IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 26.02.2021
CORAM :
THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No.3905 of 2021
and
Crl.M.P.No.2319 of 2021

S.Gunasekaran,
S/o.Seemaisamy Petitioner/A-1

Vs.

1.State Rep by:
Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption
Chennai. ...Respondent/I.O

2.Tmt.M.Malar,
W/o. Late. Mohan
...Respondent/Defacto Complainant

3.Thiru.T.Velayutham ...Respondent/A-2

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, seeking to call for the records in FIR No.16 of 2020 on the file of the Inspector of Police, Special Investigation Cell, Vigilence and Anti Corruption, Chennai-16 and quash the proceedings.

For Petitioner : Mr.M.Silambarasan

For R-1 : Mr.T.Shunmugarajeswaran, Government Advocate (Crl.Side)

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ORDER

This Criminal Original Petition has been filed by the Petitioner/A1 seeking to quash the FIR No.16 of 2020, on the file of the Inspector of Police, Special Investigation Cell, Vigilance and Anti Corruption, Chennai-16.

2.The case in Crime No.16 of 2020 had been registered based on the complaint given by one M.Malar. The allegation in the complaint is that she is living with her father at Ellaiamman Koil Street, Sompet West, Killikodi Post, Kavarampet, Ponneri Taluk, Thiruvallur District and that during the year 1996, she got married

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to one Mohan of Nallankulam, Chennai. During the year 1998, her husband died and thereafter, she was living with her mother-in-law viz., Amirtham, at Door No.6/40, 58th Street, Ashok Nagar, Nallankulam, Chennai in the house allotted to her husband by the Slum Clearance Board and thereafter, she was living at her father's house at Chennai. The full monthly installments amount to be paid in respect of the plot allotted to her husband ended during the year 2013, since the defacto complainant and her mother-in-law are the only legal heirs of the deceased husband she had given an application to the Executive officer to transfer the name of the property in her name and to execute the sale deed in her favour. Based on her request, during the month of February 2020, the petitioner /1st accused came to her house and conducted inspection and had asked her to go to the office and thereafter, the defacto complainant had gone to the office on several occasions and after Corona, she did not go to the office and that on 05.11.2020, she had gone to the office and requested him that she is coming to the office for about 4 years for execution of sale deed in her favour and at that time, the petitioner/1st accused had informed her that he is in this office for only one year and that he had asked her to contact the Superintendent one Velayutham who was outside and informed her to act as per his directions. When she had met the Superintendent viz. Velayutham as per the directions of the Executive Officer / the petitioner herein, the Superintendent informed her that he will come back to her after speaking with the Executive Officer. Thereafter, on 09.11.2020, the said Velayutham/A2 had called her over phone and told her that she will be incurring expenditure for the execution of sale deed and when she had asked him how much would be the expenditure for execution of sale deed, he informed that he will enquire the amount and inform her. Thereafter, on 16.11.2020, the said Velayutham/A2 had informed her that the Executive Officer, the petitioner/A1 had demanded Rs.50,000/- for execution of documents. Since, the defacto complainant was working as a coolie, she had expressed her inability to pay Rs.50,000/-. Thereafter, on 19.11.2020, the said Velayutham/A2 had called the defacto complainant and told that Executive Officer had demanded Rs.20,000/- and that the said amount should be paid to them on 20.11.2020. Since, the defacto complainant was not interested to give any bribe amount, she had given a complaint.

3.Based on the complaint, after getting concurrence, discreet verification was done and after getting permission, the case was registered pursuant to which, a trap was laid on 20.11.2020 and the said Velayutham was

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caught red handed in the presence of witnesses while he was receiving the bribe amount of Rs.20,000/- on behalf of one Executive Officer, petitioner herein, following which, the said Velayutham was arrested. Thereafter, the petitioner was arrested and later he was released on bail by the respondent police.

4.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since, the defacto complainant had motive against the officers of the Slum Clearance Board. She had earlier given a complaint to the Chairman of the Slum Clearance Board on 03.12.2018, stating that she had paid money to one Rajendran through the 2nd accused Velayutham and they have cheated her and on account of enmity she had given a false complaint against Velayutham and also implicating the petitioner in this case, since the petitioner is the authorised person to execute the sale deed in favour of the defacto complainant. As per the complaint, the petitioner has not made any demand and without a preliminary enquiry being conducted, the petitioner was falsely implicated in this case and thereby, the entire proceedings is mere abuse of process of law since the entire complaint is motivated.

5.Per Contra, learned Government Advocate (Crl.Side) appearing for the 1st respondent would vehemently oppose stating that the petitioner is the Estate Officer who is authorised to execute the sale deed in favour of the allottees of the Slum Clearance Board. The defacto complainant's husband was allotted a plot in the scheme of Slum Clearance Board and before the registration of sale deed, he died and thereafter, the defacto complainant and her mother-in-law became the legal heirs of the deceased and were entitled to the allotted plot. After the entire amount has been paid to the plot, the defacto complainant had approached the petitioner for executing of sale deed and the petitioner had directed the defacto complainant to see the 2nd accused Velayutham who is a retired employee of Slum Clearance Board and through him the petitioner has received bribe amount to the sale deed in favour of the allottees. Based on the complaint given by the 2nd respondent / defacto complainant, a trap was laid on 20.11.2020. Pursuant to which, the 2nd accused Velayutham was arrested and caught red handed at the time of receiving the bribe amount. The phenolphthalein test conducted on the 2nd accused Velayutham also proved positive and the statement was recorded from the said Velayutham and he had confessed that he had received the money from the defacto complainant only on the instructions of the petitioner who is arrayed as 1st accused. He would further submit

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that the investigation is pending and there is no motive as alleged and the case is at the preliminary stage of investigation.

6.It is a case where the petitioner is alleged to have demanded bribe and accepted the same through the 2nd accused Velayutham. Based on the complaint given by the defacto complainant, concurrence had been obtained, discreet enquiry had been conducted and after getting permission, the case has been registered. Pursuant to the registration of the case, a trap was laid and the 2nd accused had been arrested red handed while receiving the bribe. The 2nd accused Velayutham is a retired person and he has confessed that he had received the money on the instructions of the petitioner who is authorised to execute the sale deed on behalf of the Slum Clearance Board. As stated above, the case has been registered after obtaining concurrence and conducting a discreet enquiry and after getting permission. In the opinion of this Court, the petitioner has not made out any grounds for quashing the FIR. Hence, the petition is liable to be dismissed.

7.At this juncture, the learned counsel for the petitioner would submit that the petitioner has been suspended from the service and thereby would seek for a direction to the 1st respondent to complete the investigation as expeditiously as possible.

8.Taking into consideration, the submissions made by the learned counsels, this Court directs the respondent police to complete the investigation as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order and to file the final report before the concerned Court.

9.With the above directions, the Criminal Original Petition stands disposed of. Consequently, the connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Special Investigation Cell,
Vigilance and Anti Corruption
Chennai.

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2.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Silambarasan, Advocate Sr.NO.12624

Crl.O.P.No.3905 of 2021

PMK(CO)
NR 20/04/2021

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