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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.07.2021
PRONOUNCED ON : 09.08.2021
CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31188 of 2017

&

WMP.Nos.34226 & 34227 of 2017

R.Maheswaran

... Petitioner

Vs.

1.The Principal Secretary,
Public (Special A) Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

2.S.M.Suresh,
District Inspection Committee Officer,
Coimbatore-600 018.

3.The Director,
Directorate of Vigilance & Anti-Corruption,
MKN Road, Alandur,
Chennai-600 016.
(Cr. No.1/2012/AC/CB)

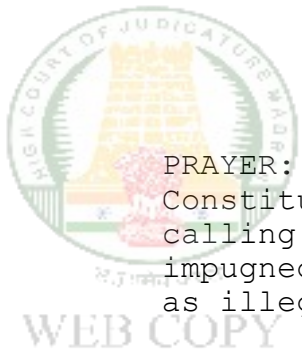
4.C.Subramani,
The District Manager, TASMAC,
Coimbatore (Retd.),
No.3, I Street, Kalaignar Nagar,
Rathnapuri, Coimbatore.

5.M.Radhakrishnan,
District Manager, TASMAC,
Nilgiris (Retd.),
No.275, Mayandipuram Street,
Kil-pudupakkam,
Cheyyaru Circle,
Thiruvannamalai District.

6.Selvan Amalraj,
District Manager, TASMAC,
Thirupur (Retd.),
A-22, Housing Unit,
Sampath Nagar, Erode.

7.Sugumaran,
District Manager, TASMAC,
Erode District (Retd.),
No.398, Vetri Vinayagar Nagar,
Ganapathy, Coimbatore.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records culminated in the first respondent's impugned G.O.Ms.No.1132 dated 10.10.2013 and to quash the same as illegal.

For Petitioner :R.Singaravelan, Sr. Counsel
for Mr.H.Manivannan

For Respondent :Mr.K.V.Sajeev Kumar
Nos.1 to 3 Counsel for Government

O R D E R

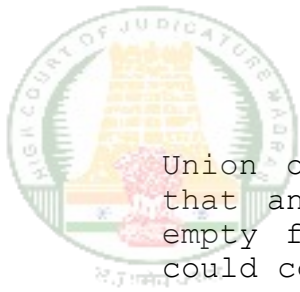
This Writ Petition is heard through Video Conferencing on 06.07.2021.

2. The first respondent herein, had accorded sanction to prosecute the petitioner under Section 19(1)(b) of the Prevention of Corruption Act, 1988, (hereinafter referred to as 'PC Act') on the ground that he was reported to have demanded and accepted bribe money, as monthly mamool, from their District Managers under his jurisdiction during the review meeting at his office, etc. Based on a surprise check conducted at the petitioner's office on 10.01.2012, it was reported that an unaccounted amount of Rs.1,75,000/- was found and seized from his office desk. At that relevant point of time, the petitioner herein was working as a Senior Regional Manager in the cadre of District Revenue Officer, in which position, he is deemed to be a 'public servant', as defined under Section 2(c) of the PC Act.

3. The petitioner has challenged the impugned order of sanction for prosecution, in the present Writ Petition.

4. The learned Senior counsel for the petitioner has raised several grounds touching upon the facts leading to the incident of seizure of the unaccounted amount from the petitioner's desk, as well as the surprise check conducted at the petitioner's office. He also embarked upon issues, attempting to establish that the entire case against the petitioner was on the basis of a wrong complaints given by his sub-ordinates.

5. Apart from touching upon these factual aspects, the learned Senior Counsel placed reliance on various decisions of the Hon'ble Supreme Court in the cases of i) Samsher Singh Vs. State of Punjab and Another [1974 (2) SCC 831]; ii) State of Punjab Vs. M.L. Puri [1975 (4) SCC 112]; iii) Periyasamy Vs. Inspector, Vigilance and Anti-Corruption Department, Tiruchirappalli [1994 (Cri. L. J.) 753]; iv) State of Rajasthan Vs. Tarachand Jain [1974 (3) SCC 72]; v) R.S.Nayak Vs. A.R. Antulay [1984 (2) SCC 183]; and vi) K.Veerassamy Vs.



Union of India and others [1991 (3) SCC 655] and submitted that an order of sanction for prosecution should not be an empty formality, but should be based on relevant facts that could constitute a criminal offence.

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6. Per contra, the learned Government Counsel had placed reliance on the averments in the counter affidavit and submitted that the circumstances leading to sanction for prosecution was based on credible information that the petitioner was demanding and accepting bribe money and since he was a public servant, the first respondent herein had rightly passed the necessary sanction for prosecution.

