IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.09.2019
Pronounced on : 19.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.12800 of 2019
and Crl.M.P.No.6632 of 2019

A.Senthurpandiyan ... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Chennai City – 1 Detachment,
Chennai-600 016.

2.K.Moorthy,
District Inspection Cell Officer,
Kancheepuram and Thiruvallur,
O/o.Collector,
Kancheepuram District. ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the F.I.R in Crime No.4/AC/2019/CC-1 of 2019 dated 23.04.2019 on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr.N.R.Elango, Senior Counsel
for Mr.B.GopalaKrishnanan

For Respondents : Mrs.M.Prabavathy,
Additional Public Prosecutor

* * * * *

ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.4/AC/2019/CC-1 of 2019 dated 23.04.2019 which came to be registered for the offence under Sections 7, 13 (2) r/w 13(1)(a) of Prevention of Corruption Act (Amended) Act, 2018 and 409 of IPC.

2.The petitioner was directly recruited and selected as Joint Sub Registrar through Tamil Nadu Public Service Commission on merits and joined service on 01.09.2008. Thereafter he joined his duty as Sub Registrar in the Registration Department. The surprise check was conducted on 31.10.2018 in the Joint Sub Registrar Office-II, Chengalpet by the 1st respondent along with 2nd respondent, who is the District Inspection Cell Officer at Kancheepuram, between 17.50 hours and 02.15 hours. During the surprise inspection, an amount of Rs.2,98,490/- (Rupees two lakhs ninety eight thousand four hundred and ninety only) was seized and some documents were also seized. The Joint Surprise officials consists of Inspection Cell Officer; Deputy Superintendent of Police; three Inspector of Police; two Head Constables and two Women Head Constables from the Vigilance and Anti-Corruption Department. During surprise check the staffs of the Joint Sub Registrar-II, Chengalpet, private document writers and public, who come for registration were detained and enquired. Apart from the petitioner, an Assistant, two Data Entry Operators, Junior Assistant and Record Clerk were detained and two document writers, three touts and two persons, who came for registration were also detained. During the surprise check it was found that 67 documents were registered on that day i.e., on 31.10.2018. The cash box was found in the possession of Srinivasan, Office Assistant, in which it was found that the flag day collection amount did not tally and there was a shortage of Rs.757/- (Rupees seven hundred and seven only), for which the petitioner was enquired and he could not give any proper reply. Further the records in the petitioner's office were not properly maintained and the shortage of money and seized amount considered as misappropriation of government money. Further, a white paper containing hand written writings (Serially numbered 1 to 64) was found on the table of the petitioner was seized, in which some of the names of touts were found. The various rooms in the office were searched and amounts were seized from the record room, computer room, from the document writers and persons, who came for registration and all these seizures have been attributed to the petitioner.

3.The contention of the learned Senior Counsel for the petitioner is that the petitioner being a direct recruit had issues with his counter parts promotees, who are in service with him, with regard to the seniority and promotion to the next level. The petitioner was very strict in following rules and procedures, which was not liked by others. Hence the petitioner had motivated enemical persons, who were constantly making false complaint against him.

4.Initially, the petitioner joined Kundrathur office on 14.07.2014 and was there till 31.12.2012. Thereafter he was transferred to Chengalpet on 01.11.2017 and he was there till 29.08.2018. Again he was transferred on deputation to another office at Chengalpet. Within five months thereafter on 07.01.2019 he was transferred to Marthandam which is 800 km far away. Against which the petitioner filed Writ Petition before this Court in W.P.No.1041 of 2019, in which stay was granted on 10.01.2019 in W.M.P.No.1168 of 2019 for his transfer. This was not to liked by his Superiors and others, hence motivated a false complaint against the petitioner. The respondent on one such false complaint, conducted a surprise check and nothing could be found from the petitioner. The petitioner being the head of the office held responsible for not having proper control of his subordinates. In any case it would be only dereliction of duty and not a criminal case.

