



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.23733 of 2016

Union of India
rep.by the General Manager
Dr.C.Ariyasakthi (36 years)
Indian Ordnance Factory
Ministry of Defence
Tiruchirapalli
Tamil Nadu-620 016

... Petitioner / De facto Complainant

vs.

1.The State rep.by
The Inspector of Police
K.K.Nagar (PS Crime)
Trichy District
Tiruchirapalli District ... 1st Respondent / Complainant

2.The Superintendent of Police
Central Bureau of Investigation (ACB)
III Floor, Shastri Bhavan
No.26, Haddows Road
Nungambakkam
Chennai-600 006 ... 2nd Respondent / Respondent

3.Rupesh Shibu Dey

4.Bharath Singh ... Respondents 3 & 4 / A1 & A2

PRAYER: Criminal original petition filed, under Section 482 Cr.P.C.,
to transfer the investigation in Crime No.277 of 2016, pending on
the file of the first respondent to the second respondent CBI.

For Petitioner : Mr.D.Saravanan

For Respondents : Mrs.S.Bharathi
Govt. Advocate (Crl.Side) for R1

Mr.N.Ashok Kumar Gowtham
Senior Public Prosecutor for C.B.I.Cases for R2

Mr.S.K.Mani for R3 & R4



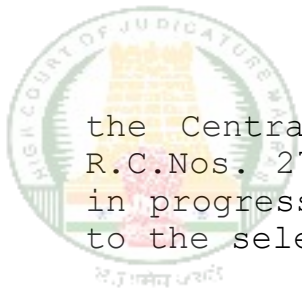
O R D E R

On the complaint lodged by the General Manager, Indian Ordnance Factory, Tiruchirapalli, the Inspector of Police, K.K.Nagar P.S.Crime, Trichy, registered a case in Crime No.277 of 2016, on 10.09.2016, for the offences under Sections 419, 420, 465, 468, 471 and 109 I.P.C., against Rupesh Shibu Dey and Bharath Singh and took up the investigation of the case.

2. It is the case of the de facto complainant that recruitment for the posts of Durwan, Lower Division Clerk (L.D.C.), Multi-Tasking Staff (M.T.S.) and Laborer etc., was announced by the Indian Ordnance Factory and as a part of the recruitment process, written test was conducted on 20.12.2015. It came to the notice of the higher-ups of the Indian Ordnance Factory that there were irregularities in the recruitment process inasmuch as impersonation had taken place in the written examination hall at Jamal Mohamed College, Trichy, which was one of the examination centres. The Indian Ordnance Factory Officials scrutinized the application of eleven candidates and on 20.06.2016, sent their fingerprints to Tamil Nadu Fingerprint Bureau, Chennai, for verification and the Tamil Nadu Fingerprint Bureau, Chennai, gave a report, dated 26.07.2016, stating that out of eleven cases sent for verification, in two cases, fingerprints did not tally. In other words, the two persons, who wrote the examination were not the two persons, who were selected. The two selected persons were Rupesh Shibu Dey (A1) and Bharath Singh (A2). Therefore, the Appointing Authority took departmental action and terminated them from service. Since the offence has taken place in Jamal Mohamed College, Trichy, the complaint was lodged to the Inspector of Police, K.K.Nagar P.S.Crime, Trichy, for investigation. During the course of investigation, the Inspector of Police, K.K.Nagar P.S.Crime, Trichy, arrested the accused 1 and 2 and now, they are on bail. Thereafter, there had not been any progress in the investigation by the State Police and therefore, the General Manager, Indian Ordnance Factory, Tiruchirappalli, has filed the present application seeking for transfer of the investigation in Crime No.277 of 2016, from the file of the State Police to the file of the Central Bureau of Investigation, Anti-Corruption Branch.

3. On the directions of this Court, today (i.e., 02.02.2018) Mr.S.Syed Bazlullah, Superintendent of Police, C.B.I.(A.C.B.), Chennai, Mr.K.S.Nageswaran, Inspector of Police, C.B.I.(A.C.B.), Chennai and Mr.S.Raja, K.K.Nagar P.S.Crime, Trichy, are present before this Court.

4. On instructions, the learned Senior Public Prosecutor for C.B.I.Cases submitted that written examination was conducted for selection to the posts of Durwan, Lower Division Clerk (L.D.C.), Multi-Tasking Staff (M.T.S.) and Labourer at Jamal Mohamed College, on 20.12.2015 and in the written examination relating to the posts of Multi-Tasking Staff and Labourer, similar complaints arose and



the Central Bureau of Investigation has registered two cases in R.C.Nos. 27(A) and 31 of 2017 respectively and the investigation is in progress. As regards, the present case is concerned, it relates to the selection to the post of Durwan.

5. The learned counsel appearing for the accused submitted that this is not a fit case to transfer the investigation from the file of the State Police to the file of the Central Bureau of Investigation especially in the light of the fact that the video recordings relating to the case are not genuine and they were not submitted by the de facto complainant to the State Police at the time of lodging the complaint.

6. It is indeed a surprise for this Court as to how the accused is able to gather such information when the investigation is still in a very nascent stage. In State of W.B. vs. Committee for Protection of Democratic Rights, reported in (2010) 3 SCC 571, the Honourable Supreme Court has laid down the parameters for ordering C.B.I. Investigation. In this case, the recruitment process relates to the Ordnance Factory that is owned by the Union of India. That apart, the Central Bureau of Investigation is already investigating two cases relating to impersonation in the examination conducted for the posts of Multi-Tasking Staff and Labourer. Thus, it prima facie appears that a scam has occurred, which requires a thorough probe.

7. On perusal of the case diary maintained by the State Police, it is seen that the Police are now looking out for six other persons, who are said to be hailing from North Indian States. Thus, this case appears to have All India ramification and therefore, interest of justice would be served, if the Central Bureau of Investigation takes up the case for a thorough probe to bring the guilty to justice.

8. In the result,

- i. The criminal original petition is allowed and the case in Crime No.277 of 2016, pending on the file of the Inspector of Police, K.K.Nagar P.S.Crime, Trichy, is ordered to be transferred to the file of the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Madurai.
- ii. The Inspector of Police, K.K.Nagar P.S.Crime, Trichy, is directed to obtain necessary orders from the Commissioner of Police, Trichy, within a period of one week from the date of receipt of a copy of this order and hand over the case diary and all the relevant records to the Superintendent of Police, Central Bureau of Investigation, Anti-Corruption Branch, Madurai, within a period of one week thereafter.

iii. It is seen that the first information report, remand applications and other records are now on the file of the learned Judicial Magistrate



No.II, Trichy. In view of the order of transfer, the learned Judicial Magistrate No.II, Trichy, is directed to transmit all the records relating to Crime No.277 of 2016 of K.K.Nagar P.S.Crime to the file of the learned Special Judge for C.B.I.Cases, Madurai, within a period of three weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To:

1. The Special Judge for C.B.I.Cases, Madurai.
2. The Judicial Magistrate No.II, Trichy.
- 3.The Superintendent of Police,
CBI, Anti Corruption Branch, Madurai.
- 4.The Inspector of Police,
K.K.Nagar (PS Crime),
Trichy District,
Tiruchirapalli District.
- 5.The Superintendent of Police,
Central Bureau of Investigation (ACB),
III Floor, Shastri Bhavan,
No.26, Haddows Road,
Nungambakkam,
Chennai-600 006.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.SARAVANAN,Advocate,SR. 46047

Cr1.O.P. (MD) No.23733 of 2016
02.02.2018

KRK

KK/SV MMS/SAR 4/06.02.2018/ 4P- 8C/