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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5206 of 2022
and
Crl.M.P.No.2823 of 2022

Siva Priya

.. Petitioner

Vs.

The Inspector of Police,
Vigilance and Anti Corruption
Chennai City Unit - 1
Office of the Directorate of V & AC,
Alandur,
Chennai - 600 016.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to FIR in Crime No.02/AC/2018/CC-I dated 15.02.2018 under Sections 120(B), 409, 465, 468, 471, 109 IPC & 13(2) r/w 13(1) (c) of Prevention of Corruption Act, 1988 pending on file of respondent police and quash the same as illegal and arbitrary.

For Petitioner : Mr. Chandrasekar

For Respondent : Mr. E. Raj Thilak,
Additional Public Prosecutor

O R D E R

This petition is filed to call for the records pertaining to FIR in Crime No.02/AC/2018/CC-I dated 15.02.2018 under Sections 120(B), 409, 465, 468, 471, 109 IPC & 13(2) r/w 13(1) (c) of Prevention of Corruption Act, 1988 pending on file of respondent police and quash the same.

2. Learned counsel for the petitioner submitted that the complaint against the petitioner is totally false and misconceived and there is no material evidence to show that the petitioner entered into criminal conspiracy to commit the



offence of criminal misconduct. It is the petitioner who had found out impersonation and reported the same. The original owners had given complaint and registered as Crime No.02/AC/2018/CC-I by Central Crime Branch. Respondent failed to consider the fact that Vimala had given a deed of cancellation vide Document No.933/2016 on 29.01.2016, cancelling the power purported to have been executed by Vimala in favour of Parthasarathy. There are civil litigation also pending. Therefore, this petition.

3. Learned Additional Public Prosecutor submitted that the investigation in this case is completed and final report has been filed and the case is taken cognizance by the Special Court, Chennai.

4. Considered the rival submission and perused the records.

5. It is seen from the FIR that based on the Vigilance report, the FIR in Crime No.02/AC/2018/CC-I is registered. The allegation against this petitioner and the co-accused are that petitioner entered into criminal conspiracy to abet and commit the offences of criminal breach of trust, criminal misconduct by a public servant and in pursuance of the said conspiracy, petitioner and Vimala committed and abetted the acts which constitute the offences under the Prevention of Corruption Act. It is alleged that the petitioner and Tmt.Vimala knew well that the extent of two acres of land in S.Nos.211/12, 211/14, and 174/1 and 174/2 in Thiruvannamiyur Village solely belonged to one Mr.Mohanraj as per Document No.201/2007 registered at District Registrar Joint-I Saidapet, Chennai. It was mortgaged by him as per Doc.No.2009/07 for Rs.13 crores. Tmt.Vimala in pursuance of criminal conspiracy, produced power of attorney document for the very same property executed by her in favour of one Tr.Kuriyakose Mathew for registration.

5(i). Petitioner, who is entrusted with the duty of District Registrar, knowing very well the fact that the document presented for registration by Tmt.Vimala was not presented well in advance before 10 days as per circular of IG Registration and that no encumbrance certificate of the property was produced, had not scrutinized the document presented for registration and had not checked the documents with the official documents in her custody and the data base on the computer. She has also not insisted for production of original title deeds by the executant to show the acquisition of right. Petitioner did not confirm the genuineness of the legal heir certificate attached with the documents. Thus, the petitioner in violation of direction of law, knowing well that accused Vimala has no right over the property, based on the documents presented before her for



registration, had registered the Power of Attorney. Thereby, allowed accused Vimala to obtain undue pecuniary advantage of a valuable property worth Rs.13 crores. Therefore, this case was registered.

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6. The proposition with regard to quashing the FIR is very well settled in the judgment reported in State of Haryana and others Vs. Bhajan lal and others reported in 1992 Supp(1) SCC 335. The relevant portion of the judgment is extracted hereunder:

102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.



(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or



inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice.

7. In the case before hand, as directed above, there are materials enough to show that the petitioner had not performed the duty of public servant diligently and it appears that she had willfully allowed accused Vimala to obtain undue pecuniary advantage of valuable property worth of Rs.13 crores. The investigation had been completed and final report was filed in this case. Therefore, this Court finds that there is no ground available to quash the FIR.

8. In this view of the matter, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Inspector of Police,
Vigilance and Anti Corruption
Chennai City Unit - 1
Office of the Directorate of V & AC,
Alandur, Chennai - 600 016.

+lcc to Mr. Chandrasekar, Advocate, S.R.No.20547

Cr1.O.P.No.5206 of 2022

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