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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.18260 of 2019

and

Crl.MP(MD)No.10753 of 2019

M.Selvi

... Petitioner/A5

Vs.

State rep. By
Inspector of Police,
District Crime Branch,
Virudhunagar.
(Crime No.13 of 2018)

: Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the impugned final report in CC No.224 of 2019 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same in so far as the petitioner is concerned.

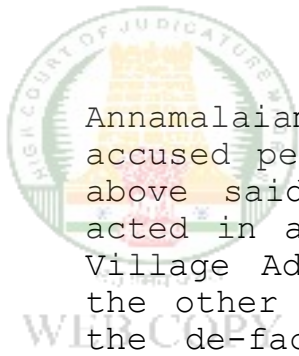
For Petitioner	: Mr.C.Jeganathan
For Respondent	: Mr.B.Nambi Selvam
	Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the case in CC No.224 of 2019 on the file of the Judicial Magistrate No.II, Virudhunagar as against this petitioner.

2.The case of the prosecution in brief:-

The first accused namely Chitra and the 2nd accused namely Jansirani and the 3rd accused namely Marikani are the relatives of the de-facto complainant. In 1980, the first and second accused along with one Annamalaiammal and the de-facto complainant were holding a joint property. During the course of acquisition proceedings by the Government, the same was taken over and the compensation amount was granted in favour of the land-holders. So over the above said quantum of compensation, the de-facto complainant, A1, A2 and Annamalaiammal preferred writ petition in W.P(MD)No.14362 of 2011 before this court. This court has enhanced the compensation to Rs.7,28,657/-. The 1st and 2nd accused approached the Aruppukottai Revenue Divisional Officer for receiving the compensation amount. A misrepresentation was made before the Revenue Divisional Officer that the cheque was already issued in favour of



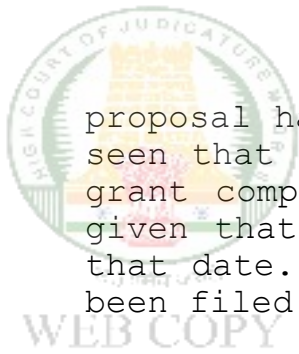
Annamalaiammal with a direction to the de-facto complainant and the accused persons to share the compensation amount. So believing the above said misrepresentation, the Revenue Divisional Officer has acted in a negligent and malicious manner. The 4th accused was the Village Administrative Officer. He also maliciously colluded with the other accused persons. On the basis of the complaint given by the de-facto complainant, the case was registered against five persons and this petitioner has arrayed as 5th accused.

3.The allegation, as stated above, against this petitioner is that without proper identification, by colluding with the other accused, he delivered the compensation amount to Al-Chitra. After completing the investigation, final report has been filed alleging that this petitioner also colluded with the other accused in issuing the compensation amount.

4.Seeking quashment of the same, this petition came to be filed by this petitioner mainly on the ground that this petitioner is only acted in the official capacity and no sanction under section 197 Cr.P.C has been obtained before initiation of the criminal proceedings.

5.Heard both sides and perused the materials available on record.

6.Straightaway, we will go to the statements, which were given by the sharers of the above said property before the Revenue Divisional Officer, who is the petitioner herein. In the proceedings in A2/SR.9, it has been mentioned that the property in Survey No.50/8 originally belonged to Annamalaiammal and three persons. Annamalaiammal stated to be expired on 08/01/2012. So the remaining land-holders are Chitra, Jansirani and Marikani. In that, the above said Chitra and Jansirani appeared before the Enquiry Officer namely the Revenue Divisional Officer and the de-facto complainant did not appear. It has also been submitted that the husband of Annamalaiammal also expired and no legal heirs were available. The death certificate of Annamalaiammal and the legal heirs are also produced. Since the de-facto complainant did not appear before the Enquiry Officer, advise has been sought by the PA to the Revenue Divisional Officer. An advise has been given stating the total amount of Rs.8,12,328/- by deducting income tax of Rs.83,670/-. The order was issued in the name of Al-Chitra, wife of Sundarapandian. So on the basis of the above said advise, draft proposals were placed before the sanctioning authority. A writ petition in WP(MD) No.14362 of 2011 has been filed by some of the accused persons, who were joint-holders in Survey No.50/8B. During the course of the above said proceedings, it came to light that the first accused, by giving false information, has received the entire amount. So enquiry was undertaken, on the basis of the complaint given by the de-facto complainant namely Sundaralakshmy. So for the purpose of enquiry, Al-Chitra and Jansirani are to be produced before the Enquiry Officer. Again draft



proposal has been prepared. When we go to the draft proposal, it is seen that in WP(MD)No.14362 of 2011, a direction has been issued to grant compensation amount upto 29/06/2017 and a direction was also given that the compliance report must be submitted on or before to that date. A contempt petition in Cont.P(MD)N.770 of 2016 has also been filed.

7.In the facts and circumstances of the case only, as mentioned above, advise has been sought from PA to Revenue Divisional Officer. Based upon the oral advise by the PA to RDO, the amount was issued in the name of A1 namely Chitra. Thereafter, the de-facto complainant appeared before the Revenue Divisional Officer and claimed that she is also entitled for share amount. So recommendation has been made to file a case against A1 and recover the same, for the purpose of giving share to the de-facto complainant. This is the factual aspect. So reading of all these things, the petitioner did not act in collusion with the co-accused and granted the amount to A1. Under the compelling situation and under the fear of the contempt proceedings, such an oral instruction has been given by the PA to the Revenue Divisional Officer and the amount has been granted in favour of A1.

8.Even though this is the factual aspect, within the official proceedings, this cannot be disputed by the de-facto complainant. So the official, who dealing with the administrative file cannot be fastened the criminal liability. It is also seen that other accused namely A2 and A3 also appeared before the Enquiry officer and given statements. When such being the position, absolutely, no material is available or collected during the course of investigation to show that the petitioner has acted in collusion with the co-accused. Even it is taken that the case of the prosecution on the face value, it appears that the petitioner acted only in the official capacity and has taken all the pre-cautions before issuing the compensation amount to A1. Being the higher official, the sanction is very much required in the factual situation. For that purpose, the petitioner would rely upon the judgments in the case of Amal Kumar Jha Vs. State of Chhattisgarh and another (2016)6 SCC 734; P.Raja Vs. P.Harikrishnan (2018-1-L.W.)Crl.)174; and P.Kali Kathiravan Vs.Ramaiah [2018(5)CTC 420].

9.In the light of the above said judgments, as mentioned earlier, the petitioner has acted only in the official capacity and absolutely, there is no material on record to show that he supported the claim of the co-accused maliciously. So even in the basis of the sanction under 197 Cr.P.C, the prosecution is bad in law. If at all the petitioner can be proceeded only departmentally and no criminality can be attached to his action. So, the present complaint given against the petitioner is liable to be quashed.

10.In the result, this criminal original petition stands ~~allowed~~ **dismissed**. The proceedings in CC No.224 of 2019 on the file of the



Judicial Magistrate No.II, Virudhunagar is hereby quashed in respect of the petitioner is concerned. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(AD I)

/ /2022
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 Judicial Magistrate No.II,
Virudhunagar.
- 2 The Inspector of Police,
District Crime Branch,
Virudhunagar.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-9383[F] dated 01/03/2022)

Crl.O.P. (MD)No.18260 of 2019
28/02/2022

MK/21.04.2022/4P/5C