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Crl.O.P.(MD).No.18237 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.11.2021

PRONOUNCED ON : 17.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD).No.18237 of 2021

1.K.T.Rajenthrahalaji

2.N.Baburai

3.V.S.Balaram

4.S.K.Muthupandian

... Petitioners

Versus

State Through the Inspector of Police

District Crime Branch

Virudhunagar

Virudhunagar District

Crime No.20 of 2021.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioners/accused on anticipatory bail in Crime No.20 of 2021 on the file of the respondent Police.



CrI.O.P.(MD).No.18237 of 2021

For Petitioners : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Khan Associates
For Respondent : Mr.Hasan Mohammed Jinnah,
State Public Prosecutor assisted by
Mr.E.Raj Thilak,
Additional Public Prosecutor
For Intervener : Mr.Herold Singh

ORDER

This petition has been filed to enlarge the petitioner/accused on anticipatory bail in Crime No.20 of 2021 on the file of the respondent Police.

2. The petitioners/accused Nos.1 to 4 in Crime No.20 of 2021, for the offences under Sections 406, 120(b), 420 and 506(i) of IPC, have filed this petition.

3. The gist of the complaint is that the de facto complainant viz., Nallathambi the was District Youth Wing Secretary and Vembakottai West Union Secretary in AIADMK party for Virudhunagar District. The defacto complainant is the District Secretary for the Advocate's Wing and Student's Wing of the AIADMK party for Virudhunagar District. At the instance of A1, a former Minister from the District, the Defacto Complainant was nominated



Crl.O.P.(MD).No.18237 of 2021

as Vembakottai West Union Secretary. The defacto complainant is an ardent worker of the party. For the Assembly general elections, he was in charge of Sattur, nominated by A1, gained confidence and trust of A1. He purchased an Innova Car with the help from A1, who gave Rs.10 lakhs. From September 2020 to February 2021, he collected money from various persons for securing job in the Noon Meal Department, Aavin, Co-operative, Civil Supplies, Panchayat and in various other departments, primarily on the promise and assurance given by the former Minister A1. The other accused persons namely, Paramasivam, Ilango and Murugan collected huge sums of money from various persons including Sattur Raveendran and the defacto complainant. An amount of Rs.1.6 Crore was handed over to A1, the former Minister, who gave details of payment to be dealt with. A sum of Rs.70 lakhs was handed over to Baburaj for securing job in Panchayat Board Clerk and Assistant post in Noon Meals Centre. Thereafter, a sum of Rs.60 lakhs was paid to another personal assistant of A1, Balaram, another sum of Rs.30 lakhs was paid to Muthupandian by Nallathambi directly at the residence of A1 for securing job in Co-operative Department. These amounts were handed over by defacto complainant in the first floor of Minister's Residence. There was misunderstanding between A1 and one Rajavarman former Sattur, MLA, as a



CrI.O.P.(MD).No.18237 of 2021

counter point, defacto complainant was used to arrange all meetings and party gatherings on the instruction of minister. He incurred heavy expenditure which were promised to be repaid. Thus, defacto complainant spent around Rs.1.5 Crore for these meetings and gatherings. Whenever the defacto complainant asked for return of the money, spent by him A1 informed that he would repay him when he receives the same from party Head Quarters. But, till date, amount was not repaid. Further, on instructions of A1, during general election 2021, further expenditures incurred. The defacto complainant handed over cash for securing job and spent money for meetings in total to the extent of Rs.3 crores. Further, A1 promised Advocate Vijayakumar and Gogulan Thangaraj that he would get them MLA seats. They also spent huge sums of money running to crores. A1 gave false promise to one Vasuthevan and Thirusuluzh Thevan @ Jeyaperumal for getting seat to Aruppukottai Constituency, they also spent huge sums of money. The Personal Assistant of A1, Muthupandian Advocate, who never attended Court, had purchased gold jewels weighing 900 sovereigns nearing 7.2 kilo grams and acquired property worth several crores. The activities of A1 former minister is well known to his PA Baburaj and Balaram who are attached with A1 for past 10 years. The Minister's property is now worth around 1000 crores. A1 is in the habit of



Crl.O.P.(MD).No.18237 of 2021

using abusive language and threaten everyone who don't toe the line of A1 and listen to his dictum. Hence, the Minister in connivance with all the accused forced the defacto complainant to spend huge sums of money. The de facto complainant's apprehension is that he would be threatened and assaulted by the henchmen of A1. He now seeks return of 1.6 crore received by the accused and Rs.1.5 crore spent for A1 Minister's function at his instance. These amounts were spent by borrowing from others and pledging his wife jewels and hence, the complaint.

