



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD)No.15280 of 2020

WEB COPY

Karmegam

... Petitioner

Vs

The Superintendent of Police,
Central Bureau of Investigation,
Vigilance and Anti Corruption Branch,
Madurai.

... Respondent

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records of the FIR No.RC.2292020A0006, dated 21.10.2020, on the file of the respondent and quash the same as illegal.

For Petitioner	:	Mr.Raghunathan Senior Counsel for Mr.J.Selvam
For Respondent	:	M/s.L.Victoria Gowri Assistant Solicitor General

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned Assistant Solicitor General appearing for the respondent.

2.This Criminal Original Petition has been filed for quashing the impugned FIR registered by the respondent. The petitioner is figuring as A2.

3.When the matter was taken up for hearing, the learned Senior Counsel fairly stated that he would reserve his defence and that he would be satisfied, if a direction is given to the investigating officer to look into the documents filed by him along with the criminal original petition. The pointed contention of the learned Senior Counsel is that the entire prosecution is predicated on a misconception. According to him, the case has been registered based on a superceded circular.

4. Without going into the merits of the matter, all that the learned Senior Counsel wants is a direction to the respondent to take note of the materials furnished by the petitioner in the typed set of papers and also the additional typed set of papers before filing the final report. The petitioner has also filed a memo. The following documents have been particularized.

"(a) Policy Circulars of N.H.A.I.

(b) Agreement between N.H.A.I and the Principal

Contractor M/s.DR-SP-VM (JV)

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(c) Work order issued to the petitioner
(d) Papers indicating how the earlier circular of NHAH dated 24.01.2014 permitting 3% for contingency expenses has been superseded.

(e) Records showing approval of TANGEDCO, the supervisory authority to payment of more than 3% to the Principal Contractor by NHAH.

(f) Internal audit reports relating to the accounts of NHAH for the period April 2017 to September 2019. (The petitioner's concern worked between February 2018 and September 2019)."

5.It is well settled that the accused is entitled to fair investigation. The materials in support of the accused will also have to be taken note of by the investigating agency. In fact, the Hon'ble Supreme Court in V.K.Sasikala case had observed that the investigation agency, having unearthed material favouring the accused, ought to place it before the Court for consideration. This is because, the final report filed by the prosecution is not binding on the Court. The final call is to be taken only by the Court.

6.Therefore, no exception can be taken to the request made by the learned Senior Counsel. Therefore, this Criminal Original Petition is disposed of by directing the investigating agency to take note of the materials mentioned above before finalising and filing the final report.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintendent of Police,
Central Bureau of Investigation,
Vigilance and Anti Corruption Branch, Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
+1 CC to M/s J.Selvam, Advocate, in SR.No.26805.

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