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CrI.O.P.No.7336 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.7336 of 2022

A.Anand

.. Petitioner

Vs.

1.The Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Bureau,
Chennai.

2.The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Bureau,
Chennai.

..Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code to direct the respondent to register a case based upon the petitioner's complaint dated 04.02.2022.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.K.Srinivasan, Senior Counsel
Special Public Prosecutor (CBI)



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ORDER

The petitioner a private individual had given a complaint on 06.01.2022 to CBI, ACB, Chennai, alleging misappropriation of fund by the persons managing the affairs of the Pondichery University.

2. Those persons being the public servant, CBI thought fit to get prior sanction under Section 17A of P.C.Act, 1988, as amended by Act 16 of 2018. The request to accord sanction under Section 17A emanated from CBI on 23.06.2022 after being satisfied that the material is available to register preliminary enquiry. In spite of several remainders dated 15.07.2022, 11.10.2022 and 21.10.2022, the Under Secretary to the Government of India, Ministry of Education had not responded to the CBI request dated 23.06.2022. The petitioner herein / the complainant has now approached this Court for direction to the respondent police to register the case based upon his complaint dated 04.02.2022.

3. When the matter was taken up for consideration, the learned Special Public Prosecutor representing CBI submitted that after repeated remainders to the Ministry of Education, CBI has received a letter dated



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23.06.2023 from intimating Puducherry University that the Executive Council of the University vide resolution dated 05.05.2023 had decided not to grant sanction for investigation. The said communication refers about O.M of CVC dated 29.10.2019. The Executive Council Resolution is dated 05.05.2023 says recommendation of High Level Committee constituted by the University to conduct independent enquiry on the complaint and the decision of CVC is to close the case.

4. This Court, on perusing the status report filed by the Sub Inspector of Police, finds that the scrutiny of the complaint dated 04.02.2022 had disclosed sufficient material to register the complaint and that is the reason why sanction under Section 17A sought. However, for reasons stated by University declined to accord sanction refers CVC, O.M. dated 29.10.2019 and that communication also not been made within the time prescribed under Section 17A of P.C.Act, but belatedly that too after institution of the present petition seeking direction.

5. Section 17A of the P.C.Act been introduced to the P.C.Act, by way of amendment to protect the officers from malicious prosecution. If the



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authorities who are supposed to accord sanction to register case does not apply their mind and take decision within a period of 3 months or within further period of one month, extended for the reason stated, then the Investigating Agency should take that the sanction as deemed to have been accorded. They need not wait for an order of sanction under Section 17A of the Act, any further. If they wait for more than the period prescribed, there is every possibility of screening the evidence. The provision which is incorporated for protecting the honest officers cannot be allowed to be misused and abused to protect the dishonest officers to enable them to screen incriminating material against them. In this case from the status report filed by the Sub Inspector of Police, Mr.Sudhir Paul, this Court finds that even after three remainders dated 15.07.2022, 11.10.2022 and 21.10.2022, department concern has not responded to the request of the CBI to accord sanction under Section 17A of the P.C.Act, to register the complaint.

6. The present communication dated 23.06.2023 received from Puducherry University refers recommendation of High Level Committee and note of CVC which are prior to the complaint date. The complaint dated



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04.02.2022 received by CBI on scrutiny had found the following incriminating materials:-

“(i) That the Government of India has established Human Resources Development Centers (HRDC) throughout the country in select universities and one such HRC was established in Pondichery University three decades ago.

(ii) That the Government of India has been providing 100% financial support to these HRDC and the main function of the HRDCs is to conduct Orientation Courses and Refresher Courses to the Teaching and Non Teaching staff of the colleges and Universities.

(iii) That from 2008 to 2016 Prof.S.Hariharan was officiating as the Director of HRDC of Pondichery University during which he had conducted 92 Orientation and Refresher Courses and handled roughly about Rs.5 Crores of funds.

(iv) That the Finance Section of Pondichery University had found that from 2008 to 2016 Prof. S.Hariharan had misappropriated the funds financed by the Government of India using fake and forged bills causing a wrongful loss to the Government of India to the tune of Rs.2.25 Crores.

(v) That the Pondichery University administration



had forwarded the report submitted by the Finance Section to the Internal Audit Wing of the Pondichery University manned by an Indian Audit Officer (IAO) to scrutinize the findings of the Finance Section who submitted a report to the Vice Chancellor that a sum of Rs.27 lakhs has been misappropriated through many fake bills.

(vi) That Shri. S.Hariharan had bribed Shri. Gurmeet Sing, Vice Chancellor, Pondichery University, with Rs.50 lakhs to give him a clean chit to escape from the administrative action, criminal prosecution and also for full settlement of his terminal benefits.

(vii) That Shri Gurmeet Sing, Vice Chancellor, appointed Prof. P.Natarajan, Department of Commerce and Prof. B.B.Mohanty, Department of Sociology to overlook the findings of his own Internal Audit Wing who did not even touch any bill or voucher contained in 92 volumes of files pertaining to each of the courses and in just 2 and 3 sittings gave a clean cheat report in matter of Prof. S.Hariharan.

(viii) That in September, 2021 the Internal Audit Officer (IAO) of the Pondichery University submitted a dissenting note to the concerned official of the University, reiterating that misappropriation of funds has taken place without even an iota of doubt and in response Shri Gurmeet Singh, Vice Chancellor,



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appointed Shri S.Raghavan who is a close friend of Shri S Hariharan to overlook the observation of the Internal Audit Officer of Pondichery University.”

7. Even after lapse of 4 months, the department concerned not reacted and responded to the request and what they have communicated belatedly after filing of this petition is ignored. As a result, the CBI is requested to register the complaint and proceed with the investigation.

8. With the above direction, this Criminal Original Petition is disposed of.

24.07.2023

Internet : Yes/No.
Index : Yes/No.
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Dr.G.JAYACHANDRAN, J.

rpl

To,

1.The Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Bureau,
Chennai.

2.The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Bureau,
Chennai.

3.The Public Prosecutor (CBI Cases),
High Court of Madras, Chennai.

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