



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2018

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CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl O.P(MD)No.16029 of 2017

and

CRL MP(MD)No.10613 of 2017

M.G.Kannan : Petitioner/Sole Accused

Vs.

1.The State through
The Deputy Superintendent of Police,
Vigilance and Anticorruption,
Theni : 1st Respondent / Complainant
(Crime No.01 of 2017)

2.Senthil Muthurani : 2nd Respondent /
Defacto Complainant

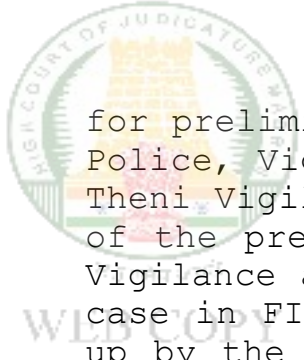
PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings in Crime No.1 of 2017, on the file of the 1st Respondent Police Station and quash the same as illegal.

For Appellant : Mr.N.Ananthapadmanabhan
For Respondent-1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed praying to quash the proceedings in Crime No.1 of 2017, on the file of the 1st Respondent Police, as illegal.

2. The petitioner herein is arrayed as sole accused in Crime No.1 of 2017, registered by the first respondent, named as Thiru.R.Pandiarajan in the said FIR, on 05.05.2017, for the offences punishable under Sections 167, 418, 420, 465, 466, 468 and 471 of IPC., and Sections 7 and 13(2) r/w 13(1) r/w. 13(i)(d) of Prevention of Corruption Act, 1988, based on the confession, dated 19.07.2016 given by the 2nd respondent herein, to the Director, Vigilance and Anti-corruption, Chennai, who had ordered



for preliminary enquiry by the above said Deputy Superintendent of Police, Vigilance and Anticorruption, Theni, Madurai, in charge of Theni Vigilance and Anticorruption and on the basis of the outcome of the preliminary enquiry and as per the order of the Director, Vigilance and Anticorruption, Chennai, dated 11.04.2017, the above case in FIR No.1 of 2017 was registered. Investigation was taken up by the Inspector of Police, Thiru.P.Sundarrajan, Vigilance and Anticorruption, Theni and the investigation is still in midway and is going on process and number of documents have to be collected from the revenue Department and to be examined number of official witnesses.

3. Allegations have been made by the 2nd respondent against the accused officer / petitioner alleging that the accused officer, as jurisdictional Village Administrative Officer in the year 2015 of Bodinayakanur Village, had created false records, in which he knows to be incorrect, with an intention to cause loss / injury to the 2nd respondent, had transferred the patta in respect of the land in S.No.1767/1A measuring 0.06.5 Ares stands in the name of Minors Senthil Muthurani and Senthil Muthukali through their guardian V.S.S.Gunasundari, vide patta No.2783, to the name of Thiru Vadivelu S/o.Mahalingam Pillai, who died during the year 1993 vide patta No.2091 and in this connection, when the 2nd respondent with her husband Karthick met the accused officer in his residence on the first week of March 2016 regarding the transfer of patta in the name of said Vadivelu, for the land in S.No.1767/1A 0.06.5 Ares, the accused officer demanded a sum of Rs.5,00,000/- from the 2nd respondent, in the presence of her husband Karthick, who settled the matter.

4. The petitioner / accused filed this Criminal Original Petition praying to quash the proceedings in FIR No.1/2017, on the file of the 1st respondent Police, as illegal, by invoking the inherent powers of this Court under Section 482 of Cr.P.C.,

5. The learned counsel appearing for the petitioner would contend that the original complaint, dated 17.08.2016 given by the 2nd respondent herein is the document that ought to have been reproduced in the printed FIR, but in the present case, the FIR reflects the information given by the Deputy Superintendent of Police, Vigilance and Anticorruption, Theni, on the petition dated 17.08.2016 and in fact, this has to be called only as the final report made on the above petition, dated 17.08.2016.

6. The learned Additional Public Prosecutor appearing for the 1st respondent would contend that preliminary enquiry was conducted by the concerned Deputy Superintendent of Police, who latter on registered the FIR, as per the order of the Director, Vigilance and Anticorruption, Chennai, based on Vigilance Manual, on receipt of a written complaint received from the 2nd respondent herein and the 2nd respondent is the complainant and not the Deputy



Superintendent of Police, who conducted the preliminary enquiry and registration of FIR. The allegation found in the FIR cannot be termed as final report, as contended by the learned counsel for the petitioner herein. He would further contend by referring the Vigilance Manual that "When a regular case is registered on a matter arising out of a preliminary enquiry or a detailed enquiry, the report or particular document, which will legally constitute the FIR or the case should be carefully identified and a case registered thereon". The source of information is based on a written complaint, dated 19.07.2016 of the 2nd respondent herein, received by the Director, Vigilance and Anticorruption, Chennai and FIR was registered by the officer mentioned in Column 6 of the FIR, who conducted the preliminary enquiry, as per the order and direction of the Director, Vigilance and Anticorruption, Chennai. Hence, the contention of the counsel appearing for the petitioner that the FIR, as registered in this case, is an illegal one, cannot be accepted.

