

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.3071 of 2020

D.Deivasigamani

...Petitioner

Vs.

1.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tiruppur Detachment,
Tiruppur District.

2.Tr.U.S.Palanisamy

3.Tr.L.Balu

4.Revathi

5.Santhamani

6.Eswari

7.The Superintendent of Police,
West Zone,
Vigilance and Anti Corruption,
Tiruppur.

...Respondents

[7th respondent is suo motu impleaded
as per the order of this Court dated
25/02/2020 in Crl.O.P.No.3071 of 2020]

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to issue appropriate direction to the first respondent after conduct the investigation and include the name of the respondents 3 to 6 also as an accused in SPICC No.3 of 2019 on the file of the learned Chief Judicial Magistrate, Tiruppur, for having committed the offence punishable under Section 120(b) of Indian Penal Code.

For Petitioner : Mr.V.Veluchamy

For Respondents : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

Criminal Original Petition has been filed to issue appropriate direction to the first respondent after conduct the investigation and include the name of the respondents 3 to 6 also as an accused in Special C.C.No.3 of 2019 on the file of the Chief Judicial Magistrate Court, Tiruppur, for having committed the offence punishable under Section 120(b) IPC.

2.The case of the petitioner is that the Government of Tamil Nadu announced grant of free house site patta to poor and landless villagers, who are living below the poverty line. As per the scheme, the beneficiaries should not have any land or building in their name and the family of the beneficiaries should not have income of more than Rs.12,000/- per annum.

3.During the year 2009, the 2nd & 3rd respondents, who were the President of Ugayanoor Village Panchayat, Tiruppur and the Revenue Inspector, had colluded together and allotted house site patta to ineligible persons. When the petitioner was filed an application dated 19.12.2012 under the Right to Information Act to the concerned Tahsildar, seeking to ascertain who are all the beneficiaries of the scheme, a list of beneficiaries has been produced, in which the 2nd respondent who is the President had sanctioned a house site in the name of his wife/4th respondent, his sister-in-law/5th respondent and 6th respondent by abusing and misusing his power as President of the Panchayat.

4.Under these circumstance, the petitioner has given a complaint to the 1st respondent, who on receipt of the same conducted a preliminary enquiry and found the 2nd and 3rd respondent colluded together and allotted free house site patta to the family members (4th to 6th respondent) of the 2nd respondent, who are not eligible to avail such scheme. Therefore, the 1st respondent registered an F.I.R in Crime No.3 of 2007 for the offence under Sections 120-B IPC and Section 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. Even though the preliminary enquiry reveals, the respondent 2 and 3 have colluded together and misused the scheme launched for landless poor, the 1st respondent filed the charge sheet only as

against the 2nd respondent as sole accused. Hence, the petitioner has filed the present petition to conduct investigation and include the name of the respondents 3 to 6 as accused in C.C.No.3 of 2019.

5.The learned counsel for the petitioner would submit that even though there is an adequate materials to proceed against the respondents 3 to 6 for having committed offence of conspiracy, the 1st respondent has filed the charge sheet in Special C.C.No.3 of 2019 for the offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 as against the 2nd respondent only. He would further submit that admittedly allotment order have been issued in the name of the respondent 4 to 6 and subsequently, on coming to know about the prosecution, the respondent 4 to 6 had executed a settlement deed dated 07.05.2015 on the file of the Sub-Registrar, Thottipalayam in favour of Ugayanoor Panchayat, which is adequately prove that the respondents 4 to 6 were committed the offence of criminal conspiracy.

6.Hence, there are documentary evidence available to prove the guilt of the respondents 3 to 6 and the 1st respondent should have included the name of the respondents 3 to 6 as accused in Special C.C.No.3 of 2019 and prayed to conduct further investigation in Crime No.3 of 2007.

7.The learned Additional Public Prosecutor appearing for the respondents would submit that the 1st respondent/Investigating Officer has recommended for departmental action against the 3rd respondent and hence, he filed the final report only as against the 2nd respondent.

8.Considering the rival submissions and on perusal of the materials, it is seen that no proper explanation has been given by the 1st respondent for deleting the name of the 2nd respondent while filing the charge sheet and further it appears to be gross negligence on the part of the prosecution while conducting investigation in Crime No.3 of 2007. Hence, the charge sheet in Special C.C.No.3 of 2019 pending on the file of the Chief Judicial Magistrate Court, Tiruppur is set-aside.

9.In view of the above, this Court is of the considered view that the Superintendent of Police, West Zone, Vigilance and Anti-Corruption, Tiruppur/7th respondent is directed to appoint a competent Investigating Officer for the purpose of investigation of the F.I.R in Crime No.3 of 2007 and the concerned competent Investigation Officer is directed to complete the investigation and file a final report within a period of twelve weeks from the date of appointing him as a investigating officer in Crime No.3 of.

10.With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

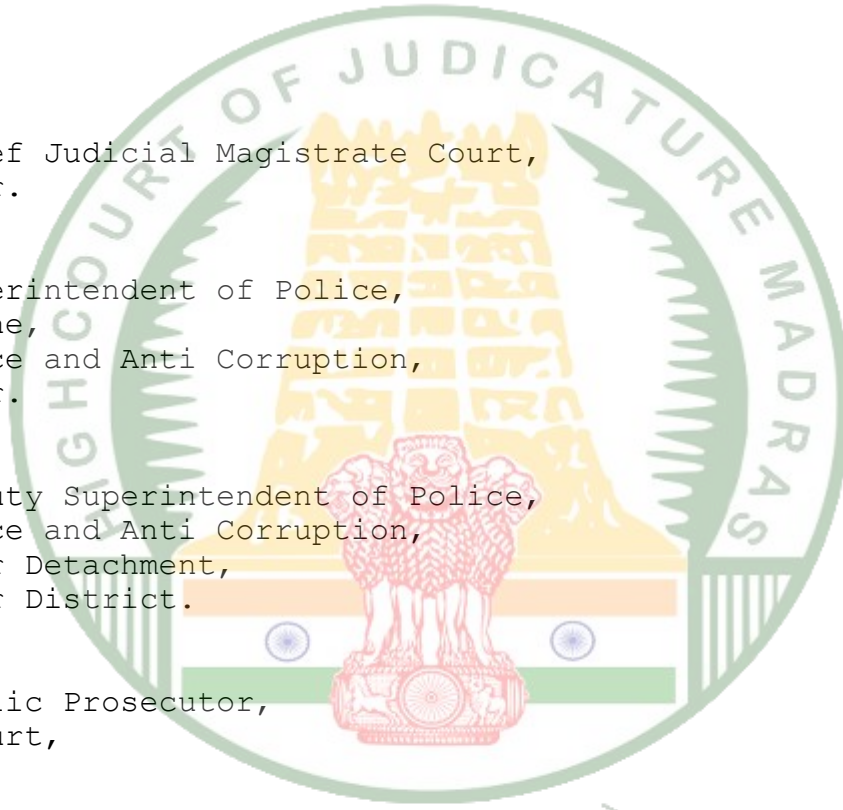
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Sub Assistant Registrar

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To

- 1.The Chief Judicial Magistrate Court,
Tiruppur.
- 2.The Superintendent of Police,
West Zone,
Vigilance and Anti Corruption,
Tiruppur.
- 3.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tiruppur Detachment,
Tiruppur District.
- 4.The Public Prosecutor,
High Court,
Madras.



+1cc to Mr.V.Veluchamy, Advocate, S.R.No.16162 dt 25/02/2020

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Cr1.O.P.No.3071 of 2020

PM(CO)
RN(08/06/2020)