

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Cr1.O.P.No.788 of 2017
and
Cr1.M.P.Nos.559 & 560 of 2017

Muruganathan ...Petitioner/Accused (Single)

Vs

The State Rep by
Inspector of Police,
S-8, Adambakkam Police Station,
Chennai. ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the case in C.C.No.811/2016 on the file of the Judicial magistrate Court, Alandur and quash the same.

For Petitioner : Mr.I.C.Vasudevan

For Respondent : Mrs.V.Saratha Devi,
Government Advocate(Cr1. Side)

O R D E R

The petitioner herein has been charged for the offences under Sections 5 and 7 of the Lotteries Regulation Act - 1998 in Crime No.908 of 2016, which has been taken on file by the learned Judicial Magistrate, Alandur in C.C.No.811 of 2016. The present Criminal Original Petition has been filed to quash the charge sheet.

2.The main ground raised by the petitioner is that the Investigation Officer, namely the respondent herein, who had investigated and filed the charge sheet and the one who had registered the petitioner's complaint are one and the same, which is not permissible. It is settled proposition that the informant and the investigator cannot be one and the same person. The Hon'ble Apex Court in a decision reported in Mohanlal Vs.State of Punjab reported in 2018 SCC Online SC, 974 had held that such a proposition would vitiate the entire

investigation itself. This Court, in a decision dated 13.08.2019, passed in CrI.O.P.No.21761 of 2019, had followed the proposition of the Hon'ble Apex Court in the case of Mohanlal Vs. State of Punjab (supra) and has held as follows:-

"3.The learned counsel for the petitioner submitted that the entire investigation is vitiated, since the informant and the investigator is the same officer and therefore, the case is covered by the Judgement of the Hon'ble Supreme Court in [Mohanlal Vs.State of Punjab] reported in 2018 SCC Online SC, 974. The learned counsel further submitted that the subsequent judgement of the Hon'ble Supreme Court in [Varinder Kumar Vs. State of Himachal Pradesh] will also apply to this case, since this judgement has given prospective operation to the Judgement of Mohanlal and the final report itself has been filed only on 01.07.2019.

4.Heard the learned Additional Public Prosecutor appearing on behalf of the respondents.

5.This Court is completely in agreement with the submissions made by the learned counsel for the petitioner. The entire investigation is vitiated, since the informant and the investigating officer is the same police officer. This case is squarely covered by the Judgement of the Hon'ble Supreme Court referred supra."

3.Since it is not in dispute that the informant as well as the Investigation Officer are one and the same, validation of the consequential charge sheet, pursuant to such investigation, cannot be sustained. Accordingly, the proceedings in C.C.No.811 of 2016 on the file of the Judicial Magistrate, Alandur, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

jas/tsg
To

1. The Judicial Magistrate, Alandur.
2. The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

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PVS (CO)
SP (01/11/2019)