



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2018

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.15312 of 2017

Murugeshwari

... Petitioner / Accused No.5

-Vs.-

The State represented by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Madurai.

... Respondent / Complainant

Prayer: Criminal Original Petition - filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the FIR in Crime No.1 of 2017 on the file of the Vigilance and Anti Corruption Police Station, Madurai and quash the same as illegal.

For Petitioner : Mr.R.Subburaj

For Respondent : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

O R D E R

One Raja gave a complaint to the Vigilance and Anti Corruption stating that a huge fraud has taken place in Madurai Municipal Corporation, wherein, between 2010 and 2011, a sum of Rs.1,07,93,100/- (Rupees One Crore Seven Lakhs and Ninety Three Thousand and One Hundred only) has been disbursed to various contractors without actually performing the work. Since no action was taken, Raja filed Crl.O.P.(MD)No.19735 of 2015 under Section 482 Cr.P.C. for a direction to register an FIR. This Court passed final orders in Crl.O.P.(MD)No.19735 of 2015 on 31.01.2017.

2. Pursuant to the directions of this Court, the Vigilance and Anti Corruption registered an FIR in Crime No.1 of 2017 on 13.02.2017 for offences under Sections 120(b), 409, 420, 465, 468, 471, 477(A) IPC r/w 109 IPC, Section 13(1)(c) and 13(1)(d) r/w 13 (2) of the Prevention of Corruption Act, 1988 against one Rajasekar and 14 others including Murugeshwari, the petitioner herein. This petition has been filed to quash the FIR.



3. Heard the learned counsel for the accused and the learned Additional Public Prosecutor for the respondent.

4. It is pertinent to state that the FIR in this case itself has been registered on the directions of this Court, since this Court was satisfied that there are *prima facie* materials to show that cognizable offence has been committed. Under such circumstances, it is not open for this Court to quash the FIR alleging that there is no cognizable offence made out, as that would amount to reviewing the order passed by this Court.

5. On a reading of the FIR, it is seen that the officials of the Corporation of Madurai issued work orders to various contractors and disbursed Rs.1,07,93,100/- (Rupees One Crore Seven Lakhs and Ninety Three Thousand and One Hundred only) without any work being performed. Thus, there are *prima facie* materials to show that a full-fledged investigation is essential.

6. The learned counsel for the petitioner submitted that departmental enquiry was conducted against the petitioner in which the Assistant Commissioner, Corporation of Madurai had deposed that Murugeshwari has no involvement in the disbursement of the amount. Based on his evidence, Murugeshwari was exonerated in the departmental proceedings. Therefore, the learned counsel contended that the case against Murugeshwari should be quashed.

7. This Court is unable to countenance this submission for the simple reason that the findings in the departmental proceedings cannot have any binding effect either in the investigation conducted by the police in Chapter XII of the Code of the Criminal Procedure or on the Court.

8. The Case Diary shows that the petitioner was the officer, who was empowered to fill up the cheques after scrutinising the bills produced by the contractors. Thereafter, the cheque will be placed before the Assistant Commissioner for his signature. The police have sent the hand-writings and signatures to the expert for opinion and have obtained a report about which, this Court cannot disclose at this stage.

9. In such view of the matter, the facts obtaining in this case does not pass muster the law laid down by the Supreme Court in **AIR 1992 SC 604 [State of Haryana v. Bajanlal & others]**.

10. The learned Additional Public Prosecutor brought to the notice of this Court that the accused in this case had also filed a quash application in CrI.O.P.Nos.8032 and 9996 of 2017, which has been dismissed by this Court on 23.08.2017.

<https://hcservices.ecourts.gov.in/hcservices/>

11. In such view of this matter, this Court is of the view that this is not a fit case to quash the FIR.



12. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed.

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Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras HighCourt,
Madurai.

Sm
AE/RSK/SAR1/06.02.2018/3P/3C

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