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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.13374 of 2021 and
Crl.M.P.No.7355 of 2021

Shanmugam

... Petitioner

Versus

1. The Inspector of Police,
Central Crime Branch, Team-28,
Job Rocket Prevention Wing,
Vepery, Chennai-600 007.

2. K.Arulmani

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.25 of 2021, on the file of Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai and quash the same.

For Petitioner : Mr.N.G.R.Prasad & Mr.S.Prabakaran,
Senior Advocates for Mr.M.Rakhi

For R1 : Mr.A.Damodaran,
Government Advocate (Crl. Side)

For R2 : Mr.N.L.Rajah, Senior Advocate for
Ms.Adeeba fathima

For Victims : Mr.P.N.Shiju

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.25 of 2021 on the file of the Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai.

2.The petitioner is the 3rd accused in C.C.No.2021 and, is facing trial for offence under Sections 406, 409, 420, 506(i)



r/w 34 IPC before the learned Additional Special Judge for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai.

3.The gist of the case is that the 2nd respondent/defacto complainant was working as Technical Staff in the Metro Transport Corporation, Perambur. A4-Rajkumar was working in the Head Office of the Metro Transport Corporation and he came in contact with the 2nd respondent when he visited the Head Office. During the year 2014, a notification for recruitment of Driver and Conductor in the Tamil Nadu State Transport Corporation was issued. A4-Rajkumar informed that the employment of Driver and Conductor can be obtained and further informed that A3/the Personal Assistant to A1, the Former Transport Minister and A2-Ashok Kumar A1's brother of A1 are known to him and through them, employment to the candidates who are willing to pay money can be obtained. During the period from 25.12.2014 to 04.01.2015, the 2nd respondent's friend Ambedkar, Senthil, Vijayakanth, Muthaiah and others gave money to the 2nd respondent for securing job. The 2nd respondent cautioned them that they must be ready to face all the consequences and ready to take risk. During the said period, a sum of Rs.40 lakhs was collected from several persons and the same was informed to A4-Rajkumar. The amount was handed over to the petitioner/A3/Personal Assistant to A1 and he received the same in presence of A1-Senthil Balaji, the Former Transport Minister, who assured them to get employment. When the selection list for Driver and Conductor was released, the name of the persons who gave money was found missing. The same was enquired, at that time the accused informed that in the second list their names would be included and finally, they failed to secure the jobs.

4.When the 2nd respondent approached A4-Rajkumar and demanded for repayment of money, two cheques for Rs.15/- lakhs each of City Union Bank, Mount Road Branch, Chennai given and requested the 2nd respondent to deposit the same on getting instructions from him. A4-Rajkumar informed that A1, A2 and A3 promised that the cheque would be honoured and the money will be returned. For the balance Rs.10/- lakhs, A4 assured to return the amount later. Thereafter, the 2nd respondent visited the City Union Bank, Mount Road Branch, Chennai to ascertain whether sufficient balance is available in the bank account. The Bank informed that no sufficient balance available in the account. When the 2nd respondent approached A4-Rajkumar and A2, brother of A1, they gave one reason or other and were avoiding repayment of the amount to the 2nd respondent.

5.Finally, all the accused threatened the 2nd respondent to do away not to exert pressure seeking return of money. Since A1 was Former Transport Minister and the Member of the Legislative



Assembly, the 2nd respondent sensing fear for his life could not lodge the complaint immediately. Hence, the delay in lodging the complaint. On receipt of the complaint from the 2nd respondent, FIR in Crime No.344 of 2018 for offence under Sections 406, 420, 506(i) IPC registered on 13.08.2018 against the accused. On conclusion of investigation, charge sheet filed on 12.04.2019 arraying A1-Senthil Balaji, the Former Transport Minister, A2-Askok Kumar brother of A1, the petitioner/A3/Personal Assistant of A1 and A4-Rajkumar, an Employee in Metro Transport Corporation. In the charge sheet, totally 14 victims cited as witnesses (LW1 to LW14), who are persons cheated by the accused to the tune of Rs.40/- lakhs on the promise to secure jobs of Driver or Conductor in the Tamil Nadu State Transport Corporation.

6.The learned Senior Counsel for the petitioner/A3 submitted that the petitioner was running a man power agency, DTP Centre and he used to collect consultancy charges and give positive hopes of securing job based on his position. The learned counsel further submitted that during the year 2014, a notification was issued by the Tamil Nadu State Transport Corporation for recruitment of Driver and Conductor. The 2nd respondent collected the consultation charges from the prospective candidates and informed them there is bright chances of securing job, if they fulfill eligibility criteria. Since the candidates/victims could not get appointment order, the dispute aroused between the 2nd respondent and the candidates/victims who gave money to him. The petitioner had only received consultancy charges and nothing more.

7.The learned Senior Counsel for the petitioner further submitted that in this case since A1 had fallen apart from the ruling dispensation, at that point of time to brook vengeance and due to political animosity, this case has been foisted blown out of proposition. The specific statement of the victims/LW2 to LW14 is that they approached the 2nd respondent for getting job and not the petitioner/A3 or the other three accused. Later, A1 to A3 gave any assurance of securing jobs in the Tamil Nadu State Transport Corporation. The bottom line is that only if the candidates possess the eligibility criteria, will get qualified and thereafter appointment can be considered. In this case, the victims are not qualified persons for the selection process, for which the petitioner and the other accused cannot be blamed. He further submitted that the petitioner promised to repay the consultancy charges, due to financial crises, he was unable to repay the money immediately. Later in the year 2019, the issues got resolved between them and all the victims now repaid and amount settled. Despite informing the settlement to the 1st respondent Police, the 1st respondent Police has not closed the case and for obvious reasons, continued the



investigation, filed the charge sheet against the petitioner and three others. The petitioner caught in the crossfire of political rivalry and animosity between the ruling dispensation then and the other accused.

