



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 27.04.2021

ORDER PRONOUNCED : 22 .06.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

Crl.O.P. [MD] No.1940 of 2021

and

Crl.M.P. (MD) No.965 of 2021

C.J.Christopher Signi : Petitioner

vs.

- 1.State through its,
The Inspector of Police,
Vigilance and Anti Corruption,
Kanyakumari Detachment @
Nagarcoil.
- 2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
210/1A, Laurdu Annai Salai,
Rajakamangalam Road,
Nagercoil,
Kanyakumari District 629 004.

3.K.Nagarajan : Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the charge sheet in Special Sessions Case No.2 of 2020 on the file of the learned Chief Judicial Magistrate cum Special Judge, Nagercoil and quash the same as illegal against the petitioner.

For Petitioner	: Mr.R.M.Suresh
For R1 & R2	: Mr.K.K.Ramakrishnan Additional Public Prosecutor
For R3	: Mr.J.Sulthan Basha

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in Special Sessions Case No.2 of 2020 on the file of the learned Chief Judicial Magistrate cum Special Judge, Nagercoil, on the ground that the competent authority to issue the sanction order is the Secretary, Energy Department (TANGEDCO), Nagercoil, who had granted sanction, was holding



charge in the Department of Highways on the date of sanction.

2.The learned counsel appearing for the petitioner relied on the Government Orders in G.O.Rt.No.1605, Public (Special.A) Department, dated 07.06.2020 and G.O.(D) No.14, Energy (E1) Department, dated 02.09.2020 and submitted that the petitioner was not holding the post in the Energy Department on the date of alleged sanction. Therefore, the impugned charge sheet impugned does not hold good and it has to be quashed. Further, the learned counsel for the petitioner submitted that the 3rd respondent had forcibly inserted the money in the pocket of the petitioner, delay in obtaining sanction from the Government on the date of granting the sanction.

3.Insofar as the contention in regard to demand for money is concerned, a counter affidavit has been filed on behalf of the 3rd respondent.

4.The 3rd respondent denied the contention of the learned counsel for the petitioner that there was no demand for money. The Authority, who granted sanction, was not holding the post of Secretary, Energy Department. Therefore, the learned counsel would submit that this petition has to be allowed.

5.The learned Additional Public Prosecutor disputed the claim of the learned counsel for the petitioner stating that the sanction was granted on 08.04.2020. Further, in support of his contention, the learned Additional Public Prosecutor produced a copy of the original file before this Court, wherein, the sanctioning Authority had signed on 08.04.2020 and the same was received by the Jurisdictional Inspector of Police on 02.06.2020.

6.The learned Additional Public Prosecutor would further rely on the judgment of the Hon'ble Supreme Court in the case of **A.Savariar V. The Secretary, Tamil Nadu Public Service Commission, Chennai and others** reported in **2008-3-L.W.760**, wherein, it had been stated in paragraph No.8 as follows:-

"8.Besides since already this issue has been covered by the judgment of the Honourable Apex Court reported in 1996 A.I.R.S.C. 1729 as referred above, we are of the opinion, the view of the Division reported in 1997 Writ L.R.33(C.Baskaran v. The District Collector, Trichy) rendered in W.A.No.1054 of 1983 is not a correct law. Consequently, we hold that an officer-in-charge of a post has got power to discharge the powers and statutory functions of the said post."

7.By referring the aforesaid judgment, the learned Additional Public Prosecutor submitted that the contention of the learned counsel for the petitioner does not hold good.



8. In view of the submissions made by the learned counsel on either side and on perusal of the materials available on record, this Court is of the view that after due investigation, when charge sheet is laid before the competent jurisdictional Court, raising of objections cannot be allowed by this Court. It is for the petitioner to agitate the same before the trial Court during trial. Hence, this petition is liable to be dismissed as not maintainable.

9. In the result, this Criminal Original Petition is dismissed and the points for consideration is answered against the petitioner and in favour of the respondents prosecution. The petitioner is at liberty to agitate his right regarding sanction before the trial Court concerned. The other contentions raised with regard to demand, delay, etc., cannot be gone into by this Court. It is for the petitioner/accused to agitate them during trial as his valuable defence. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Inspector of Police,
Vigilance and Anti Corruption,
Kanyakumari Detachment @
Nagarcoil.
2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
210/1A, Laurdu Annai Salai,
Rajakamangalam Road,
Nagercoil,
Kanyakumari District 629 004.

+1 CC to M/s.R.M.SURESH, Advocate (SR-19871[F] dated 22/06/2021)

Copy to

The Chief Judicial Magistrate cum Special Judge,
Nagercoil

Order made in
Crl.O.P. [MD] No.1940 of 2021
22.06.2021