4. The contention of the learned Senior Counsel for the petitioners is that the defacto complainant had lodged a complaint to save himself from a complaint lodged by one Raveederan against him. This complaint is nothing but a counter blast for cheating several persons, running to crores, on the promise to get job, a case in Crime No.19 of 2021 came to be registered. The de facto complainant is in the habit of cheating several persons, by his honey words to get job from the Government Department for the past 20 years. The de facto complainant cheated several persons and there are several criminal cases pending against him, including a case involving the name of former Chief Minister's daughter. The Defacto complainant has



CrI.O.P.(MD).No.18237 of 2021

political moral, ethics and conduct in the guise of office bearer of recomprised, prominent political party, by his sweet tongued words, having access to the prominent persons, collected huge sums of money and when the first petitioner was a Minister, the defacto complainant was holding prominent position in various wings of the party. Since both happened to be in the same political party, there was acquittance. This was falsely projected to others by the defacto complainant and he collected huge sums of money for getting jobs in various department and had cheated innocent people. Now, to wriggle out from his misery he is making sweeping bald allegations against the petitioners and others. The defacto complainant already involved in Crime No.20 of 2021 investigated by the District Crime Branch, Theni, Crime No.510 of 2015, Crime No.512 of 2015 and 394 of 2015 investigated by the Sivakasi Town Police Station. Crime No.762 of 2015 Sivakasi Police Station, Crime No.763 of 2015 Madurai City Police, Crime No.357 of 2018 Theni Police Station. These cases pertain to job racketing. The defacto complainant is a professional offender, continuing his activities from the year 2012. The Madurai Bench of this Court observed in its order dated 04.12.2019 in CrI.O.P(MD)No.21290 of 2015 that one Chinnasamy made a complaint against this Nallathambi who was then Government Advocate in Madurai Bench, having high political



Crl.O.P.(MD).No.18237 of 2021

influence promised to secure job in the Madurai Bench of Madras High Court, and received sum of Rs.60 lakhs, issued fake appointment order to Vijayakumar. The Superintendent of Police, Virudhunagar was directed to hand over the case without any delay to CBCID and to investigate. A person of such character now lodges a complaint making wild allegations, which is nothing but to escape from his misdeeds.

5. The learned Senior Counsel referred to the typed set of papers, submitted that a case against the defacto complainant in Crime No.19 of 2021 is registered on similar facts with little variations. This complaint lodged by the defacto complainant in Crime No.20 of 2021, is nothing but the second complaint and FIR which is not permissible and illegal. The Hon'ble Apex Court in the case of *T.T.Antony Vs. State of Kerala and others*, reported in (2001) 6SCC 181. 2) *Amitabhai Anilchandra Shah Vs. Central Bureau of Investigation and another*, reported in (2013) 6SCC 348, that for the same set of facts there cannot be second First Information Report.

6. He further submitted that in the event of materials collected in connection with the earlier First Information Report Crime No.19 of 2021 is



Cr.O.P.(MD).No.18237 of 2021

found to be the same as that of the present FIR, Crime No.20 of 2021, than no investigation can be continued in Crime No.20 of 2021. The first petitioner being a political functionary now in the opposition party made certain remarks against the Chief Minister, which offended the people in power, hence to brook vengeance the petitioner is falsely implicated. The respondent Police without properly conducting any enquiry or investigation, falsely implicated these petitioners. He further submitted that the Nallathambi's contention that he had pledged his wife jewels and spent for the first petitioner for his political meetings cannot be accepted. The same allegations are made by him in an earlier complaint. Thus, Nallathambi is a known person for making false allegations by his sugar coating words, lured job seekers and cheated them for years together. The first petitioner a former Minister, the petitioners 2 and 3 are his Personal Assistants, the fourth petitioner is the former District Public Prosecutor of Virudhunagar District, all hail from respectful family having deep social roots and will not evade justice, cooperate with the investigation and abide by any condition.

