



Crl.O.P.No.5141 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5141 of 2023

and

Crl.M.P.No.3245 of 2023

Dr.Enbasekaran Mathur Raman

... Petitioner

Vs

Deputy Superintendent of Police,
Detachment, Vigilance and Anti-Corruption,
Alandur, Chennai - 600 016.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records of Crime No.10 of 2022 on the file of the Chennai City-1 Detachment, Vigilance and Anti-Corruption, Chennai - 600 016 and quash the same.

For Petitioner : Mr.Naveen Kumar Murthi

For Respondent : Mr.N.S.Suganthan
Government Advocate
(Criminal Side)

ORDER

This Criminal Original Petition has been filed to call for the records in Crime No.10 of 2022 on the file of the Chennai City-1 Detachment, Vigilance and Anti-Corruption, Chennai - 600 016 and quash the same.



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2. Facts that are necessary for deciding this petition, in brief, as derived from the prosecution case and other materials are as under:-

i) The petitioner is a Surgeon by profession and he had retired as Director of Medical and Rural Health Services (DMS) upon attaining superannuation on 30.6.2018 after rendering his service in Government for about three decades.

ii) On a petition from one Tr.S.N.Lakshmipathi, a preliminary enquiry in PE 164/2018/MED/HQ was conducted, which gave rise to initiation of the present complaint against the following persons:-

a) The present petitioner (A1), who served as Director of Medical and Rural Health Services (DMS) from 17.4.2017 to 30.6.2018;

b) Dr.Tr.John Andrew (A2), who served as Regional Administrative Medical Officer, ESI, Madurai Region from 4.6.2015 to 31.1.2018;

c) Tr.Amarnath (A3), who served as Superintendent, O/o. the Director of Medical and Rural Health Services (ESI), Chennai during the year 2017; and

d) Tr.Ashok Kumar (A4), who served as Superintendent, O/o.the Regional Administrative Medical Officer, ESI, Madurai Region, Madurai during the year 2017.

iii) The allegation levelled against the present petitioner and other accused is that they had entered into a conspiracy and forged the



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medical indent prepared by Tmt.Kalyani, Medical Store Officer, Central Medical Store, ESI Scheme, Madurai for the year 2017-2018 enhancing the amount from Rs.13,12,52,093/- to Rs.37,71,61,535/- and once again to Rs.40,29,30,190/-.

iv) The medical indent was forged and enhanced by the accused in violation of the guidelines issued in G.O.Ms.No.547 Health and Family Welfare Department dated 4.11.1996 abusing their official position when there was no infrastructure or facilities to preserve such a huge quantity of medicines.

v) When the Medical Store Officer Tmt.Kalyani had refused to sign the enhanced and forged indent, she was immediately transferred to ESI Hospital, Thattaneri, Madurai and departmental proceedings were initiated against her.

vi) The said Medical Store Officer was successful in getting the transfer order quashed by filing writ petition in W.P.(MD) Nos.2609 and 2806 of 2018 and the charge memo stayed by filing writ petition in W.P.(MD) No.3619 and 3489 of 2018.

vii) The excess drug so procured by forging the indent had expired and lost its potency and thereby the accused had caused a loss to the Government to the tune of Rs.27,16,78,097/-.

viii) Procurement of medicine in excess of requirement is also evident from the findings given in the Audit Report issued by Audit Officer



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of the Principal Accountant General, Madurai in respect of inspection conducted in the office of Regional Administrative Medical Officer, Madurai from 22.1.2018 to 6.2.2018.

ix) The above aspects revealed the conspiracy among the accused and forging of medical indent by enhancing the amount therein by misusing their official power and thereby obtaining pecuniary advantage by cheating the Government which constitute the commission of offences punishable under Sections 120(B), 420, 167, 409 IPC and Section 13(2) read with Section 13(1)(c) of Prevention of Corruption Act, 1988 and thus the complaint came to be lodged.

x) Seeking to quash the said complaint, the present petition has been filed.

3. The submissions the learned counsel Mr.Naveen Kumar Murthi appearing for the petitioner are as under:-

i) The petitioner is a well qualified Doctor by profession and he has rendered his unblemished service as a Surgeon for the past four decades and retired from Government Service as the Director of Medical and Rural Health Services, Chennai, upon attaining the age of superannuation on 30.06.2018 A.N.

ii) After four years of his retirement, the respondent Police has registered the case on 14.11.2022 in Crime No.10 of 2022 and the petitioner was put to utter shock and surprise, when the officials of the



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respondent Department came to the residence of the petitioner at Namakkal on 15.11.2022 and producing a search warrant, they conducted a search at the petitioner's residence/house.

iii) The FIR is said to have been filed after conducting a preliminary enquiry into the matter, whereas, the petitioner was not at all put on notice about any such preliminary enquiry.

