



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P. (MD) No.15195 of 2018

R.Chinthathirai Arockiam Selvin

... Petitioner

-vs-

1. The Director,
Vigilance and Anti-Corruption,
No.293, MKN Road,
Alandur, Chennai-600 016.
2. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
3. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
2/17, Palayamkottai Main Road,
Maravan Madam, Thoothukudi-628 101.
4. The Chairman cum Managing Director,
Tamil Nadu Generation and Distribution Corporation,
(TANGEDCO)
10th Floor, NPKRR Maaligai,
Chennai-600 002.
5. The Superintendent Engineer,
Tuticorin Electricity Distribution Circle,
131 & 132, Ettayapuram Road,
Thoothukudi-628 002.
6. D.Jeyakumar
Assistant Executive Engineer,
TANGEDCO (Construction and Improvement)
Near Thoothukudi Old Municipal Corporation,
Thoothukudi-628 002.
7. Ramesh
Junior Engineer,
Urban (North) Distribution,
7, Carpenter's Street, Mattakadai,
Thoothukudi-628 001.



8.S.Chandra
9.A.Santhanaraj
10.S.Anthony Raj
11.Mary Navis Priya

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the 1st and 3rd respondents herein to register the petitioner's complaint dated 13.08.2018, under Sections 7 & 8 of the Prevention of Corruption (Amended) Act, 2018 against the 6th to 11th respondents herein in accordance with Part-II, Para 12(1)(ii) of the Directorate of Vigilance and Anti Corruption Manual.

For Petitioner	: Mr.Esthov Antony Ashok
For R1 to R3	: Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R4 to R7	: Mr.S.M.S.Johny Basha

ORDER

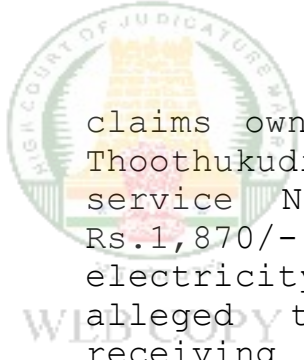
The contention of the petitioner is that he is a Marine Engineer and also an Advocate competent to address from the table of Advocate, whenever, he was not in the sea. With this introduction, the petitioner has filed this petition seeking a direction to the first and third respondents to register his complaint dated 13.08.2018 under Sections 7 and 8 of the Prevention of Corruption (Amended) Act, 2018 against the respondents 6 to 11 in accordance with Part-II, Para 12(1)(ii) of the Directorate of Vigilance and Anti Corruption Manual. Since on the face of it, this petition appears to be a frivolous one, this Court thought it fit to dismiss the petition, besides refer the matter to Bar Council of Tamil Nadu & Puducherry, for appropriate action. Hence, the following order in detail.

2.This matter was listed on 28.08.2018, when the matter was called, though the counsel on record Mr.Esthov Antony Ashok, was present, the petitioner K.Chennathirai Arockiam Selvan addressed the Court in black robes. Therefore, this Court directed the petitioner either to engage a counsel or to appear before the Court as party-in-person without robes. He took adjournment, so the matter was posted today ie., on 29.08.2018. When the matter was taken up for hearing, the petitioner herein did not appear, but his counsel on record viz., Mr.R.Esthov Antony Ashok, M.L., [Enrollment No.2754 of 2009] appeared and made his submissions.

3.The complaint of the petitioner dated 13.08.2018 is annexed as the first document of the typed set of papers.

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

4.A reading of the complaint reveals that the petitioner



claims ownership of the house bearing Door No.195-B, Cruzpuram, Thoothukudi. He disconnected the electricity service connection in service No.ND 140, temporarily by paying requisite fee of Rs.1,870/- on 6th November 2003 with an intention to restore the electricity connection as and when required. While so, it is alleged that the Assistant Engineer viz., Mr.D.Jeyakumar, receiving undue advantage (illegal gratification) from one S.Chandra improperly and dishonestly when intended to provide illegal electricity to her house, it is strongly objected by the petitioner and he has also produced all relevant documents. However, the Assistant Engineer has provided electricity facility to the said S.Chandra illegally, despite his strong lawful objection.