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8. In this case, now the victims (LW2 to LW14) have filed individual affidavit dated 29.07.2021 and the petitioner filed the joint compromise memo dated 29.07.2021 confirming the compromise and seeking to quash the proceedings in C.C.No.25 of 2021. Hence, prays for quashing of the proceedings.

9. The learned Government Advocate (Crl. Side) appearing for the 1st respondent Police submitted that on the complaint given by the 2nd respondent, a case in Crime No.344 of 2018 came to be registered on 13.08.2021. During investigation, it was found that the witnesses (LW2 to LW14) gave huge sums of money between Rs.2 lakhs to Rs.5 lakhs, totally Rs.40 lakhs for getting appointment as Driver and Conductor in the Tamil Nadu State Transport Corporation. The victims hail from poor family and with great difficulty, the amount was mobilized by selling lands and pledging jewels for the promise of securing job in a public section undertaking. The accused gave assurance to get job and thereafter, cheated and misappropriated the amount of the victims. Further, the victims not only lost their job, but also lost their money.

10. The learned Government Advocate further submitted that the occurrence is said to have taken place in the year 2014 and after five years, it is now represented that both the 2nd respondent and the victims arrayed at compromise during 2019. The compromise took place after completion of investigation and filing of charge sheet before the trial Court. The compromise entered between the accused and the victims in the year 2019 and the 1st respondent is not aware about the same.

11. Today, the victims viz., K.Muthaiah, K.Murugesan, K.Venugopal, R.Kumar, S.Saravanan, M.Velayudhan, J.Ambedkar, M.Ganesamoorthi, M.Jayakumar, G.Vijaykanth, I.Murugan, P.Sathish, M.Iyyappan (LW2 to LW14) appeared through video conference and confirmed that the issues had been resolved between them and the accused. All the victims (LW2 to LW14) stated that they had given money seeking employment to the 2nd respondent and thereafter, not aware about the happenings. Now they are submitted before this Court that they compromised their issues with the accused and have no objection for quashing the proceedings against the accused.

12. In this case, the victims handed over money to the 2nd respondent/LW1 directly to get job from the Transport Department and some through LW2, LW3, LW4, LW5 and LW6. All these persons



categorically stated that along with money, they handed over the Interview Call Letter. The 2nd respondent/LW1 stated that he had contact with A4, who represented to him that he knew A3, the Personal Assistant of A1, the former Transport Minister. LW2 to LW6 handed over the money to the 2nd respondent/LW1 and other aspirants have never met the 2nd respondent/LW1. In order to confirm the job, the 2nd respondent/LW1 went along with A4 and met A3, who received the money and promised that within a week the appointment order will be issued. As regards, A1 and A2 is concerned, they had given assurance that all the aspirants would get appointment orders. On failure of getting appointment orders, the 2nd respondent/LW1 questioned A4, who said to have promised that in the second list the name of the victims would be found and later, this also not happened. Hence, the money given by the victims were returned by way of two cheques of Rs.15 lakhs each. When the cash balance were verified with the bank, it was found that no sufficient balance in the account of A4. In this case, the 2nd respondent/LW1 and A4 are the persons who had been in constant touch with each other during the transactions and involved themselves in the process of getting appointment orders. As regards A1 and A2 are concerned, they had given assurance that the appointment order would be issued to the victims, but there is no material to show that A1 and A2 directly involved in the transactions. The other victims namely LW7 to LW11 did not handover the cash to the accused seeking job. It was to LW1. Further, in this case, the appointment orders or any other documents in respect of the transaction were not produced. Hence, the allegations seems to be general and vague in nature.

13.The case is still at the stage of trial. By passage of time, the parties have decided to bury their hatchet and compromised the dispute amicably among themselves. This Court enquired both the parties and is satisfied that the parties have come to an amicable settlement between themselves. In view of the above, no useful purpose would be achieved by keeping the above case pending.

14.Under such circumstances, no useful purpose will be served in this case, even though the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641 (Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath), and after exercising due caution as advised by the Hon'ble Suprme Court in The State of Madhya Pradesh v. Dhruv Gurjar and Another reported in (2019) 2 MLJ Cr1 10, this Court in exercise of its jurisdiction under Section 482 Cr.P.C., quashes the proceedings in C.C.No.25 of 2021 on the file of the Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Chennai.



15. This Criminal Original Petition stands allowed and the proceedings in C.C.No.25 of 2021 on the file of the Additional Special Court for Trial of cases related to Members of Parliament and Members of Legislative Assembly, Tamil Nadu, Chennai is quashed against all the accused in C.C.No.25 of 2021. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar(CS)

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Sub Assistant Registrar

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To

1. The Additional Special Court for Trial of Cases
related to Members of Parliament and Members of
Legislative Assembly of Tamil Nadu,
Chennai.
2. The Inspector of Police,
Central Crime Branch, Team-28,
Job Rocket Prevention Wing,
Vepery, Chennai-600 007.
3. The Public Prosecutor,
High Court, Madras.

+3ccS to Mr.M.Rakhi, Advocate, S.R.No.37331

CRL.O.P.No.13374 of 2021

GP(CO)
CT/06/09/2021