

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.3468 of 2021

K.L.Sivakumar

...Petitioner

Vs.

1.The Director General of Police,
No.1, Dr.Radhakrishna Salai,
Mylapore,
Chennai 600 001.

2.The Commissioner of Police,
Greater Chennai Police,
EVK Sampath Road,
Vepery,
Chennai 600 007.

3.The Central Crime Branch-1,
Rep.by its Inspector of Police,
Office of the Commissioner of Police,
EVK Sampath Road,
Vepery,
Chennai 600 007.

4.The Inspector of Police,
Dindigul Police Station,
Dindigul Taluk.

5.The Inspector of Police,
Andhiyur Police Station,
Erode District.

..Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct that the complaints in Crime No.453 of 2019, on the file of the 5th respondent, Crime No.26 of 2020, on the file of the 3rd respondent and Crime No.995/2020 on the file of the 4th respondent may be treated as 161(3) Cr.P.C. statements in Crime No.51 of 2020 on the file of the 3rd respondent.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.C.Raghavan
Government Advocate

ORDER

This criminal original petition has been filed for a direction to consolidate all the complaints and to proceed with the investigation in Crime No.51 of 2020, which is pending on the file of the 3rd respondent.

2. When the matter came up for hearing on 18.03.2021, this Court passed the following order.

This Court has gone through the counter filed by the respondents. On a reading of the counter, it is found that the case involves production of fake No Objection Certificates (NOCs) for getting a license to run a petroleum and gas outlet. The respondents have broadly identified that the fake NOCs fall under two categories. One category is, where the fake NOC is said to have been given by the Deputy Commissioner of Police, on behalf of the Commissioner of Police. The other category is, where the fake NOC is said to have been given by the concerned Tahsildar belonging to the district. On the face of it, the production of fake NOCs are distinct offence and it cannot be said to be falling under the same transaction. If the offence do not fall within the same transaction, Section 218 of Cr.P.C. mandates separate charges for distinct offences which has to be tried separately.

2. In view of the above, registration of multiple FIRs for each offence will be warranted. It is possible that all the cases can be directed to be investigated by one centralised agency. Even if the same is done, it will not be possible to consolidate all the cases within the same transaction. The only possibility could be to explore if Section 219 of Cr.P.C. can be put to use, since the offences are of the same kind.

3. Mr. Sharath Chandran, learned counsel for the petitioner and Mr. M. Mohamed Riyaz, learned Additional Public Prosecutor shall explore the possibility and assist this Court in passing a final order.

Post this case on 25.03.2021.

3. When the matter came up for hearing today, a brief note was submitted by the learned for the petitioner and the relevant portions in the note are extracted hereunder:

"2. When the matter was taken up on 18.03.2021 this Hon'ble Court had perused the status report filed by the 3rd respondent and had opined that the production of fake NOC's are distinct offences which cannot be said to be falling with the course of the

same transaction. This Hon'ble Court had adverted to Section 218 Cr.P.C and had observed that where the offence does not fall within the course of same transaction the default rule of framing separate charges for each offence, as contemplated under Section 218, would apply unless the case fell within the net of Section 219 Cr.P.C.

3. Having examined Section 219 Cr.P.C it is submitted that the provision would apply only in the case of a single accused. This is clear from the word "a person" appearing on the aforesaid provision. This is the interpretation put upon the provision by the Calcutta High Court in *Budhai Sheikh v Tarap Sheikh* [1905 3 Cr LJ 126], and more recently by a learned single judge [P.N.Prakash, J] of this Hon'ble Court in *M. Paulmani v Sivaraj* [2016 SCC Online Mad 20563]. In view of the above, as these cases concern more than one accused, Section 219 will not apply in the light of the aforesaid judgments.

4. In view of the above, as opined by this Hon'ble Court vide its order dated 18.03.2021, the only course available would be to have the cases investigated by one agency/officer. As the 1st respondent has already zeroed in on the number of alleged fake NOC's pursuant to the directions of this Hon'ble Court [vide paragraph 5 of the counter affidavit], it would be expedient in the interests of a free and fair investigation to have these cases investigated by one officer instead of the same being scattered all over the State in the hands of several investigation officers leading to complexity. This would also ensure that the accused persons are not needlessly harassed by cases being filed in all quarters across the State. This course would clearly strike a fair balance".

