



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **03.09.2018**

CORAM:

THE HONOURABLE MR. JUSTICE **N. ANAND VENKATESH**
Crl.O.P. [MD] .No.10917 of 2018

and
Crl.M.P. [MD] .Nos.4931 and 4932 of 2018

1.K.Shanmugam : Petitioner/Sole Accused
Vs.

1. The Inspector of Police,
Civil Supplies Criminal Investigation Department,
Karpaga Nagar 10th Street,
K.Pudur, Madurai-625 007. : 1st Respondent/Complainant

2. S.Reho Bayam
S/o. Not known,
Deputy Collector/Regional Manager,
Tamil Nadu Civil Supply Corporation Limited,
Madurai Region, Madurai 625 020. : 2nd Respondent/Defacto
Complainant

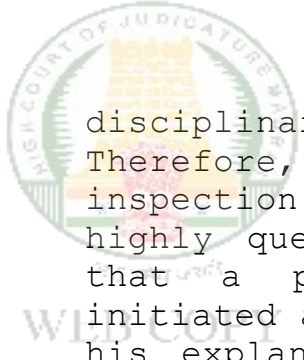
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records pertaining and to quash the impugned charge sheet in C.C.No.2 of 2017 dated 30.11.2016 on the file of the learned Judicial Magistrate No.III, (C.C.I.W), Madurai filed in FIR in Crime No.250 of 2016 registered by the first respondent on 14.11.2016 at 11.30hrs, under Section 6(2), 6(3) Tamil Nadu Scheduled Commodities (RDCS) Order, 1982 and 7(1)(a) (ii) Essential Commodities Act, 1955.

For Petitioner : Mr.S.Madasamy
For R-1 : Mr.K.Suyambulinga Bharathi
Government Advocate[Criminal side]

ORDER

This criminal original petition has been filed to quash the final report filed in C.C.No.2 of 2017, pending on the file of the learned Judicial Magistrate No.III, (C.C.I.W) Madurai.

2. The learned counsel for the petitioner would submit that the petitioner is an Office-bearer in the Union and the entire complaint was given against him with *mala fide* intention, in order to stop the petitioner from performing his duties as an union member. The learned counsel would further submit that the entire complaint emanated by virtue of an alleged inspection that was conducted on 11.05.2016 by one Rama Guru and Mayapandi. This inspection itself has been made as a ground to initiate



disciplinary proceedings against the said Rama Guru and Mayapandi. Therefore, the learned counsel would submit that the so called inspection by virtue of which a short fall was found, has become highly questionable. The learned counsel would further submit that a preliminary departmental proceedings was also been initiated against the petitioner and the petitioner has also given his explanation. But no final orders have been passed in the departmental proceedings.

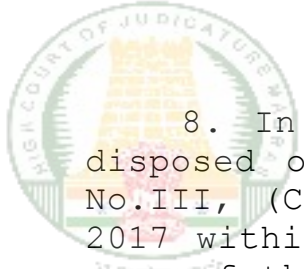
3. The learned Government Advocate [Criminal side] would submit that a reading of the final report and 161 Cr.P.C., statement make out a *prima facie* case against the petitioner. The petitioner cannot raise the grounds in this petition to quash the final report by placing the materials, which he is relying upon in order to defend his case. All these materials can only be placed before the Court below in the course of trial.

4. This Court has carefully considered the rival submissions made on either side.

5. It is seen that the petitioner is trying to place his defence on certain factors like initiation of departmental proceedings against Rama Guru and Mayapandi, for the inspection that was conducted by them in the shop, in which the petitioner was working as a Bill Clerk. The learned counsel for the petitioner is also trying to establish the fact that there was no short fall and in fact the audit reports that are sought to be relied upon in this petition, will clearly establish that the essential commodities were available in excess.

6. At this stage of framing of charges, it is a settled principles of law that the Court cannot rely upon materials that are placed by the defence. This Court has to merely go by the final report and the statements, that are relied upon along with the materials collected by the prosecution. Whatever materials are sought to be produced before this Court are the materials that are relied upon by the petitioner in order to defend his case. These materials cannot be looked into at this stage for the purpose of quashing the final report.

7. In the facts and circumstances of the case, this Court finds that all the materials can be relied upon by the petitioner before the Court below in the course of trial. All the points, which are relied upon by the petitioner in this petition, have to be raised before the Court below by the petitioner in order to defend his case. Since the petitioner has been facing the criminal case from the year 2016 onwards, interest of justice can be met by directing the Court below to complete the proceedings



8. In view of the above, the criminal original petition is disposed of with a direction to the learned Judicial Magistrate No.III, (C.C.I.W), Madurai to dispose of the case in C.C.No.2 of 2017 within a period of three months from the date of receipt of copy of this order. The petitioner is at liberty to raise all the grounds that have been raised in this criminal original petition and also place of the materials that were sought to be placed in this petition, in order to effectively defend his case. Since the petitioner is presently working at Usilampatti, he can always file a petition to dispense with his appearance before the Court below and the Court below shall consider the same and direct the petitioner to appear before the Court during effective hearing. In all the other hearings, the petitioner can be permitted to be represented by a counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Judicial Magistrate No.III, (C.C.I.W), Madurai.

(To Report of the Complaine of the order
after completion of the proceedings)

2. The Inspector of Police,
Civil Supplies Criminal Investigation Department,
Karpaga Nagar 10th Street,
K.Pudur, Madurai-625 007.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.M.Vishnuvarthanan, Advocate Sr.No.81952

SJI

VB/RP/SAR2/04.10.2018/3P/5C

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