



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P. (MD) No.4612 of 2019

P.M.Ahamed

.. Petitioner

Vs.

1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Madurai.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Madurai.
(Crime No.06 of 2019)

3.R.Nirmal Kumar

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case in Crime No.06 of 2019, on the file of the Inspector of Police, Vigilance and Anti-Corruption, Madurai and quash the same as against the petitioner.

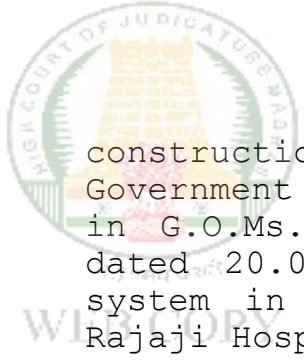
For Petitioner: Mr.R.Shanmugasundaram
Senior counsel
for Mr.R.Anand

For R1 and R2 : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

ORDER

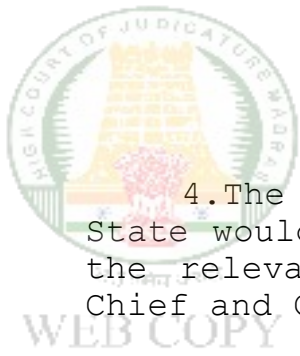
This Criminal Original Petition has been filed to quash the investigation in Crime No.06 of 2019, on the file of the Inspector of Police, Vigilance and Anti-Corruption, Madurai.

2.In this case, A1 was working as Superintending Engineer, A2 was working as Executive Engineer, A3 was working as Assistant Executive Engineer, A4 was working as Assistant Engineer and the petitioner/A5 is the private individual. The Super Speciality Hospital building is being constructed at Government Rajaji Hospital, Madurai, under the Pradhan Mantri Swasthya Suraaksha Yojana [PMSSY] Scheme of Government of India and the above said



construction is being carried out by HLL Life Care Limited and the Government of Tamil Nadu have sanctioned a sum of Rs.2,24,80,000/- in G.O.Ms.No.117, Health and Family Welfare Department, Chennai, dated 20.04.2017, for the work of providing medical gas supply system in the Super Speciality Hospital building for Government Rajaji Hospital, Madurai. Further, the petitioner/A5 was not having sufficient experience to carry out the said work and also the Experience Certificate, dated 10.10.2014, enclosed with the tender document was false and it was produced by A6, who is the brother of A4. Further, the materials for the medical gas supply system were purchased prior to the date of agreement, i.e., 20.10.2017, which shows that A1 to A4 have taken a decision well in advance to get pecuniary advantage for themselves, by allowing the petitioner/A5 to purchase the materials. The other bidders, who had furnished quotations are not reputed dealers and they are all closely associated with A6, the brother of A4. Therefore, A1 to A4 colluded together, entered into criminal conspiracy with the petitioner/A5 and A6 and committed fraud in respect of the funds sanctioned for the work of providing medical gas supply system in the Super Speciality Hospital building for Government Rajaji Hospital, Madurai, by preparing false documents and also by suppressing the material facts in order to get pecuniary advantage for themselves and misappropriated the funds allotted by the Government. Hence, an FIR in Crime No.6 of 2019, has been registered against them by the second respondent, for the offences punishable under Sections 120 (B), 420, 467, 468 471 and 409 IPC and Sections 13(1)(a) r/w. 13(2) and 7 of the Prevention of Corruption Act. Seeking to quash the said FIR, the petitioner/A5 has come up with the present Criminal Original Petition.

3.The learned Senior Counsel appearing for the petitioner without going to the merits of the case, would submit that liberty may be given to the petitioner to submit all the relevant records to the investigating agency. On an earlier occasion, the Tender Award Committee considered all the relevant materials and passed an award in favour of the petitioner. Thereafter, the work was completed. In the present case, A1 was the Superintending Engineer; A2 was the Executive Engineer; A3 was the Assistant Executive Engineer; and A4 was the Assistant Engineer. Since a Super Check Team was constituted under the head of the Superintending Engineer, P.W.D., Buildings C & M Circle, Trichy, and the Dean, Government Medical College, Theni, to ascertain the quality and also deviations of the rates, the petitioner/A5 apprehends that there may be a bias, for the reason that A1 in this case is also the same cadre of the Team Head i.e., Superintending Engineer. Hence, it is necessary to direct the second respondent police to take advice of the Engineer-in-Chief and the Chief Engineer (General), before filing the final report and liberty may be given to the petitioner to file all the details along with other relevant records to the respondent police for proper investigation and the petitioner is ready to co-operate with the investigation.



4.The learned Additional Public Prosecutor appearing for the State would submit that the respondent police will take note of all the relevant materials, including the advice of the Engineer-in-Chief and Chief Engineer (General), before filing the final report.

5.In view of the above, this Criminal Original Petition is disposed of, with liberty to the petitioner to file all the relevant records to the respondent police.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Madurai.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Madurai.

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

+1cc to Mr.R.Anand,Advocate, SR.No.60218

Crl.O.P. (MD)No.4612 of 2019
10.04.2019

SP/16.04.2019/ 3P/5C