



Crl.O.P.(MD) No.3342 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.07.2022

Delivered on : 22.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

CRL.O.P.(MD).No.3342 of 2022  
and  
CRL.M.P(MD)No.2471 of 2022

K.Sriranganatha Durai

: Petitioner

Vs.

1.The Deputy Superintendent of Police,  
Vigilance and Anti-Corruption,  
Tirunelveli.

2.The Inspector of Police,  
Vigilance and Anti-Corruption,  
Tirunelveli.

Crime No.3 of 2020

: Respondents

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C, to call for the entire records pertaining to the case in Crime No.3 of 2020 pending on the file of the Inspector of Police, Vigilance and Anti-Corruption, Tirunelveli and quash the same as against the petitioner/ A1.



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For Petitioner : Mr.R.Anand

For Respondents : Mr. R. Meenakshi Sundaram,  
Additional Public Prosecutor.

### **ORDER**

This Criminal Original Petition has been filed, invoking Section 482 of Cr.P.C., seeking orders to call for the entire records pertaining to the case in Crime No. 3 of 2020 pending on the file of the Inspector of Police, Vigilance and Anti Corruption, Tirunelveli and quash the same as against the petitioner/first accused.

2. The petitioner is the first accused in Crime No.3 of 2020 on the file of the second respondent Police. The second respondent registered a case in Crime No.3 of 2020 against four persons including the petitioner for the offence under Sections 120(b), 34, 167, 109 IPC and under Sections 13(2) r/w 7, 13 (1)(d) (i) (ii) (iii) of Prevention of Corruption Act, 1988.

3. The case of the prosecution is that all the accused, who were the members of the Association/Interview Committee for the selection of

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Extension Officer Grade No.II and Junior Executive Officer posts in Tirunelveli Milk Producers Co-operative Union, have appointed three ineligible persons, after obtaining bribe of Rs.5 lakhs each from the said persons and refused to select the witness Murugesan for the post of Extension Officer Grade No.II, as he was not willing to pay the demanded bribe amount of Rs.5 lakhs.

4. Admittedly, the petitioner/first accused was working as an Assistant General Manager (Finance), Tirunelveli District Milk Producers Co-operative Union (AAVIN); that the second accused Tmt.Chitra Devi, was working as a Deputy Registrar, (Dairying), Virudhunagar; that the third accused Tmt.Mythili, was working as Assistant General Manager, Veterinary (Organizer), O/o. The Managing Director, Tamil Nadu Milk Producer Federation Ltd, Madhavaram, Chennai and the fourth accused Dr. Dhanabalan, was working as a Special Grade Manager (Veterinary) Aavin, Tirunelveli.

5. It is not in dispute that as per the letter in RC.No.10749/15/N1, dated 13.11.2015 of Commissioner for Milk Production and Diary Development,



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Chennai and proceedings in RC.No.4773/2013/N1, dated 23.12.2014 of Commissioner for Milk Production and Diary Development, Chennai, the accused 1 to 4 have been appointed as members of Selection committee for the selection of Extension Officer Grade-II and Junior Executive Officer in Tirunelveli Milk Producers Co-operative Union.

6. It is not in dispute that only on the complaint given by the witness Murugesan, who had also applied for the post of Extension Officer Grade-II, but was not selected, preliminary enquiry was conducted and on the basis of which, the present FIR came to be registered. It is also not in dispute that apart from other qualifications, one other important eligibility stipulated was that the candidates should produce the resolution certificate cum experience certificate issued by the Board of MPCS concerned.

7. It is the case of the prosecution that the said Murugesan had produced the resolution certificate on 05.10.2017, a day prior to the oral test after resolution passed by MPCS on 04.10.2017, wherein the said witness is working; that the said Murugesan was called for the oral interview held on 06.10.2017 in continuation of the qualification in written examination, but he



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was not selected on the ground that he did not produce the resolution cum experience certificate issued by MPCS concerned and as such, he was not eligible.

