



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.20871 of 2021

and

Crl.RC(MD)No.877 of 2021

WEB COPY

(1).Crl.OP(MD)No.20871 of 2021:-

Jasmine Latha : Petitioner/Respondent

Vs.

1.The State rep. By
The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil.
(Crime No.11 of 2012) : R1/Complainant

2.Mr.D.Robin Gunasingh
The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil,
Kanyakumari District. : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under section 482 Cr.P.C., to call for the records relating to the case in Spl.SC No.3 of 2015 pending on the file of the Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District @ Nagercoil and quash the same as against the petitioner.

For Petitioner : Mr.R.Anand

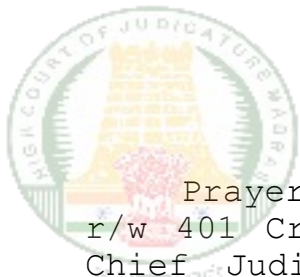
For Respondents : Mr.R.Meenakshi Sundaram
Addl. Public Prosecutor

(2).Crl.RC(MD)No.877 of 2021:-

Jasmine Latha : Petitioner/Respondent/Accused

Vs.

2.the State rep. by
The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil,Kanyakumari District.: Respondent/Respondent/
(Crime No.11 of 2012) Complainant



Prayer: Criminal Revision Petition is filed under section 397 r/w 401 Cr.P.C against the order passed by the Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District @ Nagercoil, in Crl.M.P.No.4432 of 2021 in Spl.S.C No.3 of 2015, vide order, dated 26/10/2021 by dismissing the petition filed by the petitioner under section 319 Cr.P.C for adding the additional accused persons.

For Petitioner : Mr.R.Anand

For Respondent : Mr.R.Meenakshi Sundaram
Addl. Public Prosecutor

COMMON ORDER

The criminal original petition is filed seeking quashment of the case in Spl.SC No.3 of 2015 pending on the file of the Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District @ Nagercoil, whereas the criminal revision has been filed against the order passed by the Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District @ Nagercoil, in Crl.M.P.No.4432 of 2021 in Spl.S.C No.3 of 2015, dated 26/10/2021.

2.The petitioner, in both the criminal original petition and the revision petition is the sole accused, who is facing the charges for the offences under sections 409, 420, 465, 468, 471 and 471(A) IPC and section 13(2) r/w 13(1)(c) of the Prevention of Corruption Act, 1988.

3.The case of the prosecution is that the Government of India introduced a scheme called 'Agricultural Technology Management Agency (ATMA)', which is otherwise popularly known as 'Modern Technology Scheme' in order to educate the farmers on the modern technology and imparting upon them to engage in the modern farming technology. The Agricultural Officer was put on to make the scheme successful; This petitioner was working as 'Agricultural Officer' during the relevant time in Kanyakumari District. In the above said scheme, the Agriculture Officers were entrusted with fund for the successful completion of the scheme. The scheme has to be carried on under the head of the District Collectors. In the above said scheme, Rs.2,41,000/- was allocated and this petitioner was put on the above said task, as noted above. This petitioner alleged to have created forged documents, as if the entire amount has been utilised for the purpose of implementing the above said scheme. On that ground, the case has been registered under sections 409, 420, 465, 468, 471 and 471(A) IPC and section 13(2) r/w 13(1)(c) of the Prevention of Corruption Act, 1988 and final report has also been filed before the concerned court. This is the case in brief.



