IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.02.2022

PRONOUNCED ON : 09.03.2022

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.R.C.No.676 of 2021 & CRL.O.P.No.20055 of 2021
and
Crl.M.P.No.10908 of 2021

Devaki
District Registrar (Administration)
Kanchipuram. ... Petitioner in both cases

Vs.

State Rep.by
Inspector of Police
V&AC, Kanchipuram. ... Respondent in both cases

PRAYER in Crl.R.C.No.676 of 2021: Criminal Revision Case is filed under Sections 451 r/w 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.9980 of 2019 dated 14.09.2021 in Crime No.2/AC/2019/KM by the learned Chief Judicial Magistrate and Special Judge at Chengalpattu.

PRAYER in CRL.O.P.No.20055 of 2021: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for records in Crime No.02/AC/2019/KM dated 06.05.2019 pending investigation with the respondent and quash the same.

For Petitioner in both the cases : Mr.V.Krishnamoorthy

For Respondent in both the cases : Mr.E.Raj Thilak
Additional Public Prosecutor

COMMON ORDER

Criminal Revision Case No.676 of 2021 is filed to set aside the order passed in Crl.M.P.No.9980 of 2019 dated 14.09.2021 in Crime No.2/AC/2019/KM by the learned Chief Judicial Magistrate and Special Judge at Chengalpattu.

2.Criminal Original Petition No.20055 of 2021 is filed to call for records in Crime No.02/AC/2019/KM dated 06.05.2019 pending investigation with the respondent and quash the same.

3.Since both the matters pertain to one and the same crime number, they are takenup together for common disposal.

4.The facts leading to the registration of the case in Crime No.02/AC/2019/KM in brief is as follows:

The defacto complainant is the Inspector of Police, Vigilance and Anti-Corruption, Kanchipuram. Based on the vigilance report, a detailed enquiry was ordered by the Government vide letter No.5072/VC-1/2016-1, dated 18.01.2017 on the allegations of revenue loss made by A1 Selvi.M.Devaki, District Registrar (Admin), Kanchipuram and A2 R.Vivekananthan, Sub-Registrar, Walajabad Sub-Registry, Kanchipuram District. The allegations against them are that for their illegal gratification, guideline value was fixed against the Registration Rules and G.Os at "Kandappa Nagar" land of Iyampettai Village, Kanchipuram District. The accused were public servants under Section 2(c) of the Prevention of Corruption Act, 1988 during the period between 2013 and 2015. The land to an extent of 11.41 Acres in Iyampettai Village, Kandappa Nagar belongs to Weaver's Association held in the names of Graminis Nataraja Mudaliar and Mohanavelu Mudaliar. They made layout of 11.41 acres of patta land and made partition deed of 411 patta lands between them. The Sub-Registrar (AO2) Walajabad initially fixed Rs.250/- as guideline value for the above land vide his office note vide No.58/SR/2015 dated 28.02.2015. The District Registrar (AO1), after verification of surrounding land, fixed the guideline value for the above land as Rs.250/- vide her proceedings dated 31.03.2015. The District Registrar (A.O.1) asked AO2 to upward the guideline value on 18.10.2014 in the surrounding areas of Iyampettai Village, such as, Annai Sathya Nagar and Kamakshi Nagar to Rs.500/- per Sq.ft and Rs.400/- sq.ft respectively. Thiru.Chandran, Grade – II Sub-Registrar Walajabad Taluk, stated that the document No.393/2013 was kept pending by the then Sub-Registrar because of a case is pending regarding this property. The document was released on 06.02.2015 vide document No.560 of 2015. He stated about the particulars of 411 documents, market value, guideline value of Kandappa Nagar and its surrounding areas, copy of the guideline opinion register, copy of guideline value fixation upward register, in respect of Walajabad Sub-Registry vide his letter No.305/2017/SR, dated 16.10.2017. He also stated about furnishing of proceedings of the District Registrar (Admin) Kancheepuram in RC No.4430/B3/2014 dated 17.10.2014 along with upward letter dated 18.08.2014 and opinion letter in No.58/SR/2015 dated 28.02.2015 of guideline fixation. The Inspector General of Registration, Chennai, in his letter No.49816/L1/2017 dated 04.12.2017 has stated that the District Registrar (Admin) is empowered to fix the guideline value after receiving the opinion from the concerned Sub-Registrar vide IGR Circular No.1/14, dated 27.01.2014. The District Registrar should fix the market value, guideline of the layout based on the particulars obtained by way of enquiry i.e. local field enquiry and enquiry into material facts available such as previous sale statistics. The guideline value fixed by the District Registrar should not be less than the guideline value prevailing in the surrounding survey numbers. The value of the classification of residential class-I Type-I in Iyyampettai Village, Walajabad has been revised from Rs.250/- per sq.ft to Rs.500/- per Sq.ft with effect from 18.10.2014. The District Registrar (Admin) Kancheepuram inspected the said layout on 23.03.2015 and passed value fixation order vide proceedings No.1243/B3/2015 dated 31.03.2015 classifying the said layout under the classification under residential class-I, type-I and guideline value has been fixed as Rs.250/- per sq.ft. While fixing the guideline value, the District Registrar has failed to consider the upward revision of guideline value as Rs.500/- per sq.ft for residential class-I Type-I with effect from 18.10.2014. The District Registrar has acted in violation of the circular of the Inspector General of Registration (1/2014 dated 27.01.2014). A2 sent proposal for a revised guideline value and it came to effect from 18.10.2014 and the revised guideline value for the particular layout in Kandappa Nagar was fixed as Rs.500/-. This upward fixation was done at the instance of A2 and A1 and both are well aware of the guideline value is revised as Rs.500/- per sq.ft for the classification of residential class-I type-I in Iyyampettai Village, Walajabad Taluk with effect from 08.10.2014. During the period between 2013 and 2015, the accused were working as District Registrar and Sub Registrar. The subsequent registrations in Kandappa Nagar layout for 410 plots, the guideline value fixed as Rs.250/- per sq.ft without considering the prevailing open market value of the property in the year 2015 and 2016. It is clear that the accused have acted in violation of the circular of Inspector General of Registration and dishonestly caused wrongful loss to the Government to the tune of Rs.59,58,457/- misappropriated and misused their official position. Thus the case was registered for the offences under Sections 13(1)(c), 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988 and 420, 409 IPC against the accused. Challenging the first information report, this quash petition in Crl.O.P.No.22055 of 2021 is filed.

