



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2017

CORAM

WEB COPY

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

Crl.O.P.(MD) No.4560 of 2017

and

Crl.M.P.(MD).No.3258 of 2017

M.Selvaraj

: Petitioner/Sole Accused

-vs-

1.State represented by its
Inspector of Police,
Oothumalai Police Station,
Tirunelveli District.
(Crime No.47 of 2016)

: 1st Respondent/Complainant

2.C.Thangadurai

: 2nd Respondent/De-facto
Complainant

Prayer: Petition is filed under Section 482 of Code of Criminal Procedure praying to call for the records relating to Crime No.47 of 2016 pending investigation on the file of the respondent police and to quash the same.

For Petitioners

: Mr.S.Sukumar

For Respondents

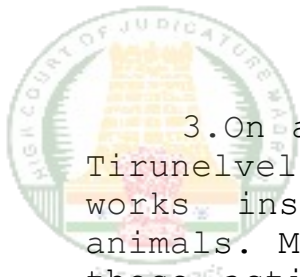
: Mr.K.Anbarasan

Government Advocate (Crl.side)

ORDER

On the complaint lodged by one C.Thangadurai / 2nd respondent, the first respondent police registered a case in Crime No.47 of 2016 for offence under Section 420 of the Indian Penal Code against the petitioner, challenging which, the accused and the defacto complainant are before this Court for quashing the FIR against the petitioner.

2.Today, the petitioner and the de-facto complainant are present. Mr.M.Sankar Kannan, Inspector of Police, Uthumalai Police Station, Tirunelveli District is also present before this



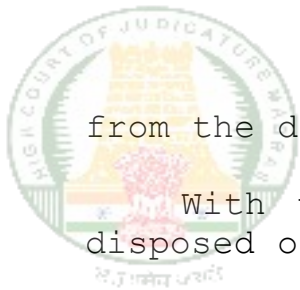
3. On a reading of the FIR, it is seen that in the year 2014, Tirunelveli Range of the Forest Department had undertaken some works inside the forest for providing water facilities for animals. Money was sanctioned by the Divisional Forest Officer for these activities and it was sent to the Forest Ranger, who, in turn, handed over the said money to the petitioner herein. Thereafter, the petitioner engaged the services of the second respondent and got the work executed. However, it is seen that the payment has not been settled for the bills of the second respondent, for which, the second respondent has filed petition after petition and ultimately, the present FIR has been registered against the petitioner.

4. Mr. Sukumar, learned counsel for the petitioner, submitted that the petitioner is going to retire on 30.04.2017 and on account of the present FIR, he would not be permitted to retire.

5. Per contra, the learned Government Advocate submitted that the de-facto complainant had undertaken the work in the year 2014 and even though it was completed, the payments were not made by the petitioner, but however, he has disputed the fact that the Forest Ranger has given the money to the petitioner to be paid to the de-facto complainant. The Forest Ranger, who is present before this Court, produced materials to show that this petitioner has received the money for executing the work.

6. The learned counsel for the petitioner submitted that the money, which was received by the petitioner from the Forest Ranger, was already paid to the Contractor and as regards the present de-facto complainant, it is not the petitioner, who should make the payment, but the payment must be made by the then Forest Ranger.

7. In the opinion of this Court, these are disputed questions of the facts, which cannot be gone into in a quash application. At the same time, when the petitioner is about to retire on 30.04.2017, the FIR should not have been registered against him as his retirement benefits will be withheld. However, this Court has to necessarily protect the interest of both the accused and the de-facto complainant. Therefore, this Court transfers the investigation of the case in Crime No.47 of 2016 from the file of the Inspector of Police, Oothumalai Police Station, Tirunelveli District to the file of the Deputy Superintendent of Police, Alangulam Sub-Division, Tirunelveli. The Inspector of Police, Oothumalai Police Station, who is present here is directed to hand over the CD file to the Deputy Superintendent of Police within a period of one week from today. The Deputy Superintendent of Police, Alangulam is directed to conduct a fair investigation and ~~if the investigation shows that the petitioner is innocent, it is needless to state that the FIR against him shall be closed. The investigation shall be completed by the D.S.P., within a period of three months~~



from the date of receipt of a copy of this order.

With the above direction, the criminal original petition is disposed of. Consequently, the connected M.P is also closed.

WEB COPY

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Inspector of Police,
Oothumalai Police Station,
Tirunelveli District.
 2. The Deputy Superintendent of Police,
Alangulam Sub-Division,
Tirunelveli.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- + 1 CC TO Mr.S.SUGUMAR, ADVOCATE IN SR No. 53736

NS
TE/MMS : 09/05/2017 : 3P/5C

Order made in
Crl.O.P.(MD) No.4560 of 2017 and
Crl.M.P.(MD).No.3258 of 2017
24.04.2017