7. The learned Counsel appearing for the Intervener, apart from reiterating the complaint, submitted that the intervener hails from respectful



Crl.O.P.(MD).No.18237 of 2021

family, advocate by profession, heads and in charge of various units of recognized major political party, social activities who helps the poor and needy. The intervener's brother was a former Speaker and active politician. Knowing fully well about the intervener's family background as well his political background, the first petitioner approached the defacto complainant and requested him to join AIADMK and help him and guide him. Pursuant to that during June 2019, he joined AIADMK. Thereafter, on seeing his sincerity and devotion in work, he was posted as District Student's Wing Secretary during August 2019, his wife was given the post of District Councillor in the local body election conducted during December 2019. During General election in September 2020, he was posted as election in charge for Sattur constituency. During November 2020, he was appointed as the Union Secretary of Vembakottai West. The first petitioner gave the post of District Secretary to his brother, during November 2020. During the general election in April 2021, his brother was given a seat to contest from Sattur constituency. On the instruction of the first accused, the fourth accused along with others went to Ooty, brought huge amounts by road, when election code of conduct was in force. During September 2020 to February 2021, the Government decided to fill up several vacancies in various post in Noon Meal Department,



Crl.O.P.(MD).No.18237 of 2021

Aavin, Co-operative Department, Civil Supplies, Panchayat Department and notification issued. Using the said notification, A1 commenced his harvest. He promised to secure jobs in the above department utilizing his position as minister. Believing his promise, the defacto complainant collected money from one Paramasivam, Illango, Murugan and Raveendran to the tune of Rs.1.6 crore and further on the instruction of minister handed over to his PAs A2 and A3 and once handed over to his Advocate, A4. All amounts are collected and handed over on the instructions of A1. Though huge funds were transferred from Ooty during elections, it was never handed over to the defacto complainant. Thus, all the accused conspired together in connivance with each other and cheated several persons including the defacto complainant. Amounts running to several crores cheated, added to it, all the accused abused and threatened to eliminate the defacto complainant.

8. The learned State Public Prosecutor filed a counter along with a flow chart showing 23 victims so far identified who lost money, who paid lakhs, for securing job through the defacto complainant and the other accused. These 23 persons are listed below:-



CrI.O.P.(MD).No.18237 of 2021

Sl.Nos.	Name & Address	Job Description	Amount given	To whom given
1.	Ravindran Sathur	Aavin Manager	Rs.30 lakhs	Vijay Nallathambi & Muthupandi
2.	Muthu, Ethirkottai	Aavin Driver	Rs.7 lakhs	Nallathambi & Elango
3.	Pasumpon Uppupatti	Noon Meal Work	Rs.5 lakhs	Nallathambi & Ealngo
4.	Pasumpon Uppupatti	Oversees Work	Rs.5 lakhs	Nallathambi & Elango
5.	Murugan Vijayakariskulam	Noon Meal Work	Rs.5 lakhs	Nallathambi & Elagno
6.	Duraipandi Mathangkovilpatti	Aavin Driver	Rs.7 lakhs	Nallathambi & Elango
7.	Muniyandi Gundairuppu	Noon Meal Work	Rs.2.50 Lakhs	Nallathambi & Elango
8.	Kalimuthu Veerapandiyapuram	Ration Shop Work	Rs.5.50 Lakhs	Nallathambi & Elango
9.	Manoharan Kanainjanpatti	Ration Shop Work	Rs.5.50 Lakhs	Nallathambi & Elango
10.	Kanna Ethirkottai	Noon Meal Work	Rs.4 Lakhs	Nallathambi & Elango
11.	Annarathi Ethirkottai	Ration Shop Work	Rs.4 Lakhs	Nallathambi & Elango
12.	Murugan Jameen Nathampatti	Aavin Work	Rs.6 Lakhs	Nallathambi & K.Murugan
13.	Ranjith Madurapatti @ kanmaipatti	Ration Shop Work	Rs.6 Lakhs	Nallathambi & K.Murugan
14.	Essakiammal Madurapatti @ Kanmaipatti	Oversees Work	Rs.12 Lakhs	Nallathambi & K.Murugan
15.	Santhiya Sankaramurthypatti	Noon Meal Organizer	Rs.3 Lakhs	Nallathambi & R.Murugan
16.	Santhi Rajakapatti	Noon Meal Organizer	Rs.3 Lakhs	Nallathambi & R.Murugan
17.	Shanmugavalli	Ration Shop Work	Rs.6 Lakhs	Nallathambi & Paramasivam



<i>Sl.Nos.</i>	<i>Name & Address</i>	<i>Job Description</i>	<i>Amount given</i>	<i>To whom given</i>
18.	Karthika R.R.Nagar, Rajapalayam	Ration Shop Work	Rs.6 Lakhs	Nallathambi & Paramasivam
19.	Anthony Mary Ramalingapuram	Ration Shop Work	Rs.5 Lakhs	Nallathambi & Paramasivam
20.	Muthugurunathan Ramalingapuram	Ration Shop Work	Rs.6 Lakhs	Nallathambi & Paramasivam
21.	Vijayaragavan Rajapalayam	Aavin Clerk	Rs.8 Lakhs	Nallathambi & Paramasivam
22.	Angaleeswari, Vembakottai	Noon Meal Work	Rs.2 Lakhs	Nallathambi & Paramasivam
23.	Selvarajan Sattur	Aavin Clerk	Rs.6.5 Lakhs	Nallathambi
		Total	Rs.1,40,70,000/-	