5.The learned counsel for the petitioner submitted that the valuation of the report of the District Registrar had been sent to the District Revenue Officer (Stamps) at Kancheepuram under Section 47 (a)(3) of the Indian Stamps Act, who made field verification and fixed Rs.250/-per sq.ft vide order No.42 in the month of June, 2019 confirming the fixation of the market value made by the petitioner. Since the date of execution of document was in 2013, the guideline value of the year 2013 has to be adopted under Section 17 of the Indian Stamp Act. The Inspector General of Registration in his letter dated 04.11.2020 stated that no monetary loss to the Government and the value fixed at Rs.250 per sq.ft, it was correct. FIR was registered on 06.05.2019, but there is no progress made in the investigation. Therefore, the FIR has to be quashed.

6.In response, the learned Additional Public Prosecutor appearing for the State submitted that the investigation in this case is in progress from 18.10.2015. There was revision in guideline value and the guideline value for the land in Iyyampettai, Walajabad was fixed at Rs.500/- per sq.ft. However, without considering the upward revision of the guideline value at Rs.500/- per sq.ft., the District Registrar (AO1) has acted in violation of the circular of Inspector General of Registration in circular No.1/14 dated 27.1.2014 and fixed the value at Rs.250/- per sq.ft and dishonestly caused wrongful loss to the Government.

7.Considered the rival submissions and perused the records.

8.The present Inspector General of Registration filed an affidavit in February, 2022 stating that the highest value in the surroundings as on 31.03.2015 was Rs.500/- per sq.ft. The market value of the said land was increased as Rs.500/- per sq.ft by Deputy Inspector General of Registration, Chennai, with effect from 18.10.2014. The accused is a member of the said upward revision committee and is fully aware of the upward revision of guideline value as Rs.500/- per sq.ft., she failed to consider the value of Rs.500/- per sq.ft and fixed a value of Rs.250/- per sq.ft, which is in violation of the instructions specified in various circulars of the Inspector General of Registration. Statutory action under Section 47A(3) of Indian Stamp Act, 1899, was taken to ascertain the real market value of the said property and to collect the revenue loss to the Government, if any. The District Revenue Officer (Stamps) passed orders for fixing market value of Rs.250 per sq.ft in respect of all the 410 documents. It was construed that there is no revenue loss to the Government. When the first report was submitted on 04.12.2017 to the Directorate of Vigilance and Anti-Corruption, it was reported that revenue loss to the Government was to the tune of Rs.22,39,630/-. The subsequent report dated 04.11.2020 sent to the Directorate of Vigilance and Anti-Corruption intimating that there was no revenue loss to the Government by virtue of the orders passed by the District Revenue Officer (Stamps), Chennai.