4. The learned Government Advocate appearing on behalf of the respondent Police submitted that Section 219 of Cr.P.C., cannot be invoked in the present case since more than one accused person is involved and Section 219 Cr.P.C., will come into operation where there is only a single accused. It was further submitted that if this Court is inclined to direct a single agency to investigate all the cases, the same will be complied with by the prosecution.

5. This Court has carefully considered the submissions

made on either side and the materials available on record.

6.It is clear from the note extracted supra that Section 219 of Cr.P.C., cannot be applied in the present case. The complaints also do not fall within the same transaction. Therefore, the only option available is to individually investigate each FIR and file separate final reports. Ultimately, each case has to be tried separately by virtue of the mandate prescribed under Section 218 of Cr.P.C.

7.However in order to bring in some consistency in the investigation, it will be fit and proper to direct a single agency to conduct the investigation. In view of the same, there shall be a direction to respondents 3 to 5 to hand over the entire case diary to the Superintendent of Police, CBCID, Chennai, within a period of two weeks from the date of receipt of copy of this order. The Superintendent of Police, CBCID, Chennai shall immediately thereafter assign the task of investigation to an Officer not less than the rank of the Inspector of Police in CBCID. The investigation shall be completed preferably within a period of four months and independent final reports shall be filed in each FIR before the concerned Court.

8.This criminal original petition is disposed of with the above directions.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

KP

To

1.The Director General of Police,
No.1, Dr.Radhakrishna Salai,
Mylapore,
Chennai 600 001.

2.The Commissioner of Police,
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Rep.by its Inspector of Police,
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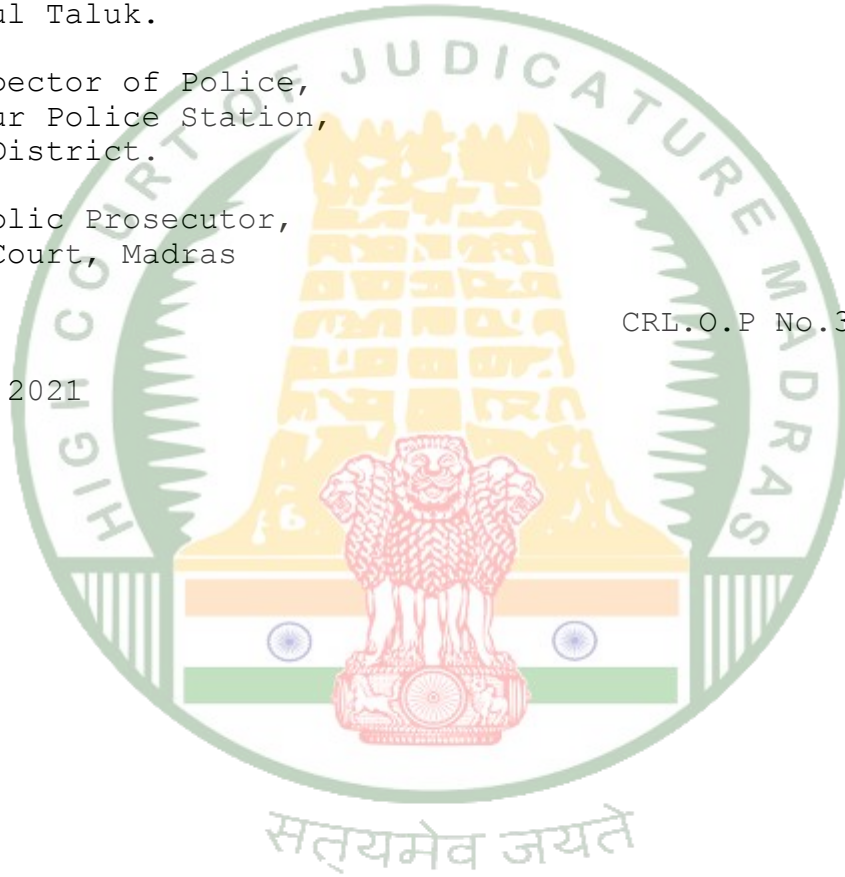
5.The Inspector of Police,
Dindigul Police Station,
Dindigul Taluk.

6.The Inspector of Police,
Andhiyur Police Station,
Erode District.

7. The Public Prosecutor,
High Court, Madras

KV(CO)
KKN 28.04.2021

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