

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Reserved on : 30.08.2019****Pronounced on : 25.11.2019****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Cr1 OP(MD)Nos.11613 & 11484 of 2019****WEB COPY**

1.D.Annadurai
2.S.Singaram
3.S.Kothandapani

...Petitioners in Cr1 OP(MD)No.11613 of 2019/
Accused Nos.2, 7 and 9

1.S.Sivakumar
2.S.Murugan

...Petitioners in Cr1 OP(MD)No.11484 of 2019/
Accused Nos.5 and 6

Vs.

State, through
the Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Trichy in Cr.No.5 of 2015. ... Respondent/ Complainant in both cases

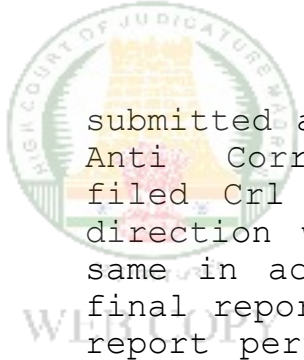
Common Prayer : Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to call for the records in Spl.C.No.1 & 2 of 2018 on the file of the Special Court for PC cases, Tiruchirappalli and quash the same.

For Petitioners	: Mr.N.Ananthapadmanaban
in Cr1 OP(MD)No.11613 of 2019	
For Petitioners	: Mr.P.Ezhil Nilavan
in Cr1 OP(MD)No.11484 of 2019	
For Respondents	: Mr.A.Robinson,
	Government Advocate (crl.side)
	(in both cases)

COMMON ORDER

The petitioners in Cr1 OP(MD)No.11613 of 2019 are shown as A2, A7 and A9 in Special S.C No.1 of 2018 on the file of the Special Court for P.C Act Cases, Tiruchirappalli while the petitioners in Cr1 OP(MD)No.11484 of 2019 are shown as A5, A6 in Special S.C No.2 of 2018.

2.Crime No.5 of 2015 on the file of the respondent was registered on 09.06.2015 for the offences under Sections 409, 471, 477(A) & 109 IPC and 13(2) r/w.13(1)(c) of the Prevention of Corruption Act, 1988 based on the order of this Court made in Cr1 OP (MD)No.7847 of 2015 filed by one Govindaraj. The said Govindaraj is a former employee of the Tamil Nadu State Transport Corporation, Kumbakonam Limited at Kumbakonam. He was also a trade unionist. He alleged that the funds of the transport corporation to the tune of Rs.32,88,937/- was unlawfully spent on meeting out certain expenses of the then Transport Minister and his entourage. He



submitted a complaint before the Inspector of Police, Vigilance and Anti Corruption Wing, Thanjavur. Since no action was taken, he filed CrI OP(MD)No.7847 of 2015. By order dated 03.06.2015, a direction was issued for registering a case and investigating the same in accordance with law. After the case was registered, two final reports came to be filed before the Special Court. One final report pertains to the year 2006-07 while the other final report pertains to the year 2008. Cognizance of the offences was taken under Sections 120(b), 167, 409, 477(A) IPC and Section 13(2) r/w.13(1)(c) and (d) of the Prevention of Corruption Act, 1988. The final report in respect of the year 2006-07 was taken on file as S.C No.1 of 2018 while the other final report in respect of the year 2008 was taken on file as S.C No.2 of 2018.

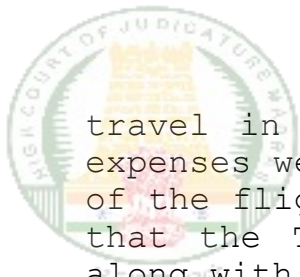
3.The petitioners in CrI OP(MD)No.11613 of 2019 were working in the Tamil Nadu State Transport Corporation in various capacities. They had all retired from service. The specific allegation against them is that they approved two flight ticket expenses under wrong head of account. The total sum involved is Rs.16,427/- (Rs.1974/- vide Voucher No.2856 dated 01.07.2006 and Rs.14,453/- vide Voucher No.216 dated 02.04.2007). The only allegation is that the approval was given based on the photo copy of the tickets and that verification was not done as to whether the passengers concerned had actually undertaken the travel.