8. It is their further case that the witness Murugesan came to understand that the reason for his non-selection was that he did not pay the demanded bribe amount of Rs.5 lakhs made by the first accused on 05.10.2017 at his Office; that four candidates namely, Thiru.G.Govindaraj, Tmt.Ziporakalarani, Thiru. Immanuvel Devasahayam and Thiru.Ponvixon, did not produce the resolution cum experience certificate, but they were selected; that the services of G.Govindaraj was suspended for 11 years; that Tmt.Ziporakalarani was held responsible for not sending milk to Aavin during the period of service as Secretary; that there existed variation in the name as Immanuel instead of Immanuel Deva sahayam as in educational qualification certificate and that recovery proceedings are pending against Thiru.Ponvixon and that the candidates who complied with the demand of Rs.5 lakhs have been selected and the witness Murugesan, who did not heed for the demand of Rs.5 lakhs, was not selected.



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9. The second respondent has conducted preliminary enquiry, which reveals that the accused 1 to 4 have entered into criminal conspiracy between the period 21.08.2017 and 06.10.2017 with each other with common intention of demanding and receiving illegal gratification other than the legal remuneration with intention to perform or cause performance of public duty dishonestly and by framing incorrect records by rejecting eligible candidates as ineligible and by selecting ineligible candidates as eligible by consciously aiding and abetting mutually with each other and selected ineligible candidates who complied with the demand of Rs.5 lakhs as on the circumstances existed on the date of interview by abusing the official position as public servants and rejected the eligible candidate Thiru.Murugesan, who failed to comply the demand of Rs.5 lakhs to the accused and that thereby, *prima facie*, the accused appears to have committed the offence punishable under Sections 120(b), 34, 167, 109 IPC and under Sections 13(2) r/w 7, 13 (1)(d) (i) (ii) (iii) of Prevention of Corruption Act, 1988 and on that basis, the above case was registered.

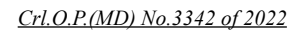
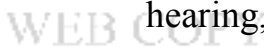
10. The learned counsel for the petitioner would submit that there is absolutely no materials whatsoever to sustain the allegation of the said



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witness Murugesan with regard to the demand of Rs.5 lakhs from him and acceptance of the money from the candidates, who are being given with appointments and that since the said allegation is not supported by any material, the first respondent should not have proceeded based on it by believing the same as gospel truth. He would further submit that the said Murugesan has not furnished the experience certificate from the Milk Producer Co-operative Society where he had been in service within the time stipulated and that therefore, the Assessment Committee in its report, has put an endorsement to the said effect on that day itself and that therefore, the question of demanding bribe would not have been arisen.

11. The learned counsel for the petitioner would further submit that the said witness Murugesan has not been considered suitable for the post being appointed as Extension Officer Grade-II and in view of the reason that other participants in the selection process had been considered, aggrieved by his non-selection and to wreck vengeance, he has lodged a false complaint with sole intention to harass the petitioner and other officials, who were in the selection committee. He would also submit that the petitioner along with one other person has filed a Writ Petition in W.P.No.(MD)No.2073 of 2018,



12. No doubt, as rightly pointed out by the learned counsel for the petitioner, the petitioner and one Semaraj have filed a Writ Petition in W.P. (MD)No.2073 of 2018, seeking writ of certiorarified mandamus or any other direction to call for the records on the files of the Assessment Committee pertaining to its report, dated 06.10.2017 and consequential order of appointment issued by the Tirunelveli District Co-operative Milk Producers Union Limited, dated 06.10.2017 appointing the respondents 3 to 10 therein and to quash the same and consequently, directing the respondents therein to make appointment in a transparent manner in accordance with rules within a time frame that may be stipulated by this Court.