7. The scope of interference to an order sanctioning prosecution under Section 19(1) of the PC Act, (henceforth referred to as 'the Act') by this Court exercising its powers under Article 226 of the Constitution of India, is very limited. Section 19 of the Act, empowers the Government or such Authority to accord sanction for prosecution of a public servant, when it is satisfied on consideration of all the relevant facts, materials and evidences placed before it, that such acts may constitute the commission of a criminal offence. Thus, the sanction is the very first step invoked in the procedure for investigating into a criminal offence alleged to have committed by a public servant. Therefore, the issue as to whether such public servant is liable for the acts of commission to constitute the offence or not, would be the subject matter of the consequent investigation. Thus, the limited scope of powers to be exercised by a Sanctioning Authority, would be to arrive at a subjective satisfaction of the possibility of commission of a criminal case by a public servant, based on the materials possessed by him. Thus, the grounds raised by the learned Senior counsel, touching upon the factual aspects of the case and attempting to state that the complaint against this petitioner is false, is not only pre-mature, but also unsustainable.

8. A perusal of the impugned order of sanction would reveal that the first respondent herein had taken into account the relevant facts, materials and other evidences, indicating the possibility of commission of a criminal offence under the provisions of the PC Act. Thus, when a surprise check is conducted in the office of a public servant and unaccounted amounts have been seized from his desk and the Authorities were also possessed of credible evidence that the public servant was demanding and accepting bribe money as monthly mamool from the District Managers of his jurisdiction, such information and the consequent seizure of the unaccounted amount, could prima-facie disclose the possibility of commission of a cognizance offence and therefore, by applying the principles laid down by the Hon'ble Apex Court in the case



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of State of Haryana Vs. Bhajan Lal and others reported in 1992 Suppl (1) SCC 335, and Lalitha Kumari Vs. Government of Uttar Pradesh and others reported in 2013 (4) Crimes 243 (SC), the consequential sanction for prosecution, cannot be found fault with.

9. The learned Senior counsel had placed reliance on various decisions cited supra and submitted that an order of sanction for prosecution should not be an empty formality but should be based on relevant facts that could constitute a criminal offence. Such a submission cannot be disputed at all. As a matter of fact, the ratio laid down in these decisions to this effect, would act adversely to the petitioner's case, since this Court has found that the impugned sanction order was based on credible investigation and circumstances. It requires to be borne in mind that the Sanctioning Authority, is not an Investigation Officer, but is equipped with limited powers of coming to a prima-facie conclusion that on the possibility of a criminal case being committed by a public servant, based on the basic facts and materials possessed by him.

10. Further, the decisions relied on by the learned Senior counsel may not have any useful reference to support his case, when the object and scope of grant of permission for prosecution, is analyzed. The object of Section 19 of the Prevention of Corruption Act, 1988, is to save the public servants from frivolous or unsubstantiated allegations. The provision is purely procedural in nature. The ground of such sanction is only an administrative function as held by the Hon'ble Supreme Court in the case of The Superintendent of Police (CBI) Vs. Deepak Chowdhary [AIR 1996 SC 186]. Hence, the Government, while considering either grant or refusal of sanction, is required to reach the satisfaction as to whether the relevant facts in its possession, would constitute a criminal offence or not. This proposition has been well established in various decisions of the Hon'ble Supreme Court including the case of Sushant Kumar Dey Vs. Union of India [2010 Criminal Law Journal 1171] and Shiva Raj Singh Vs. Delhi Administration [AIR 1968 SC 1419]. Thus, the order passed under Section 19, being procedural in nature and an administrative act, the validity thereof cannot be tested in the light of the principles applied to quasi-judicial orders, as held in the case of State (N.C.T. of Delhi) Vs. Navjot Sandhu reported in 2005 SCC (Cri.) 1715.

11. The present facts of the case in hand, squarely falls within the object of Section 19 and for all the reasons cited in this order, I am of the view that the first respondent herein had acted within the scope of Section 19 while passing the impugned order, which is only an administrative function, as held by the Hon'ble Supreme Court.



12. With the above observations, I do not find any merits in the grounds raised by the petitioner. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

s/d-
Assistant Registrar(CO)

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Sub-Assistant Registrar

DP
To

- 1.The Principal Secretary,
Public (Special A) Department,
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- 2.The District Inspection Committee Officer,
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- 3.The Director,
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