



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

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CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.10179 of 2022 and
Crl.M.P.No.6033 of 2022

R.Subbuthai .. Petitioner/1st Accused
Vs.

The State represented by,
The Additional Superintendent of Police,
Vigilance and Anti Corruption,
City Special Unit - III,
Chennai - 600 016. .. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in crime No.03/AC/2022/CC-II on the file of Respondent Police, Vigilance and Anti Corruption, City Special Unit - III, Chennai - 600 016 and quash the same.

For Petitioner : Mr.T.Sivananthan

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

O R D E R

The Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in crime No.03/AC/2022/CC-II on the file of Respondent Police, Vigilance and Anti Corruption, City Special Unit - III, Chennai - 600 016 and quash the same.

2. The FIR came to be registered against the petitioner and other accused for the offences under Sections 13(2) r/w 13(1) (c) & (d) of Prevention of Corruption Act, 1988. The allegations made in the FIR, in brief, are that the first accused was formerly working as Town Planning Officer, Avadi Municipal Corporation and presently working as Assistant Executive Engineer, Madurai Corporation. She served from



12.06.2002 to 10.09.2004 and 05.10.2017 to 08.05.2020. The second accused Balasubramanian worked as Municipal Engineer, i/c Municipal Commissioner, Avadi Municipal Corporation, served during the period from 01.01.2004 to 15.05.2004. The third accused worked as Town Planning Inspector, Avadi Municipal Corporation, served during the period from 19.03.2019 to 07.02.2020 and the fourth accused K.Krishnamoorthy, Commissioner (Retd), Avadi Municipal Corporation, served from 13.07.2019 to 05.11.2019.

3.The first accused, during her first stint and second accused while discharging their duties at Avadi Municipality during the period from 2002 to 2004, had violated the procedures and sanctioned approval for regularization of land in S.Nos.289/2, 292/2 part, 291/2 part, 291/3, 291/5, 291/6, 291/7, 291/8, 291/9 and 290/4 having an extent of 99106 sq.ft. in Thirumullaivoyal for the applicant, namely, B.Jeyaraman, No.5, O.P. Raman Street, Kamaraj Nagar, Avadi, on his application dated 08.07.2002 for regularization of land survey No.282/3 and thus caused loss to the tune of Rs.12,00,000/- to the Municipal funds.

4.The following procedures have been violated during the period 2002-2004:

a. The land to an extent of 2.26 acres had been regularized as single plot according to recommendation of the first accused, for S.Nos.291/2, 291/3, 291/5, 291/6, 291/7, 291/8, 290/4, which was irregular, since the application dated 08.07.2002 for regularization of S.No.282/3 only applied. The power of granting the planning permission for the abovesaid survey numbers are vested with Member Secretary, CMDA. Municipal Commissioner only has the power of granting permit/approval for subdivision of the land to an extent of 1000 sq.mt /24 cents into 8 plots. Late Vinayagam, formerly Town Planning Inspector, Avadi Municipal Corporation, one day earlier before making the payment charges to the claim, had made remarks on the note of Town Planning Inspector, dated 16.02.2004, against the procedure. The applicant remitted the Development Charges only on 16.02.2004 and building application fees and vacant land tax on 17.02.2004. The application for regularization of land in S.No.282/3 of Jeyaraman had been received in Avadi Municipality on 08.07.2002.

b. Late Vinayagam should have inspected the site, with the orders of A1 and A2 and should have submitted the note. But, late Vinayagam dealt with the application after 19 months on 16.02.2004 without following the due procedures, without the orders of A1 and A2, without citing the date of inspection, the extent and submitted the note to A1.



c.The regularization charges had not been collected and sent to CMDA and it resulted in wrongful loss.

d.10% of total extent of land should be handed over through OSR Gift deed or charges equivalent to the value of the 10% of extent of the land should be remitted by the applicant to the competent authority prior to sanction of approval for regularization. Neither the 10% of the land of total extent nor the charges was collected by A1 to A4.

5.During her second stint from 2017 to 2020, first accused committed further irregularities. She violated the procedures with an intention to cheat the Municipality, had favoured the private individuals and obtained pecuniary gain for themselves. A1, A3 and A4 violated the procedures and granted the approval for residential plots, for the land situated at T.S.No.90/2, 91/2, 92, 93, 95, 96 and 99 of Sekkadu Village and favoured the applicant, namely, K.Ravichandran and thus, obtained pecuniary gain for themselves. There was no proof of collection of the charges of basic amenities like installation of street light, drainage, road formation, certain charges levied on the applicant which was not charged and thus caused financial loss to the CMDA/Municipal Corporation. Therefore this case was registered as aforestated.

6.The learned counsel for the petitioner submitted that FIR was filed for violating procedures, which were said to have taken place during the period from 2002-2004 and 2017 - 2019. He further submitted that the petitioner is innocent, she had only forwarded the proposal to the CMDA and approval was granted by CMDA. The petitioner has nothing to do with the approval granted by CMDA. The petitioner is aged 54 years and this case is foisted only to harass her and therefore, the FIR has to be quashed.

7.In response, the learned Additional Public Prosecutor submitted that after proper investigation and after obtaining approval under Section 17A of Prevention of Corruption Act, 1988, FIR was registered only on 23.02.2022. The respondent police should be given an opportunity to investigate and find out the truth and file a final report.

8. The legal position with regard to quashing of FIR is very well settled in the case of 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



investigation was conducted and approval was also given for registering FIR under Section 17A of Prevention of Corruption Act, 1988. In this circumstances, this Court is of the considered view that the respondent police should be given an opportunity to conduct investigation in this case and file a final report, which may be positive or negative. There are no merits to quash the FIR and in this view of the matter, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The Additional Superintendent of Police,
Vigilance and Anti Corruption,
City Special Unit - III,
Chennai - 600 016.

Cr1.O.P.No.10179 of 2022 and
Cr1.M.P.No.6033 of 2022

SKM(CO)
GN(10/06/2022)