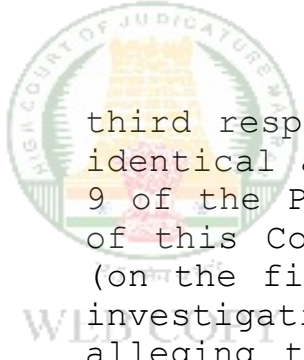
5.According to the petitioner, as per the TANGEDCO Rules and Regulations, when there is an objection to provide electricity facility, the same has to be referred to the Regulatory Commission. But, in this case, the said D.Jeyakumar, Assistant Engineer, without referring the matter to Regulatory Commission, has provided illegal electricity connection to the said S.Chandra, which is punishable under Section 9 of the Prevention of Corruption Act, 1988 and also attracts the Sections 7 and 8 of Prevention of Corruption (Amended) Act, 2018 (with effect from 26th July 2018. The superiors to D.Jeyakumar, are the Chairman and Managing Director, the Superintendent Engineer, TANGEDCO, Thoothukudi, Junior Engineer (Ramesh), have not provided re-connection to his house, because of undue advantage obtained from S.Chandra.

6.It is further alleged by the petitioner in his complaint that the entire TANGEDCO is swimming in the pool of corruption in this issue, that is why the Chairman and Managing Director of TANGEDCO has not yet taken appropriate action against the said D.Jeyakumar, as per the Manual of Directorate of Vigilance and Anticorruption. In the said circumstances, he has requested the Director of Vigilance and Anticorruption to direct the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thoothukudi Detachment, to register the complaint against the above said accused.

7.The learned Additional)\ Public Prosecutor appearing for the respondent Nos.1 to 3 would submit that the complaint of the petitioner dated 13.08.2018, which is general in nature was received by the Thoothukudi Vigilance and Anti Corruption Detachment, on 14.08.2018, has been assigned in Petition No.141 of 2018 and the same was forwarded to the Director of Vigilance and Anti Corruption, Chennai, on 15.08.2018 and the same was intimated to the petitioner.

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8.Earlier, this petitioner moved this Court in CrI.O.P. (MD).No.13436 of 2017 seeking a direction, directing the first and



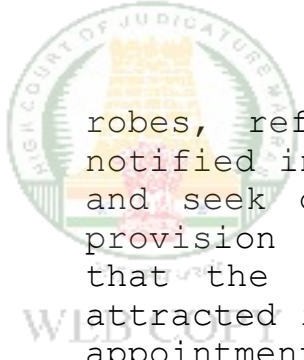
third respondents to register his complaint dated 28.09.2017 with identical allegation against D.Jeyakumar and others under Sections 9 of the Prevention of Corruption Act, 1988. As per the direction of this Court, the case has been registered in Cr.No.899 of 2017 (on the file of Thoothukudi Police Station) and the same is under investigation. While so, another CrI.O.P.No.5752 of 2018 was filed alleging that the respondents failed to give service connection. Therefore, a case has to be registered under Section 9 of Prevention of Corruption Act, against them. The said petition was dismissed by this Court on 10.08.2018 observing that "If the Investigating Officer finds any material which attracts offence under Prevention of Corruption Act, 1988, he will necessarily act upon and this Court need not jump to the conclusion before completion of investigation". Despite inviting an order from this Court in this regard, the petitioner has filed the present criminal original petition to invoke Sections 7 and 8 of the Prevention of Corruption (Amended) Act, 2018.

9.On perusal of the letter of the Assistant Engineer addressed to the petitioner, dated 11.03.2018, which is also annexed in the typed set of papers as the second document, it is seen that after receiving application from S.Chandra seeking for new electricity connection to her house bearing Door No.195B, Cruzpuram, Thoothukudi and the objection of the petitioner herein, the Assistant Engineer has sought for documents based on which, the petitioner claiming ownership over the property and he has also informed him that the said document should be furnished within 3 days, failing which, S.Chandra will be provided service connection. Thereafter, he has furnished some documents to show his ownership. After considering the documents, the Assistant Engineer has thought it fit that the said S.Chandra is entitled for service connection and had provided service connection to the said premises.

