



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2017

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

Cr1.O.P.(MD) No.2917 of 2017
& Cr1.M.P.(MD) No.2229 of 2017

SOUTH EAST INDIA UNION OF
SEVENTH DAY ADVENTISTS,
REP.BY ITS PRESIDENT
PASTOR DANIEL DEVADHAS,
S/O.DEVADHASON,
197, G.S.T.ROAD,
VANDALUR, CHENNAI-600 048.

... Petitioner/A1

-vs-

1.STATE THROUGH,
THE INSPECTOR OF POLICE
NORTH POLICE STATION,
TUTICORIN.
(IN CR.NO.421/2015)

... Respondent/Complainant

2.KSPS NATARAJAN TRUST,
REP.BY ITS EXECUTIVE OFFICER,
SANKARA NARAYANAN,
13-A/1, PILLAIYAR KOIL STREET,
MEENAKSHIPURAM WEST,
TUTICORIN TOWN.

... Respondent/Defacto Complainant

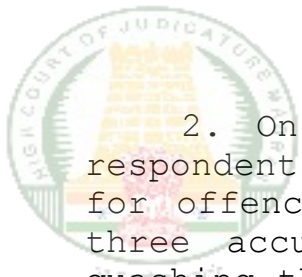
Prayer: Petition filed under Section 482 of Code of Criminal
Procedure to call for the records and quash the FIR in Crime
No.421 of 2015 registered in the North Police Station, Tuticorin
Town .

For Petitioner : Mr.N.S.Ponniah
For R1 : Mr.K.Anbarasan
Govt. Advocate (Cr1.Side)

Reserved on	Pronounced on
16.03.2017	28.03.2017

ORDER

This petition has been filed to call for the records and quash
the FIR in Crime No.421 of 2015 registered in the North Police
Station, Tuticorin Town.



2. On the complaint lodged by the 2nd respondent, the 1st respondent registered a case in Crime No.421 of 2015 on 12.06.2015 for offences under Sections 420, 468, 471 and 506(i) IPC against three accused, challenging which, A1 is before this Court for quashing the FIR.

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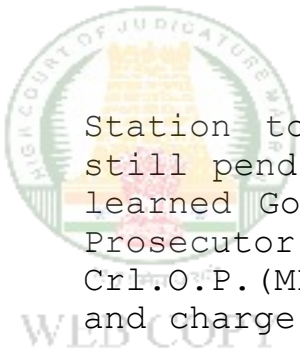
3. Heard the learned counsel for the petitioner/A1 and the learned Government Advocate (Crl.Side) appearing for the State.

4. Learned counsel for the petitioner submitted that a reading of the allegation in FIR would show that the dispute essentially is civil in nature and therefore, it should be quashed. He further submitted that the petitioner has been running a school in the said land from the year 1980 onwards with the prior approval of the Government and in support of this contention, he submitted various orders passed by the Government relating to sanction and approval granted by the Government. He also submitted that challenging the FIR, the accused had filed Crl.O.P.6556 of 2016 and when the matter came up for hearing before this Court on 20.04.2016, it was represented by the Public Prosecutor that the investigation in Crime No.421 of 2015 has been completed and a final report has been filed before the learned Judicial Magistrate No.II, Tuticorin on 11.04.2016, but whereas on verification in the Court of Judicial Magistrate No.II, Tuticorin, the Police had not filed the final report as of today and therefore, he submitted that it is a fit case in which FIR should be quashed.

5. Per contra, learned Government Advocate (Crl.Side) submitted that on the direction of this Court in Crl.O.P.(MD) No.8718 of 2015, the Inspector of Police, North Police Station registered a case in Crime No.421 of 2015, which was challenged by the accused in Crl.O.P.(MD) No.6556 of 2016. The Additional Public Prosecutor in charge of the case had represented on 20.04.2016 that investigation has been completed and charge sheet filed, but whereas on the orders of the Superintendent of Police dated 07.11.2016, the case in Crime No.421 of 2015 has been transferred to the District Crime Branch, Tuticorin for investigation and that investigation is still pending. He contended that there are serious allegations in the complaint given by the 2nd respondent and taking into consideration the same, the Superintendent of Police had directed the transfer of investigation from the file of Local Police to the file of District Crime Branch.

6. This Court gave its anxious consideration to the rival submissions made on either side.

7. This Court called for information from the Court of Judicial Magistrate No.II, Tuticorin and learnt that no charge sheet was filed by the Inspector of Police, North Police Station, Tuticorin in Crime No.421 of 2015, but the Court record shows that the case has been transferred from the file of North Police



Station to District Crime Branch and that the investigation is still pending. Therefore, this Court accepts the contention of the learned Government Advocate (Crl.Side) that the Additional Public Prosecutor had earlier inadvertently made the representation in Crl.O.P.(MD) No.6556 of 2016 that investigation has been completed and charge sheet has also been filed.

8. Now, coming to the merits of the case, it is alleged by the defacto complainant that one K.S.P.Shanmugavel Nadar, a wealthy philanthropist owned several properties and had created a trust by name KSPS Natarajan Trust, which was holding his properties and was carrying out charitable activities. The said Shanmugavel Nadar, founder of the Trust died and his son K.S.P.N.Rathinavel is now the Managing Trustee. After taking charge as Managing Trustee, Rathinavel started identifying the properties of the Trust and found that the petitioners have created certain false documents and usurped the Trust lands, in which they have built a school. There is a specific allegation in the FIR that the document dated 12.08.1977, through which the petitioner/accused are claiming title, is a bogus document. Just because, the Government had granted approval for running the school, that does not mean that the crime committed by the accused, if any, in respect of the land on which the school stands has been condoned. It definitely requires a thorough investigation by the Specialized Agency like the District Crime Branch in order to find out as to whether the petitioner/accused had illegally transferred the Trust lands in their favour for the purpose of running the school. Thus, when there are prima facie materials in the complaint for a full-fledged investigation, this Court is of the view that the FIR cannot be quashed at the threshold in view of the judgment of the Supreme Court in the case of State of Haryana Vs. Bhajan Lal and others, reported in AIR 1992 SC 604.

9. In the result, this petition is devoid of merits and the same is accordingly dismissed with a direction to the Deputy Superintendent of Police, District Crime Branch to closely monitor the investigation in Crime No.421 of 2015 and if it is found during investigation that the accused are innocent, it is needless to state the case against them shall be closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Protocol)

/True copy/

Sub Assistant Registrar

To:

1.The Deputy Superintendent of Police,
District Crime Branch,
Tuticorin.



2.The Inspector of Police,
North Police Station,
Tuticorin.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.N.S.Ponnaiah , Advocate in SR.No. 18254

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AE/JC/SAR2/19.04.2017/4P/5C

PRE-DELIVERY ORDER IN
Cr1.O.P. (MD) No.2917 of 2017
28.03.2017