

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.29535 of 2018

G.Durairaj

... Petitioner

Vs.

1.State rep. by
Inspector of Police,
Civil Supply Commercial Crime Investigation Wing,
Chennai - 600 053.

2.D.J.Benatic
Assistant Commissioner,
Civil Supply Consumer Protection Department,
Villivakkam Division,
Chennai - 600 049.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the FIR registered in Cr.No.404 of 2014, by the first respondent police insofar as it relates to the petitioner is concern and quash the same.

For Petitioner : Mr.J.Muthukumarn

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.404 of 2014, pending on the file of the first respondent police.

2. The FIR was registered against the petitioner and another person for an offence under Section 6(4) of TNSC (RDSC) Order 1982 read with Section 7(i)a(ii) of Essential Commodities Act, 1955. After the FIR was registered in the year 2014, there has been absolutely no progress in the investigation.

3. The learned counsel for the petitioner brought to the notice of this Court, the earlier order passed by this Court,

under similar circumstances, wherein this Court had quashed the FIR. The relevant portion of the order is extracted hereunder:

"2. Based on an inspection conducted in the year 2010, the petitioner herein has been arrayed as an accused for having misappropriated a sum of Rs.21,903.85/-. Hence, FIR has been registered against him on 20.05.2010 for offences under Sections 6(ii) and 6(iii) of TNSC (RDSCS), order 1982 r/w 7(i) a (ii) of Essential Commodities Act, 1955.

7. I am unable to comprehend as to how the respondent police would be justified in keeping the investigation pending for a period of more than seven years. Apart from that, it is also seen that the petitioner was placed under suspension, in view of the pendency of the criminal proceedings. Furthermore, he had been anticipating the outcome of the final report of investigation for more than seven years. In the mean time, he also retired from his service. The inordinate delay in completing the investigation would have certainly caused serious prejudice to the petitioner herein. On this sole ground the petitioner would be entitled to succeed.

8. In view of the laches on the part of the prosecution to complete the investigation within a reasonable time, I am of the view that no justification can be established, if the respondents herein are permitted to file a final report/charge sheet, at this belated stage. Hence, the criminal original petition stands allowed. The proceedings in Crime No.291 of 2010, on the file of the Inspector of Police, Civil Supplies CID, Chennai, is hereby quashed. Consequently connected miscellaneous petition is closed."

4. The learned counsel for the petitioner would submit that due to the pendency of the FIR, the petitioner was not permitted to retire and he is facing undue hardship in this case.

5. The learned Additional Public Prosecutor would submit that the offence is under the Special Act and on the ground of delay in the investigation, the FIR should not be quashed. Therefore, the learned Additional Public Prosecutor would submit that the respondent police should be permitted to investigate the case.

6. There is absolutely no justification on the part of the first respondent to have kept the FIR pending from the year 2014, without any progress. The petitioner has suffered enough

due to the pending FIR and he has not been permitted to retire and all of his retirement benefits have been stalled. An inordinate delay in completing the investigation resulted in seriously affecting the rights of the petitioner. The Judgment that has been referred supra will squarely apply to the facts of the present case. There is no justification in keeping this FIR pending at this belated stage.

7. In the result, the FIR in Crime No.404 of 2014, pending on the file of the first respondent is hereby quashed and the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

nmm/dss
To

1.The Inspector of Police,
Civil Supply Commercial Crime Investigation Wing,
Chennai - 600 053.

3.2.D.J.Benatic
Assistant Commissioner,
Civil Supply Consumer Protection Department,
Villivakkam Division,
Chennai - 600 049.

3.The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.J.Muthukumaran, Advocate, S.R.No.2271

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GSP (29/01/2019)

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