4.The petitioner already moved a discharge application before the Special Court in Crl.M.P.No.4432 of 2021. Before this court, at that time of hearing, the learned counsel appearing for the petitioner has restricted his prayer and relief, that a direction may be issued to the Special Court to expedite the trial process within a stipulated time. So on that ground, without going into the merits of the case, this court has passed the above said order directing the Special Court to complete the trial process within a period of 6 months from the date of receipt of the order copy. It has also been specifically ordered that if the petitioner adopts any dilatory tactics, stringent steps must be taken to secure the presence of the petitioner. After the above said direction, the trial has commenced and three witnesses have been examined on the side of the prosecution and those persons were also cross examined. At that time, this petitioner moved Crl.MP No.4432 of 2021 before the trial court for adding two other officials as co-accused. In the petition, it has been stated that one Retired Joint Director of Agriculture, Nagamani Pillai and K.P.Sree Kumar, retired Deputy Director for Agriculture as additional accused. The above said Nagamani Pillai was examined as PW5. The trial court, after going through the evidence of PW1, PW4 and PW5 and on perusal of the records, came to the conclusion that the petitioner lacks *locus standi* to maintain the petition. Apart from that, it has been held that even on merits, those persons cannot be summoned or included as co-accused. By observing so, it was dismissed, on 26/10/2001. Against which, the present criminal revision has been filed. Simultaneously on the very same facts, she has also filed criminal original petition, which are jointly heard and disposed of today.

5.Heard both sides.

6.Even at the out set, without going into the other aspects, this court is of the considered view that the petition has been filed by the petitioner in criminal original petition seeking quashment is a clear abuse of process of the court. As mentioned earlier, he has exhausted the remedy by filing revision before this court and thought it fit to restrict his prayer for direction. After availing that opportunity and choice, now she says that she is entitled for quashment of the entire prosecution, on the basis of the evidence that has been recorded by the trial court so far. This court is not in a position to understand the stand of the petitioner.

7.When this matter was argued, this court has also made a question to the learned counsel appearing for the petitioner as to how the court can be taken for a ride. For that the learned counsel appearing for the petitioner on record would submit that since during the course of evidence, no material has been placed on record, for further prosecution the petitioner is entitled for the



8.Absolutely, I find no such circumstances here to quash the proceedings against the petitioner. The trial is in the mid way. If the petitioner wants to blame the higher authorities for the entire episode, it is also for the trial court to make all those observations at the time of judgment. The petitioner failed to utilise the opportunity of cross examination and he cannot pick and canvass the point from the cross examination and argue that he is entitled for quashment. Such an attempt is not permissible under law. Even though the *locus standi* of the petitioner has been negated by the trial court, the learned counsel for the petitioner would rely upon the judgment in the case of **Lok Ram Vs. Nihal Singh and another [(2006)10 SCC 192]**, wherein it has been observed by the Hon'ble Supreme Court that the petition under section 319 Cr.P.C by the accused is maintainable. Even though the stand of the trial court on this aspect may not be correct, in the light of the Hon'ble Supreme Court. But the fact remains that the trial court has also considered the merit of this petition.

9.The learned counsel appearing for the petitioner would insist that absolutely the scheme was carried out and the funds were utilised at the instance and advise, direction and cooperation of the above said two higher officials. So absolutely, there was no scope for him to act independently; The vouchers have been supervised, signed only by the competent authority.

10.The learned Additional Public Prosecutor would submit that disciplinary proceedings has been initiated against those officials for dereliction of duty. According to him, proper action has been initiated against them. But during the course of investigation, the involvement with regard to misappropriation, forgery of documents and manipulation were not found out. So they were left off. I am of the considered view that it is a matter for consideration by the trial court at the time of judgment. So, I am not expressing any opinion that has been alleged against the accused persons. Even after scrutiny of the records, the trial court can exercise power under section 319 Cr.P.C at any point of time. So, absolutely I find no merit in these two petitions. Accordingly, both the petitions are liable to be dismissed.

11.In the result, these petitions are **dismissed**.

Sd/-

Assistant Registrar

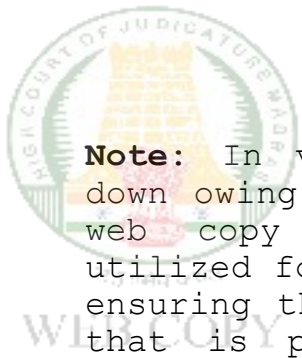
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

- 1.The Special Judge-cum-Chief Judicial Magistrate,
Kanyakumari District.
- 2.The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.20871 of 2021
and
Crl.RC (MD) No.877 of 2021
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SP (CO)
TR(13.06.2022) 5P 4C