



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl.R.C.No. 454 of 2021

P. Thangamani

...Petitioner

Versus

1. The Director,
Directorate of Vigilance and Anti-Corruption,
Chennai - 600 016.
2. The Deputy Superintendent of Police,
Directorate of Vigilance and Anti-Corruption,
Chennai - 638 003.
3. K. Elango
Member Secretary (In-Charge),
Erode Local Planning Authority,
Opposite to Government ITI
Chennai-malai Road,
Erode - 638 009.
4. V. Sasikala
Block Development Officer (Village Panchayats),
Modakurichi Panchayat Union,
Erode - 638 104.

5. Angammal

... Respondents

Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the docket order dated 29.06.2021 made in unnumbered complaint filed by the petitioner under Section 156(3) of Cr.P.C., on the file of the Chief Judicial Magistrate, Erode and direct the Chief Judicial Magistrate, Erode to take the complaint presented on 17.04.2021 on its file and proceed in accordance with law.

For Petitioner : Mr.C.Munusamy

For Respondents 1&2 : Mr. E. Raj Thilak
Government Advocate
[Criminal Side]



ORDER

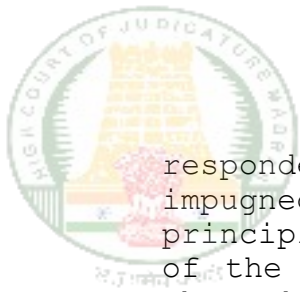
This Criminal Revision Case is filed to set aside the docket order dated 29.06.2021 made in unnumbered complaint filed by the petitioner under Section 156(3) of Cr.P.C., on the file of the Chief Judicial Magistrate, Erode and direct the Chief Judicial Magistrate, Erode to take the complaint presented on 17.04.2021 on its file and proceed in accordance with law.

2. The learned counsel for the petitioner would submit that the respondents 3 & 4 had committed material irregularities in granting approval to the 5th respondent by getting illegal enrichment and thereby caused loss to the Government exchequer. Thereafter, the petitioner has given complaint to the authorities concerned on several occasions. Based on his complaint, the District Collector had appointed the Assistant Director (Audit), Department of Rural Development as Enquiry Officer, vide order dated 27.10.2020. After completion of enquiry, it was found that there are numerous irregularities committed by the respondents 3 & 4 in regularizing the layout of the 5th respondent and submitted his report on 17.12.2020.

3. He would further submit that the petitioner has given a complaint to the 2nd respondent on 05.08.2020 requesting them to take suitable criminal action as against the public servants. The petitioner has given another complaint to the 1st respondent Police on 19.03.2021 detailing the fraud committed by the officials along with 23 documents in order to prove the guilt of the culprits. He would further submit that the 3rd respondent is a habitual offender and he used to get bribe from the public and a case was registered as against the 3rd respondent herein by the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Erode in Crime No.8/AC/2019 under Section 7 of the Prevention of Corruption Act, 1988, as amended by Section 7 of the PC (Amendment) Act, 2018. In pursuant to the FIR, the 3rd respondent was arrested and now he is placed under suspension. He would further submit that the petitioner has preferred a complaint under Section 156(3) of Cr.P.C., before the Chief Judicial Magistrate, Erode and the same was returned with with the following docket order dated 29.06.2021:-

"How this petition is maintainable under Prevention of Corruption Act, without any demand and acceptance of bribe, to be stated".

4. The learned counsel for the petitioner would further submit that the Assistant Director (Audit) Department of Rural Development dated 27.12.2020 has proved that the officials have committed irregularities, which would obviously prove that the



respondents 3 & 4 have obtained illegal gratification. The impugned order passed by the court below is against the principles of law and, weight of evidence on all probabilities of the case. Moreover, the Court below has failed to consider that the public servants/respondents 3&4 have committed offence punishable under the Prevention of Corruption Act by granting approval for the layout of the 5th respondent in violation of prevailing rules and regulations. The Court below failed to consider that the petitioner has made out prima facie case as against the public servants, namely the respondents 3 & 4.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondents 1 & 2 and perused the materials placed on record.

6. In the above facts, it is necessary to extract the following Section 156(3) of CrPC., which reads as follows:-

"156. Police officer's power to investigate cognizable cases...

(1)...

(2)...

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned".

7. Taking into consideration the above facts and on perusal of Section 156 of CrPC., it is clear that any Magistrate empowered under Section 190 of CrPC., may order such an investigation as above mentioned. Hence, this Court is of the view that the impugned docket order dated 29.06.2021 passed by the Court below is not sustainable and the same is hereby set aside. The Court below is directed to number the said petition and to take the complaint presented on 17.04.2021 on file and proceed in accordance with law. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm
To

1. The Chief Judicial Magistrate,
Erode.



2. The Director,
Directorate of Vigilance and Anti-Corruption,
Chennai - 600 016.

3. The Deputy Superintendent of Police,
Directorate of Vigilance and Anti-Corruption,
Erode - 638 003.

4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.C.Munusamy, Advocate, Sr.38375

Crl.R.C.No. 454 of 2021

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NSK 06/09/2021