5.The learned Senior Counsel would further submit that the petitioner hails from a respectable family, his father-in-law is having vast acres of lands and owned several agricultural tractors, Broclain and cars, person of immense wealth. In purchase of some lands he had dispute with the others. Further he submitted that the respondent had conducted search in the house of the petitioner on 24.04.2019 and no incriminating materials were found. Six months after the surprise check, FIR in this case came to be registered. The petitioner is the head of the office. As per the circular of the Inspector General of Registration, each and every staffs are allotted specific work and there is an office order for the same and nature of work of each person has been defined and delegated. The collected registration fees would be handed over to the petitioner only at the end of the office hours. If any amount found in the office premises, the petitioner could not be held responsible. Likewise, the registration of documents needs study, evaluation and only after following the proper procedures, it has to be registered.

6.The documents prior to registration are verified to avoid delay and to see there is no loss of revenue to the department. It is also seen that the petitioner would be held responsible by the audit wing of the department, if there is any short levy. Since after computerization and online registration, the documents will not be admitted if there is any variations. The online is recently introduced and it is yet to be familiarized. Hence for the purpose of clarification and verification such documents were submitted, for which no motive could be attributed against the petitioner.

7.The petitioner being a direct recruit has been falsely implicated in this case and pendency of the criminal case would deny his rightful promotion for years. Further, there is no complaint against the petitioner that he had demanded money at any time and he was in the habit of taking any money.

8.The learned Senior Counsel further submitted that the there is no case against the petitioner to proceed against him under the Prevention of Corruption Act and his resistance for transfer and to deny promotion this case would be used against the petitioner.

9.*Per contra*, Mrs.M.Prabavathy, learned Additional Public Prosecutor appearing for the respondents filed a status report and submitted that a surprise check in the office of the petitioner had resulted in seizure of huge sums of money to the tune of Rs.2,98,490/- (Rupees two lakhs ninety eight thousand four hundred and ninety only), Serially numbered 1 to 64 hand written paper were seized, no explanation was offered. Further the documents were also seized from the car of the petitioner. Thus hand writing has to be verified. Further these seized documents lead to a pattern of modus by which the petitioner have been collecting huge sums of money. Though the surprise check was conducted on 31.10.2018, the District Inspection Cell Officer had lodged his report with his proceedings Lr.No.A/468/2018 dated 01.11.2018, which was forwarded to the Inspector of General of Registration for receiving approval from the head of the office. The Inspector General of Registration vide proceedings under Section 17A of the Prevention of Corruption Act in No.49864/VI/2018 dated 06.02.2019 has given approval and sent communication to the Directorate of Vigilance and Anti Corruption, who on 22.02.2019 directed the 1st respondent to register the regular case and the case was registered on 23.04.2019. Immediately on registration of the case, house search was conducted at the residence of the petitioner. The seized documents are being verified and sent for study. So far, 13 witnesses have been examined and they clearly implicated the petitioner.

10.The learned Additional Public Prosecutor would further submit that the witnesses have spoken to about the complicity in demanding and accepting illegal gratification for registration of documents. The investigation in Crime No.4/AC/2019/CC-1 of 2019 is at the crucial stage and it would be completed within a period of five months and the charge sheet is to be filed by then.

11.Considering the rival submission and on perusal of the materials, this court finds that the investigation is being carried out on the right direction and there have been some delay in registering the regular case and it is only due to the procedural wrangles as per the requirement of Section 17A of the Prevention of Corruption Act, 1988. This cannot be attributed as delay and motivated one and it is not a ground for quashing of the F.I.R in Crime No.4/AC/2019/CC-1 of 2019. The Investigation cannot be aborted at the threshold. Hence, this Court is not inclined to interfere with the investigation at this stage. Further the submissions of the respondent to complete the investigation and to file the charge sheet within a period of five months is recorded.

12.In view of the above, this Court is not inclined to quash the F.I.R at this stage. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

19.09.2019

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

vv2

To

1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Chennai City – 1 Detachment,
Chennai-600 016.

2.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDER IN

Crl.O.P.No.12800 of 2019

19.09.2019