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13. When the Writ Petition was taken up for hearing, the learned counsel for the petitioners therein, does not pursue their Writ Petition as the certificate from the Tirunelveli District Co-operative Milk Producers Union Limited has been furnished to the employer, admittedly a day late; that since an e-mail to the said effect has also been received from the learned counsel for the petitioners therein, the writ petition was ordered to be dismissed as withdrawn, granting liberty to the petitioners therein to make suitable representation for the post of Extension Officer Grade-II as and when there is a vacancy available for the said post.

14. No doubt, as rightly contended by the learned counsel for the petitioner, the witness Murugesan in the affidavit filed in support of the Writ Petition has nowhere whispered about the alleged demand of bribe of Rs.5 lakhs and also the acceptance of bribe amount from the other selected candidates. But as rightly contended by the learned Additional Public Prosecutor, the said Murugesan along with another have challenged the appointment made, raising some allegations against the selection committee and sought for quashing the said appointments and to make appointments

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afresh in a transparent manner in accordance with the rules and that at the enquiry as per the advice given to him, he sought permission of the Court to withdraw the Writ Petition and accordingly, the petition was ordered to be dismissed as withdrawn.

15. As rightly contended by the learned Additional Public Prosecutor, just because the witness Murugesan has not raised the present complaint of demanding bribe from him and the alleged acceptance of bribe from the other candidates by the selection committee, it cannot be said that the said Murugesan is not entitled to canvass that aspect nowhere subsequently. Moreover, as rightly pointed out by the learned Additional Public Prosecutor, the second respondent has not registered the case only on the basis of the complaint lodged by the witness Murugesan, but on the other hand, after conducting proper preliminary enquiry and after satisfying with the existence of a *prima facie* case, the above case came to be registered.

16. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in **State of Haryana Vs. Bajan Lal** reported in **1992 Suppl. (1) SCC 335**, wherein, the Hon'ble Apex Court has enumerated 7 categories



of cases, where the power can be exercised under Section 482 of Cr.P.C and the same are 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 F.I.R. 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;*



*(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;*

*(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;*

*(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;*

*(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;*

*(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*



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17. It is also necessary to refer the decision of the Hon'ble Supreme Court reported in **2016(1) SCC 348** :

**“International Advanced Research Centre for Powder Metallurgy and New Materials (ARCI) and others Vs. Nimra Cerglass Technics Private Limited and another.**

*“13.The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the Court is, as to whether uncontroverted allegations as made in the complaint establish the offence. The High Court being superior Court of the State should refrain from analysing the materials which are yet to be adduced and seen in their true perspective. The inherent jurisdiction of the High Court under Section 482 Cr.P.C should not be exercised to stifle a legitimate prosecution. The power under Section 482 Cr.P.C is to be used sparingly only in rare cases. In a catena of cases, this Court reiterated that the powers of quashing criminal proceedings should be exercised very sparingly and quashing a complaint in criminal proceedings would depend upon the facts and circumstances of each case.”*

18. The Hon'ble Supreme Court in **M/s.Niharika Infrastructure Vs. State of Maharastra and others** reported in 2021 SCC Online 315, has



given various guidelines and various stipulations, which the High Courts are to examine before exercising the power under Section 482 of Cr.P.C to quash a FIR.

“23.....

i) Police has the statutory right and duty under the relevant provisions *of the Code* of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the ‘rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;



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vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

viii) *Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;*

ix) *The functions of the judiciary and the police are complementary, not overlapping;*

x) *Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;*

xi) *Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;*

xii) *The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate*



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*report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;*

*xiii) The power under [Section 482 Cr.P.C.](#) is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;*

*xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of *R.P. Kapur (supra)* and *Bhajan Lal (supra)*, has the jurisdiction to quash the FIR/complaint;"*

19. It is settled law that the High Court is having power and jurisdiction to quash the proceedings, if it comes to the conclusion that allowing the proceedings to continue, would be abuse of process of the Court or that the ends of justice required that the proceedings are to be quashed and that this Court while exercising the power under Section 482 Cr.P.C does not function as a Court of Appeal or Revisional Court.