10.It appears that there is a title dispute between the petitioner herein and the said S.Chandra and a suit has been filed for claiming right over the property. The petitioner herein, with very same contention, had given a complaint on 02.11.2017, upon which, the first respondent has forwarded the matter to the 5th respondent Chairman and Managing Director of TANGEDCO, to look into the petition and act upon it. When the petitioner came before this Court by way of criminal original petition under Section 482 Cr.P.C., in CrI.O.P.(MD).No.5752 of 2018, this Court very recently has dismissed his application, observing that the Investigating Officer after finding any material, which attracts offence under Prevention of Corruption Act, 1988 available, he will necessarily act upon it and before conclusion of investigation, no direction is necessary.

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11.Now, the petitioner herein, though claims himself as an Advocate and entitled to argue his petition before this Court with



robes, refer Sections 7 & 8 of the amended Act, which though notified in the Gazette on 26.07.2018, but not yet come into force and seek direction of this Court to register the case under a provision of law, which is still born. Thus, misleads this Court that the offence under Sections 7 & 8 of the amended Act is attracted in his complaint, unmindful of the fact that the date of appointment to put the amendment into force not yet notified and these Sections are still come into effect.

12. When this Court pointed out to Mr. R. Esthov Antony Ashok, learned counsel that the new Act has not yet come into force, for want of notifying the date of appointment, the learned counsel is not inclined to lend his ears.

13. When the grievance of the petitioner had already been taken note of by the Director of Vigilance and Anti-Corruption and the matter has been forwarded to the Managing Director of TANGEDCO. Filing complaint dated 13.08.2018 to take action, under Sections 7 & 8 of the Amended Act, which has not come into force, is not a misrepresentation simpliciter, but an attempt to commit fraud on the Court. The petitioner has filed this petition on 16.08.2018, ie., within 3 days of his complaint. In the opinion of this Court, it is abuse of process of law. It is only to harass the respondents herein, such action has been resorted to by the petitioner. It is unfortunate that his counsel on record also not inclined to see the frivolousness of the petitioner's contention. Therefore, this Court is of the opinion that the petitioner herein has filed this petition with malafide intention and abuse of law.

14. If he is an ordinary person, this Court could have simply dismissed the criminal original petition without any further orders. But the affidavit clearly indicates that the petitioner herein being an Advocate also serving as Marine Engineer. He claims he can address from the table of the Advocate, whenever, the petitioner not in the sea.

15. The Advocates Act 1961, does not permit an enrolled Advocate to profess dual profession. When there is a specific bar under the Advocates Act, 1961 and Bar Council Rules, that a person, who got enrolled in the Bar Council, cannot take up any other profession or employment without suspending his practice has the audacity to plead that he can take up Marine job and continue as an Advocate and address the Court in robes. It will be detrimental to the Noble profession. It is high time the cleansing of such attitude is allowed to continue without ribbing it in the bud, the profession to start. Therefore, I refer the matter to the Bar Council of Tamil Nadu to show cause the petitioner and also the counsel, who none other than the blood brother of the petitioner, to why action shall not be taken against them for their misconduct.



16. In the result, this Criminal Original Petition is dismissed with the above direction.

Sd/-

Assistant Registrar (Crl. Side)

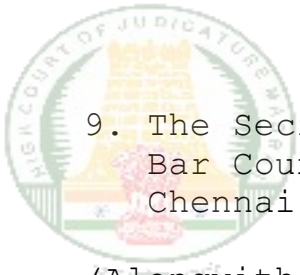
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Sub Assistant Registrar (CS-II)

To

1. The Director,
Vigilance and Anti-Corruption,
No.293, MKN Road,
Alandur, Chennai-600 016.
2. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
3. The Deputy Superintendent of Police,
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6. The Assistant Executive Engineer,
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7. The Junior Engineer,
Urban (North) Distribution,
7, Carpenter's Street, Mattakadai,
Thoothukudi-628 001.
8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



9. The Secretary,
Bar Council of Tamil Nadu and Puducherry.
Chennai.

(Alongwith the copy of the criminal original petition,
vakalat and counter filed by the Additional Public Prosecutor)

Copy to:

The Section Officer,
'F' Section,
Madurai Bench of Madras High Court,
Madurai.

+3cc to Mr.R.Esthov Antony Ashok, Advocate SR.No.80873
+1cc to Mr.S.M.S.Johny Basha, Advocate SR.No.81011

Ns
MK/SKN/SAR 2/11.09.2018/7P/15C

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