7. The petitioner relied certain copy of the communications of the Tahsildar to RDO, and proceedings of the RDO, patta transfer order, UDR 'A' Register, Chitta and Adangal and copy of the plaint in O.S.No.68 of 2016 filed by the L.Rs of the deceased Vadivelu, pending on the file of District Munsif Court, Bodinayakanur, against the complainant herein and others in respect of the survey number, which is in dispute in this case.

8. The counsel for the petitioner would also contend that the land in S.No.1767/1, under patta No.2783, in the name of Munusamy Gounder and 3 others was subdivided into S.No.1767/1A measuring 0.06.5 Ares in the name of Vadivelu S/o. Mahalingam Pillai and S.No.1767/1B measuring 0.12.0 Ares in the name of Munusamy Gounder and his two sons and both the survey numbers are not transferred to the name of the Minors Senthil Muthurani and Senthil Muthukali through their guardian Gunasundari vide Patta No.2783 in RTR No.847/2002, dated 06.06.2002 and the said RTR order while being updated in the village adangal register, the then Village Administrative Officer instead of updating the entry regarding the name of patta holder of the property in S.No.1767/1B has made a wrong entry by including the property in S.No.1767/1A also to be included in the patta No.2783 in favour of Minors Senthil Muthurani and Senthil Muthukali and such wrong entry made by the previous Village Administrative Officer, Bodinayakanur, was rectified on application by the actual owner in S.No.1767/1A being one Chandrasekar S/o.Vadivelu by the Tahsildar, in his order dated 02.12.2014 and restored to patta No.2091 in respect of the land in S.No.1767/1A and in all transactions, the stand of the petitioner / accused cannot be found to have being acted in any manner, since he came to the said station as Village Administrative Officer only from 26.07.2014 and on the basis of patta under error in 2002, Minors Senthil Muthurani and Senthil Muthukalai had created a transfer deed and claimed title in



respect of the land in S.No.1767/1A, as per patta No.2783. The counsel for the petitioner also would contend that the documents filed by the accused can be looked into and considered by this Court in a proceedings initiated under Section 482 Cr.P.C., by referring the following decisions.

(i) The Judgment of the Hon'ble Apex Court in **Mrs. Anita Malhotra Vs. Apparel Export Promotion Council & Another** reported in (2011 STPL 31599 SC).

(ii) The Judgment of the Hon'ble Apex Court in State of **Orissa Vs. Debendra Nath Padhi** reported in (2004 STPL 17732 SC).

(iii) The Judgment of the Hon'ble Apex Court in **Rajiv Thapar & Ors** reported in (2013 STPL 5569 SC).

(iv) The Judgment of the Hon'ble Apex Court in **K.Saravanan Karuppasamy & Anr. Vs. State of Tamil Nadu & Ors.**, reported in (2014 STPL 10345 SC).

(v) The Judgment of the Hon'ble Apex Court in **V.P.Shrivastava Vs. Indian Explosives Ltd.**, reported in (AIR 2014 SC 187).

9. Most of the offences charged against the accused officer / petitioner is based on revenue records. The original complaint given by the 2nd respondent, to the Director, Vigilance and Anticorruption, Chennai, is not placed before this Court. However, the FIR was registered as per the order and direction of the Director, Vigilance and Anticorruption, Chennai, on receipt of written complaint received from the 2nd respondent herein and also after the preliminary enquiry report from the Deputy Superintendent of Police, who registered the FIR in this case.

10. Admittedly, the investigation in this case is in progress. The learned Additional Public Prosecutor, appearing for the 1st respondent would contend that after the full-fledged investigation only the factual comes to light that whoever responsible for the alleged patta transfer and also for forgery, if any, committed as alleged by the 2nd respondent / complainant. He would further contend that on completion of investigation, the collected materials will bring the factual ingredients constituting the offence against the petitioner / accused in respect of the commission of the offence and full-fledged complete investigation would reveal as to whether the alleged offence is made out against the petitioner / accused and it is not safe and wise to quash the FIR / complaint in premature stage.

11. Considering the contention of the first respondent herein and also the nature of charges based on the revenue records / revenue proceedings and also considering the fact that the investigation is in initial stage and a number of revenue documents is to be collected and also official are to be examined by the investigating officer, this Court is not inclined to quash the FIR registered against the petitioner / accused, at this



stage.

12. In the result, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition also stands dismissed.

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Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Deputy Superintendent of Police,
Vigilance and Anticorruption,
Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

MPK

TE/KAK/SAR-4 : 27/08/2018 : 5P/3C

Order Made in
Crl O.P(MD)No.16029 of 2017
Dated:- 07.08.2018