20. It is pertinent to note that though the inherent jurisdiction under the said Section is very wide, it has to be exercised sparingly, carefully and with



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caution and that the same is to be exercised ex debito justitiae to do real and substantial justice for the administration of which alone, Courts exist. Moreover, the inherent power should not be exercised to stifle a legitimate prosecution.

21. Now coming to the case on hand, the first respondent has filed a counter affidavit disputing the petitioner's averments wherein, they have referred to the statement of witness. In the counter, it has been stated that the Committee has verified the certificates, experience proof etc., of all candidates, who were present for certificate verification on 21.08.2017 and submitted its recommendation of the eligible candidates, who submitted the required certificate, that in order to produce the required certificates, the candidates who have not produced the same on 21.08.2017 were given another date i.e., on 27.09.2017; that the committee mentioned that the witness Murugesan did not produce the resolution of the present board permitting him for this appointment and also the certificate of experience, even after providing two opportunities; that the statement of witness Murugesan supported by statement of witness Ramachandran discloses that they have produced the copy of resolution cum experience certificate on



05.10.2017 itself and that the said factum has not been explained by the petitioner/accused and that the same is to be subjected to investigation to find out the truth.

22. It has been further stated that the Murugesan has given a statement that four candidates namely, Thiru.G.Govindaran, Tmt.Ziporakalarani, Thiru. Immanuvel Devasahayam and Thiru.Ponvixon, were appointed as Extension Officer Grade-II, even though they did not produce the experience certificates and were not eligible for the post and that the above said candidates academic career were not good.

23. The learned Additional Public Prosecutor would submit that as far as the Vigilance cases are concerned, the procedure followed during the investigation culminate in submitting final report such as (i) recommending for action before the competent Court of law or (ii) before the Tribunal proceedings or (iii) Departmental proceedings according to the nature and circumstances of the case; that the decision would be arrived by the Investigation Officer only after the completion of the investigation and that as such the quash application is premature.



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24. As rightly contended by the learned Additional Public Prosecutor, after preliminary enquiry, FIR came to be registered and only after completing the investigation, the respondents will be in a position to say about the genuineness of the allegations levelled by the witness Murugesan. As rightly contended by the learned Additional Public Prosecutor, just because the Murugesan has not produced any material to show the demand of bribe from him and the alleged acceptance of bribe amount from the other candidates, the same, by no stretch of imagination, can be considered as a ground to quash the FIR itself at this stage and is a matter for investigation.

25. As already pointed out by the learned Additional Public Prosecutor, the Investigation Officer after satisfying with the existence of *prima facie* from the preliminary enquiry, has chosen to register the FIR and that since the investigation is pending, the present stage is of premature to lable the prosecution as false or vexatious.

26. Moreover, this Court in exercise of its jurisdiction under Section 482 of Cr.P.C cannot go into the truth or otherwise of the allegation made in



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the complaint or delve into the disputed question of facts. At this juncture, it will be opt to quote the words of Hon'ble Supreme Court in **Asian Resurfacing of Road Agency Private Limited and another Vs. Central Bureau of Investigation reported in (2018) 1 6 Supreme Court Cases 299:**

*“ The cancer of corruption has, as we all know, eaten into the vital organs of the State. Cancer is a dreaded disease which, if not nipped in the bud in time, caused death. ”*

27. As already pointed out, serious allegations are levelled against the petitioner and other accused. Hence, this Court cannot embark upon the enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR and as such, the proceedings now initiated cannot be scuttled at the initial stage itself. Since the quashing of a complaint or FIR, should only be an exception rather than an ordinary rule, this Court is of the clear view that the present case is not a fit case for quashing the FIR. Consequently, this Court concludes that the above Criminal Original Petition is devoid of merits and the same is liable to be dismissed.



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28. In the result, the Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

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Internet : Yes/No

Index : Yes/No

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To

1.The Deputy Superintendent of Police,  
Vigilance and Anti-Corruption,  
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2.The Inspector of Police,  
Vigilance and Anti-Corruption,  
Tirunelveli.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

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