IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1014 of 2011

M/s.S.L.K.K. Promotors
Represented by its Managing
Partner Tmt. Rajeswari
No.41, N.G.G.O. Nagar,
Manimehalai street,
Chengalpattu. .. Appellant

vs.

State rep. by Vigilance and Anti
Corruption, Chennai City III,
No.435, 2nd Floor,
Tamilnadu Housing Board Building,
Anna Salai, Nandanam, Chennai - 35. .. Respondent

COMMON PRAYER : Civil Miscellaneous Appeal filed under Section 11 of the Criminal Law Amendment Ordinance, 1944, pleased to set aside the order of the learned Principal Session Judge dated 09.11.2010 in Crl.M.P.No.1234 of 2009 and by allowing this appeal.

For Appellant : Mr.MU.Muthappan

For Respondent: Mr.Aravind Gosh,
Additional Government Pleader (CS)

JUDGEMENT

The Order dated 09.11.2010 passed in Crl.M.P.No.1234 of 2009 is under challenge in the present Civil Miscellaneous Appeal.

2. The petition was filed by the appellants before the Principal District Court, Chengalpet with the prayer to raise the attachment over the sum of Rs.48,00,000/- which is absolutely belongs to the appellant / petitioner. The Inspector of Police, Vigilance and Anti Corruption Department, Kancheepuram filed a counter and the issues were adjudicated. Accordingly, the trial Court has dismissed the petition, against which the present appeal is filed.

3. The contention of the appellant is that the said amount is no way connected with the alleged ill-gotten money and the said amount has been received, consequent to the sale agreement entered with third parties. Thus, the said money cannot be attached at all.

4. The learned Additional Government Pleader objected the said contention by stating that huge amount of ill-gotten money were seized by the Vigilance and Anti Corruption Department, during the search conducted in the year 2007 and properties were attached by the Court. Under these circumstances, the Order passed by the trial Court is to be confirmed and the issues sought to be adjudicated with reference to documents and evidences in the criminal case. In the event of considering the petition filed by the appellant before the Trial Court, it cannot be possible for the Vigilance Department Officials to recover the money. Consequently, in the event of acquittal, the said amount shall be repaid to the Government accounts. Thus, the balance of convenience is to be considered by this Court.

5. A Criminal Case was registered under the Vigilance and Anti Corruption Act. Admittedly, large number of properties were attached and ill-gotten money were also seized. The progress in the criminal case registered is still pending. The trial was commenced and few witnesses were already examined, remaining witnesses are yet to be examined. Under these circumstances, raising of attachment would cause prejudice to the interest of the Vigilance and Anti Corruption Department to conduct the trial effectively.

6. The findings of the trial Court reveals that the petitioner has stated that the amount of Rs.48,00,000/-, which was received from Tvl.S. Ramachandran and K.G. Pandian towards Real Estate Business transaction. In order to prove the same Ex.P3 to Ex.P11 were filed. But those documents were not produced by the petitioner at the time of House Search made by the Respondent Police and she has not chosen to examine Thiru.S.Ramachandran and Thiru.K.G.Pandian in order to prove the same. Further more, on the basis of the G.O.Ms.No.47, Revenue Department dated 04.02.2009, the properties of Raghunathan were attached and the petition filed by the petitioner before the Chief Judicial Magistrate, Chengalpattu in Crl.M.P.No.130 of 2008 for return of the amount is also dismissed by the Chief Judicial Magistrate, Chengalpattu. The appeal preferred as against the Order before the Hon'ble High Court of Judicature, Madras also dismissed in Crl.R.C.No.58 of 2010 dated 20.01.2010. Since the amount of Rs.48,00,000/- said to have been involved in a case in Kancheepuram V & AC Cr.No.25/AC/2007 under Section 13 (2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 and on the basis of the G.O.Ms.No.47, Revenue Department dated 04.02.2009 the properties of Raghunathan, who is the husband of this petitioner were attached, it is not feasible to raise the attachment as sought for. Considering the fact that the Vigilance and anti corruption crime number is pending, this Court is not inclined to allow this petition, since the case is at premature stage. The point is answered accordingly.