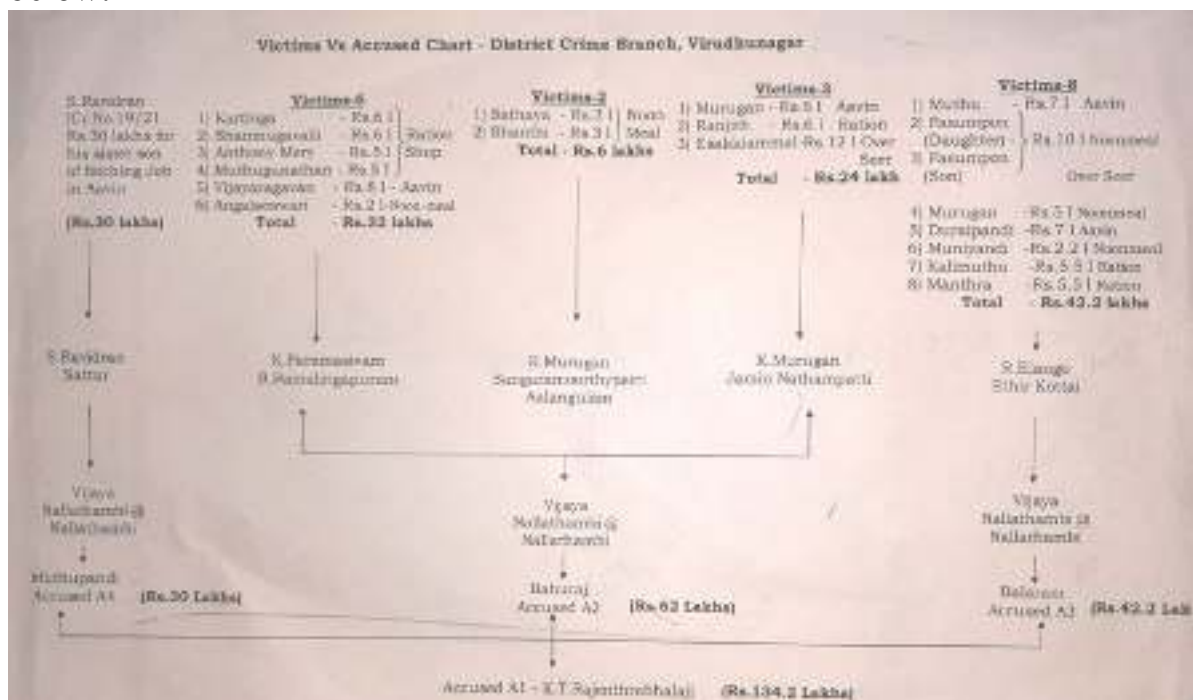
9. He further submitted that investigation is at the initial stage.

A1 now cannot get away by blaming the other accused including the defacto complainant. The defacto complainant was a close associate of A1. During the relevant period when A1 was a Minister, the defacto complainant moved closely with A1. The petitioners, now, making allegation against the defacto complainant as a person of bad character and several cases pending against him, cannot be an escape route for the petitioners. From the chain of incidents, the character and activities of the defacto complainant is well known. Finding that the defacto complainant used the name of A1 moved with A1 and others in close quarters and made everyone believe that he is a person who can



CrI.O.P.(MD).No.18237 of 2021

secure job for victims. The defacto complainant had tactful support and patronage from all the accused. Now, questioning the character of defacto complainant and blaming him as though the defacto complainant misused the name of the accused and using it as a defence is not acceptable. The role played by each of the accused to be investigated. The innocent public who lost money are now in streets. During investigation the role of defacto complainant will be examined and verified. The respondent Police would take appropriate action, if materials are found against him. He further produced a flow chart to show how much money got transferred from the victims through various accused and finally reaching A1. The flow chart is reproduced below:-





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10. He also produced the statement of witnesses so far recorded who confirmed the role of each of the accused and money lost by them. The statements confirm to the flow chart.

