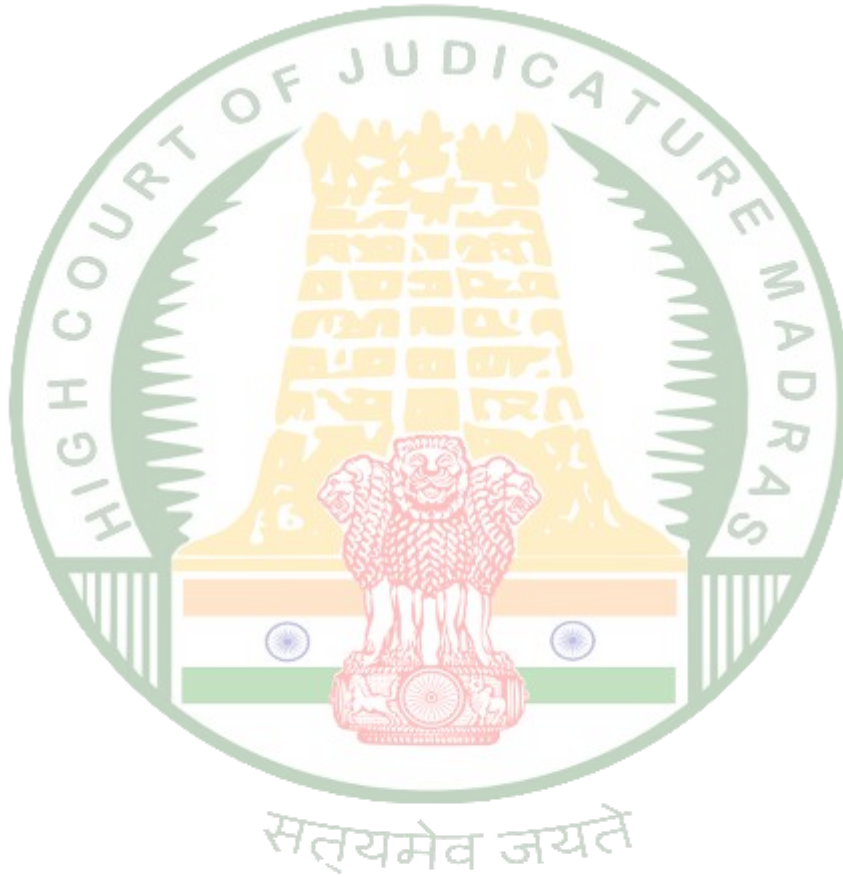
- 2 The Public Information Officer
Personal Assistant to District Collector (General)
O/o the District Collector
Kancheepuram 631 502
- 3 The District Revenue Officer
O/o the District Revenue Officer
Kancheepuram 631 502
- 4 The Principal Information Officer
State Information Commission
376 Anna Salai, Teynampet, Chennai 600 018
- 5 The Secretary to Government
Revenue Department
Fort St. George, Chennai 600 092
- 6 The Special Commissioner & Commissioner of
Revenue Administration
O/o the Special Commissioner and Commissioner of
Revenue Administration
Ezhilagam, Chepauk, Chennai 600 005
- 7 The Director General of Police
O/o the Director General of Police
Kamarajar Salai, Mylapore, Chennai 600 004
- 8 The Secretary to Government
Home Department
Fort St. George, Chennai 600 009
- 9 The Additional Director General of Police
O/o the Additional Director General of Police
CB CID Headquarters
SIDCO Industrial Complex
Guindy, Chennai 600 032
- 10 The Deputy Superintendent of Police
O/o the Deputy Superintendent of Police
CB CID Headquarters
SIDCO Industrial Complex
Guindy, Chennai 600 032
- 11 The Chief Judicial Magistrate Court
Chengalpet
- 12 The Public Prosecutor
Madras High Court
Chennai 600 104

13. The Revenue Divisional Officer
O/o the Revenue Divisional Officer
Tambaram
Chennai 600 045

1 cc to Mr.G. Krishnakumar, Advocate, Sr. 1510

W.P. Nos.33733 of 2013, 34744 of 2013 and 25713 of 2014
Crl.O.P. Nos.32096 of 2013 and 17395 of 2016
Crl.R.C. No.1298 of 2013

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