9.It is further said that the markate value fixed by the District Revenue Officer (Stamps) under Section 47A(3) of Indian Stamp Act, 1899, can be reviewed by the Chief Controlling Revenue Authority/Inspector General of Registration as per Section 47A(6) of the said Act. Since the District Revenue Officer (Stamps) fixed the same rate adopted in the document, the veracity of rate fixation has to be verified. The orders of the District Revenue Officer (Stamps) fixing the market value as Rs.250 per sq.ft has to be ascertained and whether it is prejudicial to the interests of revenue of the Government. An Action under Section 47A(6) of the Indian Stamp Act, 1899 has been initiated in respect of the said layout. The accused officer has failed to consider the upward revision of guideline value as Rs.500/- per sq.ft.with effect from 18.10.2014 in her order K.Dis.No.1243/A3/2015 dated 31.03.2015 and fixed a value of Rs.250/- per Sq.ft. Therefore, he requested the Directorate of Vigilance and Anti-Corruption to keep the letter dated 04.11.2020 in abeyance till the conclusion of the abovesaid action under Section 47A(6) of the Indian Stamp Act, 1899.

10.It is evident from February, 2022 affidavit of Inspector General of Registration, Chennai, that the accused failed to consider upward revision of Rs.500/- per sq.ft and fixed lesser value of Rs.250/- per sq.ft for the said layout. Against the order of the District Revenue Officer (Stamps) proceedings under Section 47A(3) of Indian Stamp Act, 1899 is initiated. It is specifically requested that a letter dated 04.11.2020 is to be kept in abeyance till the conclusion of action under Section 47 (A)(6) of Indian Stamp Act 1899. Investigation in this case is not yet completed.

11.The contention of the learned counsel for the petitioner is that market value of the year 2013 is a matter to be considered during the course of investigation. As of now, there are materials available to show that the accused in spite of having knowledge about the market value of the land in and around the area was Rs.500/- per sq.ft on upward revision had fixed the value as Rs.250/- per sq.ft for the layout in question and caused wrongful loss to the Government to the tune of Rs.59,58,457/-. Prima facie case is made out against the petitioner/accused for proceeding under Sections 13(1)(c), 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988. Therefore, this Court is of the considered view that the prayer of quashing the FIR in Cr.No.2/AC/2019/KM cannot be entertained.

12.Petitioner filed Crl.M.P.No.9980 of 2019 under Section 451 Cr.P.C. for return of cash of Rs.6,26,500/-. The trial Court has dismissed the petition. Challenging the said dismissal order, Crl.R.C.No.676 of 2021 is filed.

13.It is seen from the petition averments that the petitioner was not at home, when the search was conducted and cash worth Rs.6,26,500/- was seized. It is claimed by the petitioner that her close friend Sangeetha is working as Revenue Assistant in Kancheepuram District and her father Ganesan was affected with Cancer and admitted in Kamatchi Hospital, Velacherry, Chennai. To meet out the hospital expenses, the petitioner withdrew Rs.2,00,000/- from her salary account and Sangeetha withdrew Rs.1,50,000/- from her salary account. After paying the hospital expenses, Rs.2,20,345/- was kept in the flat. Sangeetha’s cousin sister P.Saranya's marriage was scheduled on 15.11.2019. To purchase the jewellery and Saree, Kavitha and her sister Sangeetha brought Rs.4,50,000/-. This amount was generated from the sale of paddy harvested from 13 acres of ancestral lands. Sangeetha's brother handed over Rs.1,00,000/- which was received by him through crop insurance. Out of Rs.6,26,500/-seized, Rs.86,500/- belongs to the petitioner and the balance of Rs.5,40,000/- belongs to Sangeetha's family. Therefore, the petitioner filed this petition.

14.The respondent opposed this petition alleging that the amount is the proceeds of the crime. Investigation, in this case, is pending.

15.Petitioner had also filed account statements, hospital bills, marriage invitation, crop insurance documents and statement of paddy mercant in support of her claim. However, these documents are subject to verification for its genuineness. It is for the respondent police to verify the claim of the petitioner. It is too early to decide as to whether the seized money is tainted money or it belongs to Sangeetha's family. One fact that was taken note by the trial Court for dismissal is that Sangeetha had not filed any petition for return of money.

Investigation in this case is not completed. Only after the completion of the investigation. It would be known that whether the money is tainted money or not. If the money is returned now, it would seriously affect the case of the prosecution.

16.Therefore, this Court is of the considered view that the petition for return of money filed by the petitioner in Crl.M.P.No.9980 of 2021 was rightly dismissed. In such circumstances, this Court dismisses both the Criminal Revision Case in Crl.R.C.No.676 of 2021 and Criminal Original Petition in Crl.O.P.No.20055 of 2021. The respondent police is directed to expedite the investigation and file final report at the earliest. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

1.State Rep.by
Inspector of Police
V&AC, Kanchipuram.

2.The learned Chief Judicial Magistrate
and Special Judge at Chengalpattu.

3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.676 of 2021 &
CRL.O.P.No.20055 of 2021
and
Crl.M.P.No.10908 of 2021

SK(CO)
GMY(25/03/2022)