



Crl.M.P.No.12774 of 2021
in Crl.O.P.No.13374 of 2021

Crl.M.P.No.12774 of 2021
in
Crl.O.P.No.13374 of 2021

Orders Reserved on: 06.12.2021
Orders Pronounced on: .03.2022

M.NIRMAL KUMAR, J.

The petitioner who is not a party in Crl.O.P.No.13374 of 2021 filed this criminal miscellaneous petition on the premise of being the General Secretary of Anti Corruption Movement, a registered Association, to recall the order passed by this Court in Crl.O.P.No.13374 of 2021 dated 30.07.2021.

2.The petitioner is an Association of like-minded persons with common intention to fight against corruption in public life to carry out the fundamental duties cast on the citizens under Article 51A of the Constitution of India. The object of the Association are as follows:

- i. To ensure corruption-free society so as to enhance the prosperity of the nation.



CrI.M.P.No.12774 of 2021
in CrI.O.P.No.13374 of 2021

- ii. To strive for social reform to ensure absolute integrity and cleanliness in public.
- iii. To work to ensure honesty, straight-forwardness and to eliminate corruption among the Government/Public Servants of various Departments/Organisations of the State.
- iv. To render all assistance required by common citizens in getting redressed for their grievances in Government Offices and other Organisations.
- v. To protect the interests of conscientious Government Officials from harassment by the persons of vested interests acting against the public interest.
- vi. To take appropriate corrective measures to inculcate a sense of responsibility, involvement and devotion to duty in the minds of the public and officials in implementing programs of the Government, economically and without wastage of public money.
- vii. The entire functioning of the organisation is purely non-political.
- viii. A code of conduct formulated by the central committee has to be followed in letter and spirit.



CrI.M.P.No.12774 of 2021
in CrI.O.P.No.13374 of 2021

WEB COPY

3.As per the Bye-laws of the Association, the objects are to be achieved by lawful means including filing of Public Interest Litigation. There are more than 500 members in all branches of the movement throughout the State, which includes retired Government servants at all levels. It is further averred that the Association approaches the people whose grievances are not redressed by the Government Officials expecting bribes. These persons are approached by the members of the Association, explained to them completely in a friendly manner, also make them realise that bribery is a heinous crime and will fetch them anything other than sins prohibited in every religion. In most of the cases, this peaceful method works very well and the officials realizing their mistakes even gone to the extent of returning back the bribe amount received. In cases of officials who ignore our advise and continue to receive bribe, the Association advises the aggrieved citizen to prefer a complaint to the Vigilance Department to trap the officials. The Association follows the path of Ahimsa and the actions are in accordance with law to eradicate corruption amongst the Government Officials.



Crl.M.P.No.12774 of 2021
in Crl.O.P.No.13374 of 2021

WEB COPY

4.The petitioner Association came to know that one of the criminal case filed against Mr.V.Senthil Balaji, the present Minister for Electricity [Former Minister for Transport] in C.C.No.25 of 2021 was quashed by this Court in Crl.O.P.No.13374 of 2021 on 30.07.2021. It is submitted that this order was obtained by committing fraud on this Court. Hence, this petition is necessitated and filed to recall the order dated 30.07.2021.

5.The learned counsel appearing for the petitioner relied on the following decisions:

- 1) ***P.S.R.Sadhanantham vs. Arunachalam and another***
reported in ***1980 3 SCC 141***
- 2) ***State of Punjab vs. Davinder Pal Singh Bhullar and others*** reported in ***(2011) 14 SCC 770***.
- 3) ***M/s.BMD Hotels & Resorts Pvt. Ltd. vs. P.Murali***
reported in ***(2019) 1 LW(Crl) 805***
- 4) ***P.Surendran vs. Inspector of Police*** reported in ***2019 SCC Online SC 507***



WEB COPY



CrI.M.P.No.12774 of 2021
in CrI.O.P.No.13374 of 2021

5) ***Jaspreet Singh Garewal vs. State of Uttar Pradesh and another*** reported in ***2019 SCC Online ALL 3579***

6.The citations referred to by the learned counsel for the petitioner are in the nature where the appeals were dismissed without hearing the appellant and for the principle that anyone can set the criminal law in motion by filing a complaint.

7.Now, this Court is to decide the maintainability of this present criminal miscellaneous petition. In this case, the petitioner is neither a complainant nor a victim, either participated during investigation or in any of the proceedings before. After the order was passed by this Court in CrI.O.P.No.13374 of 2021, now the present petition is filed to recall the order.

10.In the case of ***P.S.R.Sadhanantham vs. Arunachalam and another*** reported in ***1980 3 SCC 141***, the Apex Court decided the locus of



Crl.M.P.No.12774 of 2021
in Crl.O.P.No.13374 of 2021

filing an appeal under Article 136 of the Constitution of India. In the said case, the petitioner therein was the brother of the deceased, the Apex Court entertained the appeal finding that the petitioner possess the locus standi recognized in law.

11.Now, amendment is made in Section 2(wa) of Cr.P.C., wherein 'victim' was included and their right was recognized. Admittedly, in this case, the petitioner is neither a complainant nor a victim. Added to it, now one P.Dharmaraj filed an appeal before the Apex Court challenging the order passed by this Court in Crl.O.P.No.13374 of 2021 dated 30.07.2021, in SLP(Criminal)No.1354 of 2022, wherein the Apex Court on 11.02.2022 passed the following order:

“The Court is convened through Video Conferencing.

Heard learned senior counsel for the petitioner.

The application for permission to file the special leave petition is allowed.

Issue notice.”



WEB COPY



Crl.M.P.No.12774 of 2021
in Crl.O.P.No.13374 of 2021

12.In view of the fact that already appeal filed challenging the order passed by this Court in Crl.O.P.No.13374 of 2021 dated 30.07.2021, the question of entertaining a petition under Section 362 Cr.P.C. does not arise and hence, this criminal miscellaneous petition is not maintainable. Accordingly, this petition stands dismissed.

14.03.2022

cse



WEB COPY



CrI.M.P.No.12774 of 2021
in CrI.O.P.No.13374 of 2021

M.NIRMAL KUMAR, J.

cse

PRE-DELIVERY ORDER MADE IN

CrI.M.P.No.12774 of 2021
in CrI.O.P.No.13374 of 2021

14.03.2022