



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 19.06.2018
PRONOUNCED ON : 25.06.2018
CORAM:

WEB COPY

THE HONOURABLE Mrs. JUSTICE R. THARANI

Crl.O.P.(MD)No.9547 of 2018

B.Patchaiammal
Petitioner

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Vs.

1.The Director,
Vigilance and Anti-Corruption Unit,
Chennai.

2.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Unit,
Dindigul District.

3.The Inspector of Police,
Vigilance and Anti-Corruption Unit,
Dindigul District.

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Respondents

PRAYER : The petition filed under Section 482 Cr.P.C. to direct the Inspector of Police, Vigilance and Anti-Corruption Unit, Dindigul District to register the petitioner's complaint dated 17.02.2018 as an F.I.R.

For Petitioner

: Mr.R.Anand

For Respondents

: Mr.M.Chandrasekaran,
Additional Public Prosecutor

ORDER

Heard Mr.R.Anand, learned counsel appearing for the petitioner and Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the respondents.

2.This Original Petition has been filed to direct the third respondent to register the petitioner's complaint dated 17.02.2018 as F.I.R respectively.

3.On the side of the petitioner, it is stated that the new Sanitary Inspector namely, Shanthi threatened the petitioner stating that a possession of land in front of her house belonged to Government and demanded a sum of Rs.20,000/- (Rupees Twenty Thousand only). The petitioner has categorically informed that she has got all records to prove that the property is her private



property and that she is not in the occupation of the Government property. The Sanitary Inspector instigated the Executive Officer of Chinnalampatti Panchayat for causing a notice to removal of alleged encroachment. The petitioner filed a writ petition in W.P. (MD)No.11561 of 2017 before this Court and the said notice was quashed. Even afterwards, the proposed accused persons made another communication in the name of a memo, which was challenged by the petitioner in W.P.(MD)No.14348 of 2017 wherein, an interim stay was granted. Despite of interim order, the proposed accused persons made the open demand for payment of Rs.50,000/- (Rupees Fifty Thousand only). On 25.11.2017, the petitioner has sent a contempt notice and filed a contempt petition before this Court. Again on 13.02.2018 and 14.02.2018, the proposed accused came to the house of the petitioner demanding the bribe. Aggreived over the demand of bribe, the petitioner has filed a detailed representation before the police on 17.02.2018. Till date the respondent has not taken any action over the complaint and prayed for registration of FIR.

4.On the side of the respondents, it is stated that Sections 2(4) and 10 of the Tamil Nadu Local Bodies Ombudsman Act, 2014 clearly reveals that the petitioner has to send the complaint only to the Ombudsman and not to the respondents and this petition could not be entertained by the respondents at this stage.

5.On the side of the petitioner, it is stated that the Criminal Procedure Code prevails over the Tamil Nadu Local Bodies Ombudsman Act, 2014. The power of respondents is not affected by this Act as no penal provision is provided under this Act. It is further stated that as the Sub-Inspector of Police and Executive Officer are the Panchayat Public Servant(local bodies), Section 7 of the Prevention of Corruption Act alone is attracted. It is further stated that Section 12 of the Prevention of Corruption Act clearly shows that the Ombudsman may consider and dispose of complaints other than those involving criminal offences. It is stated that Section 5 of Cr.P.C., clearly shows that nothing contained in this Code shall, in the absence of a specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

6.On the side of the respondents, it is stated that as per the Section 11(1) of the Act, if after an enquiry, the Ombudsman finds that there is a prima facie case against a public servant involving a criminal offence, the Ombudsman may refer the complaint and the findings with the recommendation to the appropriate investigating agency. It is further stated that only after receiving the report from the Ombudsman, the respondent can register a case.

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

7.On the side of the petitioner, the learned counsel placed reliance on the Order passed by this Court in the case of



Thyagarajan v. State by the Inspector of Police in
Crl.O.P.No.11171 of 2014, which reads as follows:

"Subsequently, this Court in various occasions expressed its view that Rules under Vigilance Manual are only administrative and on non-observance of the same, there is no mandatory violation, which would affect the validity of the prosecution"

8.Records perused. As per Act 27 of the Tamil Nadu Local Bodies Ombudsman Act, 2014, the Government has established an Ombudsman for conducting enquiry on the allegations against the Officers and Employees working under the local bodies. The complaint given by the petitioner was forwarded to the Ombudsman by the Vigilance and Anti Corruption Department. Hence, this petition is pre-mature and to be filed before the appropriate forum.

9.With the above observation, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director,
Vigilance and Anti-Corruption Unit,
Chennai.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Unit,
Dindigul District.
- 3.The Inspector of Police,
Vigilance and Anti-Corruption Unit,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order Made in
Crl.O.P.(MD)No.9547 of 2018
25.06.2018