7. The facts placed before this Court reveals about the magnitude of the allegations of corruption against the accused

persons and several properties were already under attachment and ill-gotten money were also ceased. However, the criminal trial is pending for more than a decade. It is unfortunate that, the very purpose and object of the Prevention of Corruption Act would be defeated, if the corruption cases are kept pending for very long years. Efflux of time pave way for the accused persons to escape from the clutches of law. Many of the witnesses on account of long delay, may not come forward to depose before the Courts. Change of officials also cause prejudice to the effective prosecution and trial. Thus, the prosecution is expected to expedite such criminal trials, so as to ensure that the corrupt officials are punished by due process of law. Corrupt activities in Government Departments to avail the public services are in ascending mode. Common men are lamenting and struggling even to avail their rightful documents, certificates etc., For instance, for getting a Community Certificate, Birth Certificate, Death Certificate and Ration Cards etc., all such Government facilities are provided only if illegal gratifications are given. If not, there will be an enormous delay in issuing such certificates to the common men. Undoubtedly, Department of Vigilance and Anti-Corruption is conducting Raids. However, the number of officials in Vigilance and Anti-Corruption Department is insufficient to meet out requirements comparing to the magnitude of corruption in various departments in the Government. The activities of the Vigilance and Anti-Corruption Department must be in proportionate with the magnitude of the allegations of corruption. Thus, effective measures are imminent to ensure effective administration and corruption free public services. A detailed study and audit in these aspects are required, in order to reach the Constitutional goal and fulfil the mandate. Government of the day is mandated to provide efficient public administration under the Constitution of India. Thus, a study and an action is highly warranted.

8. The principles of social justice enunciated under the Constitution of India may be visualized only if corrupt activities are minimised. If not eradicated, certainly it is possible to control and minimise. Thus, various actions at the level of Government by constituting Expert Committee is certainly required for the purpose of controlling menace of corruption amongst the public officials.

9. The criminal trial in the present case is prolonged and pending for an unreasonable time and this would provide hope for the Accused persons to escape from the criminal charges. Ultimately, the rights of the citizen are infringed and people may get frustrated regarding the prevailing system. The level of confidence amongst the common men will undoubtedly come down. Thus, urgent measures are required and the Courts are also expected to dispose of the corruption cases as expeditiously as possible and by avoiding unnecessary adjournments on flimsy

grounds.

10. Unnecessary adjournments in corruption cases are to be avoided by the Courts. Adjournments sought for on flimsy grounds or in a mechanical manner is expected to be rejected in limini. Adjournments on genuine grounds is to be granted only by recording reasons. In the event of lapses, negligence or dereliction of duty, responsibility must be fixed on the officials and disciplinary proceedings are to be initiated against those officials. Unless these procedures are tightened, it may not be possible for effective and expeditious disposal of corruption cases.

11. As far as the case on hand is concerned, the criminal case was registered in the year 2007 in VNTC Crime No.25/AC/07 and the case is pending for the past 13 years, but the examination of witnesses are not yet completed. Attachment of the properties were made in the year 2007 and the same was confirmed in the year 2009 itself. However, the trial has not been concluded.

12. The trial Court in respect of cases on hand, is expected to dispose as expeditiously as possible, the prosecutors as well as the Vigilance and Anti-Corruption Department officials are directed to co-operate for the early disposal of the case.

13. As far as the impugned order in the present appeal is concerned, the findings of the trial Court are candid and further, the properties were already attached and the ill-gotten money were also seized and in the custody.

14. Under these circumstances, this Court is not inclined to raise the attachment as prayed for by the appellant. Thus, the order dated 09.11.2010 passed in Crl.M.P.No.1234 of 2009 stands confirmed and C.M.A.No.1014 of 2009 is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Principal Session Judge,

Chengalpattu.
+1 cc to Mr.M.Muthappan, Advocate, SR.No.14343
+1 cc to The Special Government Pleader, SR.No.14494

C.M.A.No.1014 of 2011

GSM(CO)
NS(10/05/2021)