iv) The medicines procured are long shelf life medicines having expiry period of at least 24 months and hence, there cannot be any allegation of procuring them in excess.

v) None of the higher level officials were enquired in the matter and thus, the so-called enquiry must be a concocted one to scape-goat the petitioner.

vi) The petitioner has no connection with the offence alleged against him. He was not the deciding authority insofar as placing orders for procuring medicine and he was acting under the High Level Purchase Committee, headed by Managing Director, Tamil Nadu Medical Services Corporation Limited, Chennai and National Health Mission Project Director as Member.

vii) The entire FIR appears to have been registered on the ipse dixit of Tmt.Kalyani, who had developed a personal grouse against the petitioner on her transfer and the disciplinary proceedings initiated against her.



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viii) The FIR has been registered without even verifying the process and procedure of raising of a Medical Indent insofar as purchase of drugs are concerned.

ix) There is no material to show that the petitioner has committed any offence and caused loss to the Government. Government of Tamil Nadu has published the Audit Report (General and Social Sector), Tamil Nadu for the year ended March 2019 wherein it has been confirmed that the Regional Administrative Medical Officer (RAMO), Madurai did not stop the second supply even as the first supply was not utilized and stated that for these failure, departmental action was under progress.

x) The Government of Tamil Nadu, however, justified the decision of the First Level Specialist Committee in accepting the quantity indented by RAMO, Madurai on the ground that the decision of the Committee was based on the possible increase in Internet Protocol (IP) numbers, increase in the *per capita* ceiling for drugs by ESI Corporation, etc.

xi) The Tamil Nadu Government has also accepted that there was no financial loss to them, as most of the medicines were utilised as of June 2020 itself. Whiles, the departmental proceedings as against the petitioner is bad in law and hence, seeks indulgence of this court.



4. Learned Government Advocate (Criminal Side) appearing for the respondent would submit that the present petition is a premature one as the complaint has been registered very recently on 14.11.2022 and the investigation is still pending. He would further submit that ample materials were traced by the respondent pointing out the active involvement of the petitioner in committing the offence by misusing his official power, due to which, heavy loss was caused to the Government. While praying for dismissal of the present petition, he would submit that the materials furnished by the respondent will be duly considered during the course of investigation.

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

6. Admittedly, the complaint, which is sought to be quashed in the present petition has been registered very recently viz., on 14.11.2022. It is in respect of forging a medical indent and enhancing the amount from Rs.13,12,52,093/- to Rs.40,29,30,190/- resulting in a loss to the Government to the tune of Rs.27,16,78,097/-. It is almost three times of the original indent prepared by a Medical Store Officer. Of course, the petitioner claims to be innocent without any active role in placing the medical indent and he intends to shift the burden on the High Level Purchase Committee. Certainly, he cannot plead total ignorance about such a medical indent, especially, when a departmental proceedings was



initiated on 6.2.2018 with immediate effect against the Medical Store Officer concerned, who was subordinate to him, for lacking in her duties in preparing the indent. It is the case of the prosecution that her negation to sign the enhanced indent brought her some trouble at the hands of her superiors, which, she could come out by filing writ petitions.

7. In such circumstances, the present complaint has popped out and is at a nascent stage. A perusal of the FIR shows that there are specific allegations against the petitioner and a thorough investigation is required to arrive at a decision and thereby this Court is of the view that the veracity of the complaint and the merits of the case cannot be gone into at this stage. Moreover, an FIR is not an Encyclopaedia and it need not contain all the facts. Even if it lacks in some material aspects, it cannot be quashed at the threshold by fully relying on the version of the person accused, especially, in a case of such a magnitude.

8. This Court finds that the FIR discloses *prima facie* commission of cognizable offence and as such, this Court cannot interfere with the investigation as the investigating machinery has to investigate the case thoroughly, grab and unearth the crime in accordance with the procedures prescribed in the Criminal Procedure Code.

9. Taking into consideration the facts and circumstances of the case and the submissions of the learned counsel appearing for the parties, this Court is not inclined to quash the FIR in Crime No.10 of 2022.



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Accordingly, this Criminal Original Petition is dismissed.

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10. However, the respondent Police is directed to look into the documents produced by the petitioner, complete the investigation and file a final report before the jurisdictional Court as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Criminal Miscellaneous Petition is also dismissed.

15.03.2023

Index : Yes/No

Neutral Citation : Yes/No

arb/ssk

To

1. The Chennai City-1 Detachment,
Vigilance and Anti-Corruption,
Chennai - 600 016.
2. The Deputy Superintendent of Police,
Detachment, Vigilance and Anti-Corruption,
Alandur, Chennai - 600 016.
3. The Public Prosecutor,
High Court of Madras.



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