11. This Court considered the rival submissions and perused the materials available on record.

12. Considering the rival submissions and on perusal of materials it is seen that the contention of the learned Senior Counsel that second First Information Report for the same cause of action recorded in Crime No.20 of 2021 is not proper. The FIR in Crime No.19 of 2021 pertains to the cheating committed by Vijaya Nallathambi (A1), Rajenthrahalaji (A2), Mariyappan (A3) on Ravindran/defacto complainant, who was cheated to a tune of Rs.30 lakhs to secure District Mayer post in Aavin. In the present case, there are 23 victims who got cheated on the false promise for securing jobs in various other Government departments and undertakings. In this case, the money collected from the victims through various individual, the money trail reaches A1. Further it is seen that statements under Section 164 Cr.P.C. of



some of the victims to be recorded. On going through both the FIRs in Crime Nos.19 & 20 of 2021, it cannot be stated Crime No.20 of 2021 as second First Information Report. The facts and circumstances are in total variance. There might be some overlapping. Hence, such contention is rejected.

13. It is a case of job racketing wherein 23 persons cheated could be identified so far, who They have paid money to various persons. The money trails through mediators to the accused 2 to 4. In fact, the defacto complainant played an important role in these transactions. One thing is sure that 23 victims lost their money, and it is a case of job racketing. The defacto complainant might not be a person of clean virtue, but he had disclosed and given wealth of information giving details of the persons, who got cheated in this case which needs a thorough investigation.

14. To gain confidence of the job seekers, the middle men brought the job seekers, introduced them to A1, who gave assurance. Hence, the defacto complainant and the accused used to bring job aspirants to A1, who tactfully gave his approval. A1 was holding the post of Minister, entrusted with Public duty and public interest. On the contrary, he allowed A2 to A4 to



collect huge sums of money from innocent victims by permitting and allowing them to use his name. While this being so, the accused now pleading ignorance and claiming innocence are not acceptable, which ought to be verified, during the course of investigation.

15. One thing is certain that all the victims hail from same District and they are innocent poor persons who lost money to the accused. The accused are holding prominent position in a major political party, which cannot be lost sight of. There is a pattern followed, the victims taken to A1 residence, where an direction of A1 they hand over money to his Personal Assistant and others.

16. In the case of “*Siddharam Satlingappa Mhetre Versus State of Maharashtra and others reported in (2011) 1 Supreme Court Cases 694*”, the Hon'ble Apex Court had referred various citations and considered the 'personal liberty' and its violation right, referring to “*A.K.Gopalan Versus State of Madras reported in AIR 1950 SC 27*” and considered the position in UK, USA, West Germany, Japan, Canada, Bangladesh, Pakistan, Nepal and the International Charters-Universal Declaration of Human Rights, 1948,



CrI.O.P.(MD).No.18237 of 2021

Covenant on Civil and Political Rights (1966), European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, taking note given guidelines of 10 parameters to be considered while exercising power under Section 438 Cr.P.C.

17. As far as the facts and circumstances of the present case is concerned, the nature and gravity of the accusation and the role played by each accused are well comprehended. Hence, the grant of Anticipatory bail would definitely affect very large number of people. The accused are prominent persons entrusted with public trust, which cannot be lost sight of. This Court feels that no prejudice to be caused to continue free and fair investigation.

18. The contention of the learned Senior Counsel for the petitioners that for the purpose of humiliating the petitioners, a false case has been thrust on them cannot be countenanced on the facts of this case.

19. In this case, Nallathambi is no stranger, a prominent person holding various position in a political party, the accused have allegiance to the



same party all know each other well. On one occasion, this Court had given direction to the Superintendent of Police, CBCID to conduct investigation on job scandle compliant against Nallathambi who received money to get job using High Court name. With such credentials, a person is given proximity and patronized, whenever it suited them, all got enriched and benefited. Now, calling Nallathambi a blacksheep opportunist and job racketeer, misusing petitioner's name is clearly an after thought.

20. There are prima facie materials against the accused. So far 23 job aspirants had given statements of being cheated by the accused in this case. This Court consistently in the cases of job racketing, finding innocents are being cheated, lured and their future becomes questionable and considering job aspirants not only loose their money, they also lose their future. In view of the some dealt with firmness in job racketing cases. This case is one of job racketing. Hence, this Court is not inclined to show any leniency on the petitioners.

21. This Court, on the facts and circumstances of the case, is not inclined to entertain this petition and the same is dismissed. This Court



Crl.O.P.(MD).No.18237 of 2021

directs the respondent Police to conclude the investigation within a stipulated time by giving top priority.

17.12.2021

Index: Yes/No
Internet: Yes/No
dna

To

- 1.The Inspector of Police
District Crime Branch
Virudhunagar
Virudhunagar District
- 2.The Public Prosecutor
High Court, Madras.



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CrI.O.P.(MD).No.18237 of 2021

M.NIRMAL KUMAR.J.,

dna

**PRE-DELIVERY ORDER IN
CrI.O.P.(MD).No.18237 of 2021**

17.12.2021