



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl MP(MD)SR.No.6450 of 2017

in

Crl O.P(MD)No.2218 of 2016

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The Commissioner,
Tirunelveli City Municipal Corporation,
S.N.High Road,
Tirunelveli - 627 001,
Tirunelveli District.

... Petitioner

Vs.

- 1.Sudalai Kannu
- 2.The Director,
Department of Vigilance and Anti Corruption,
NCB.21-28, Dr.Kumarasamy Raja Salai,
Adayar, Chennai - 600 028.
- 3.The Deputy Superintendent of Police,
Department of Vigilance and Anti Corruption,
Masilamani Nagar,
Kulavanigapuram,
Tirunelveli - 627 005.
- 4.The Commissioner,
Tamil Nadu Vigilance and Anti Corruption,
Fort St. George,
Chennai - 600 009.

... Respondents

Petition filed under Section 482 r/w Section 362 Cr.P.C., to recall the order passed by this Court in Crl.O.P(MD)No.2218 of 2016 dated 18.01.2017.

Prayer in CRL OP(MD). 2218/ 2016 :

To pass an order directing the respondents particularly the 3rd respondent to register the complaint as submitted by the petitioner on 10.07.2015 as a prima facie case have been made out in the subsequent enquiry proceedings and during interrogation on the petitioner as made by the 1st and 2nd respondents in accordance with law and proceed with further investigation without any further delay and lay the final report before the court concerned there upon.

For Petitioner

: Mr.S.Hameed Ismail

For R - 1

: Mr.R.Gandhi

For RR - 2 to 4

: Mr.C.Mayilvahana Rajendran

Additional Public Prosecutor



ORDER

This matter has been posted today under the caption "for maintainability".

2. The petitioner has filed a Petition to recall the order passed by this Court in CrI.O.P(MD)No.2218 of 2016 dated 18.01.2017. Since the Registry has raised objection with regard to maintainability, this matter has been posted today under the caption "for maintainability".

3. Heard Mr.S.Hameed Ismail, learned counsel for the petitioner; Mr.R.Gandhi, learned counsel for the first respondent and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor, for the respondents 2 to 4.

4. This Court, by the order dated 18.01.2017, has held as follows:

"In view of the above submission, after obtaining necessary permission from the higher official, the Investigating Officer is directed to investigate into the matter and conclude the same within a period of six months from the date of receipt of a copy of this order and thereafter, file a charge sheet before the concerned jurisdictional Court, if it is found during the course of investigation that prima facie case is made out against the accused persons."

5. The learned counsel for the petitioner submitted that as per order passed by this Court, the respondent police has already registered a case and the matter is also being investigated by the Investigating Officer. However, six months time has elapsed, so far, no final report has been filed.

6. On the other hand, the learned Additional Public Prosecutor for the respondents 2 to 4 submitted that since investigation could not be completed within a period of six months, a petition has been filed, seeking extension of time.

7. I have heard the rival submissions made on either side and perused the records carefully.

8. From the perusal of the order dated 18.02.2017, it could be seen that this Court has only directed the respondent police to conduct investigation and file charge sheet if any *prima facie* case is made out against the accused persons. Apart from that, the above order has been passed only after hearing both sides and there is no valid ground available to recall the order. The Registry has rightly raised objection with regard to maintainability of the present case. I hold that this petition is not maintainable and CrI MP(MD)SR.No.6450 of 2017 is rejected.



However, if the petitioner has any grievance with regard to investigation, it is always open to him to challenge the same in accordance with law.

Sd/-

Assistant Registrar (AD-II)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Director,
Department of Vigilance and Anti Corruption,
NCB.21-28, Dr.Kumarasamy Raja Salai,
Adayar, Chennai - 600 028.
- 2.The Deputy Superintendent of Police,
Department of Vigilance and Anti Corruption,
Masilamani Nagar,
Kulavanigapuram, Tirunelveli - 627 005.
- 3.The Commissioner,
Tamil Nadu Vigilance and Anti Corruption,
Fort St. George, Chennai - 600 009.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.S.HAMEED ISMAIL, Advocate SR.No.72859

MJ

MAS/SV-MMS/SAR2:01.09.2017:3P-6C

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