4.The petitioners in CrI OP(MD)No.11484 of 2019 were also working in the said transport corporation and had retired from service. The allegation against them is that they approved two flight ticket expenses totalling a sum of Rs.13,576/-. In this case also, the allegation is that approval was given based on the photo copy of the tickets without actually confirming the fact as to whether the passengers concerned had undertaken the travel. It is this that is said to have constitute the offences punishable under Sections 120(b), 167 r/w.120(b), 409 r/w.120(b), 477 A IPC r/w. 120(b) IPC and Section 13(2) r/w.13(1)(c) and (d) of the Prevention of Corruption Act, 1988 r/w. 120(b) IPC. To quash the same, these Criminal Original Petitions have been filed.

5.Heard the learned counsel on either side.

6.The learned counsel appearing for the petitioners reiterated the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings. Per contra, the learned Government Advocate (crl.side) submitted that this is not a case in which the inherent powers of this Court are to be exercised. He strongly contended that the contentions of the petitioners' counsel are rather factual in nature and that the accused should be relegated to move the Trial Court.

7.I carefully considered the rival contentions. It must be noted at the very outset that it is not the case of the prosecution that the persons concerned did not actually undertake the flight



travel in question. On the other hand, the charge is that the expenses were sanctioned and regularised based on the photo copies of the flight tickets. Again, it is not the case of the prosecution that the Transport Minister did not undertake any official visit along with his security officers.

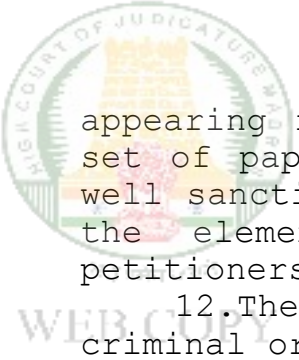
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8.I fail to understand as to how the offence under Section 477 A IPC can be said to be made out. The expenses incurred for purchase of the flight tickets have been recorded in the vouchers and there is no allegation of tampering of the figures set out in the vouchers. Only if there is a falsification of record, the offence under Section 477 A IPC can be said to be made out. In this case, nowhere the prosecution has alleged that the records have been falsified. Therefore, the elementary ingredients of the offence under Section 477 A IPC are wholly absent.

9.The other charge against the petitioners is that they committed the offence under Section 167 of IPC. The said offence can be said to be made out if an incorrect document has been made with an intention to cause injury to any person. In the case on hand, there is no such preparing of any incorrect record. In any event, there is no question of causing any injury to any person. Hence, the offence under Section 167 IPC is not at all made out.

10.The prosecution admits that powers have been delegated to the Managing Director to sanction expenditure on entertainments at the expense of the Corporation either during the visits of important persons to Kumbakonam subject to the expenditure in the regard being restricted to budget provision. It cannot be in dispute that the Transport Minister is an important person. When he undertakes an official visit, he would be accompanied by his security officers. Hence, the Managing Director had sanctioned the expenses in question. The same was duly approved by the Board also. The moneys in question had gone towards purchase of flight tickets. They were not pocketed by the accused herein. Therefore, the question of criminal breach of trust does not arise. The offence under Section 409 IPC is not at all made out.

11.Likewise, when CrI OP(MD)No.7847 of 2015 was filed, the Inspector of Police, Vigilance and Anti Corruption, Trichirappalli filed a detailed counter. In the said counter affidavit, it has been stated that a detailed enquiry was conducted and 62 witnesses were examined and 56 documents were collected and though the allegation of misuse of funds stood substantiated, the evidence collected by the Investigation Officer was not sufficient to establish the guilt of the accused beyond reasonable doubt. This Court also notes that the sanction of ticket fare to the then Transport Minister was during the period 2006-08. The FIR registered on 09.06.2015, after a gap of several years. Nowhere the prosecution has alleged that the Transport Minister had not travelled in the flight. The only allegation is that the accused have failed to verify with the boarding pass. The learned counsel



appearing for the petitioners have enclosed materials in the typed set of papers which indicates that the Managing Director can very well sanction the amounts in question. I am satisfied that none of the elementary ingredients of the offences with which the petitioners have been charged have been made out in this case.

12. Therefore, the impugned proceedings stand quashed. Both the criminal original petitions stand allowed.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Special Court for PC cases, Tiruchirappalli.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing, Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.N. ANANTHAPADMANABAN, Advocate (SR-101905[F] dated 27/11/2019)

+1cc to Mr.P.Ezhil nilavan, Advocate, Sr.No.101906

Pre-delivery order made in
Crl OP(MD) Nos.11613 & 11484 of 2019
25.11.2019

SMA/18/12/19/4P/6C