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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 15/11/2022

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.1072 of 2022
and
Cr1.MP(MD)No.13665 of 2022

Thiru.Rajbharath : Petitioner/Appellant/
De-facto Complainant-cum-
LW3/De-facto complainant

Vs.

1.Dhanalakshmi

2.Muthaiah

: R1 and R2/R1 and R2/A1 & A2

3.The State through

The Inspector of Police,

Vigilance and Anti-Corruption,

Sivagangai.

: R3/R3/Complainant

Prayer:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records relating to the order, dated 18/08/2022 passed by the Special Court for Trial of cases under the Prevention of Corruption Act, Sivagangai, in Cr1.MP No.117 of 2022 in Special CC No.3 of 2021, in Crime No.2 of 2016 on the file of the third respondent and to set aside the same.

For Petitioner : Mr.R.Udhayakumar

For R1 and R2 : No appearance

For 3rd Respondent : Mr.S.Ravi
Additional Public Prosecutor

**ORDER**

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This Criminal Revision has been filed against the order, dated 18/08/2022 passed by the Special Court for Trial of cases under the Prevention of Corruption Act, Sivagangai, in CrI.MP No.117 of 2022 in Special CC No.3 of 2021, in Crime No.2 of 2016 on the file of the third respondent.

2.The facts in brief:-

The 2nd accused lodged a complaint before the Vigilance and Anti-Corruption officials in respect of certain irregularities committed during the period 2011 and 2014 in Thiruppachethi Village Panchayat. Since there was no action on his complaint, he filed CrI.OP(MD)No. 12594 of 2016 seeking for direction. Earlier, the revision petitioner, who is the son of A2, lodged a complaint, on 06/11/2015. Later, he filed CrI.OP(MD)No. 9226 of 2018 and on 27/06/2018, on the basis of the direction given by this court in the above said case, final report was filed. In pursuance of the above said order it was stated that A1 and A2 have misappropriated Rs.80,409/-. But actually misappropriation as mentioned



in the FIR is Rs.3,69,734/-. In the complaint, about 20 irregularities were mentioned. But the investigation was not properly undertaken and made the investigation only with regard to one irregularity relating to the collection of rent in the daily market and other 19 irregularities were not properly investigated. A1 engaged her close associate to collect the rent from the shops. A2 was not permitted to collect any rent. As stated above, investigation has been undertaken only in respect of the irregularity, that has been taken place during the financial year 2021-2012. Similarly, the other persons were also involved in the above said irregularities, which were not brought to book. So with the above said, he filed a petition under section 173(8) Cr.P.C seeking further investigation.

3.That was resisted by A1 as well as the 3rd respondent namely the Vigilance Anti Corruption Department.

4.After considering all these aspects, the trial court thought it fit, to dismiss the petition on the ground that this petitioner has no *locus standi* to seek a



direction. It is also further found that the Investigating Officer has not explained as to why the remaining items mentioned in the FIR were not investigated. But since because only this petitioner filed Crl.OP(MD)No.9226 of 2018 for a direction to complete the investigation and there is no mention to the effect that the Investigating Officer has not taken the investigation with regard to the above said 19 irregularities, that were mentioned in the FIR. On these two grounds, the above said petition came to be dismissed.

5.Now challenging the above said order, this criminal revision has been filed on the ground that only on the basis of the complaint given by the revision petitioner action was taken and the investigation was undertaken. So the investigation ought to have been undertaken in respect of the irregularities committed during the relevant time by A1. According to him, as a citizen, he is every right to initiate criminal prosecution. According to the revision petitioner, the petition at his instance is very well maintainable.



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6.Per contra, the learned Additional Public Prosecutor appearing for the 3rd respondent would submit that this revision petitioner wants to support A2 and the allegation against A2 is that in spite of the specific direction to produce the relevant documents, he did not produce the same. So this will amount to misappropriation of the funds in which A2 is also involved. and this attempt on the part of the revision revision is to save A2 from the criminal proceedings and dragging the matter endlessly. He has also submitted that in respect of 19 irregularities mentioned by the revision petitioner, departmental action was ordered to be initiated, finding that no criminality is involved in the above said issue. But further details are not available.

7.If during the course of trial process, if the court finds that further investigation is required, then the trial court is well within its power to order further investigation and the revision petitioner cannot expect that investigation was not undertaken in a proper manner. If he is really aggrieved by the non-action on the part of the Investigating Officer in respect of the other irregularities, he can very well maintain a fresh complaint.



8. For all the reasons stated above, I find no merit in this revision and accordingly, this criminal revision fails and the same is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

15/11/2022

Index: Yes/No
Internet: Yes/No
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To,

1. The State through
The Inspector of Police,
Vigilance and Anti-Corruption,
Sivagangai.
2. The Special Court for Trial
of cases under the Prevention
of Corruption Act,
Sivagangai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J

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