



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 02.03.2023	Orders pronounced on 24.04.2023
----------------------------------	------------------------------------

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Crl.O.P.No.8130 of 2021:

1. S.Sarala
2. R.Lakshmi
3. P.Usha
4. A.Asai Thambi

... Petitioners

Vs.

The Superintendent of Police
Central Bureau of Investigation
Anti-Corruption Branch
Sastri Bhavan
Nungambakkam, Chennai -6
(FIR Number RC.MA1 2015 A 0009)

... Respondent



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

This Criminal Original Petition No.8130 of 2021 is filed under Section 482 Cr.P.C. to quash the charge sheet in FIR Number RC.MA1 2015 A 0009 on the file of the respondent, which was taken on file as Spl.C.C.No.2 of 2019 on the file of Special Judge (Principal District and Sessions Judge), Puducherry.

For Petitioners	: Mr.R.John Sathiyar Senior Counsel for M/s.P.Divakar for Mr.D.Baskar
For Respondent	: Mr.K.Srinivasan Special Public Prosecutor

Crl.O.P.No.20169 of 2021:

P.Angalane

... Petitioner

Vs.

State represented by
The Additional Superintendent of Police
Central Bureau of Investigation
Anti-Corruption Branch
Sastri Bhavan
Nungambakkam
Chennai – 600 006.

... Respondent



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

This Criminal Original Petition No.20169 of 2021 is filed under Section 482 Cr.P.C. to call for records relating to Spl.C.C.No.2 of 2019 on the file of learned Principal District Judge (Special Judge for CBI Cases) Puducherry and quash the same (final report dated 04.04.2019).

For Petitioner : Mr.V.Raghavachari
Senior Counsel
for
Mr.M.Palanivel

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor

COMMON ORDER

These petitions are filed for quashing the charge sheet in FIR Number RC.MA1 2015 A 0009 on the file of respondent, which was taken on file as Spl.C.C.No.2 of 2019 on the file of Special Judge for CBI Cases (Principal District and Sessions Judge), Puducherry.



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

2. Respondent filed final report against the petitioners and other accused in Spl.C.C.No.2 of 2019 for the offences under sections 120-B r/w 420 IPC and 13 (2) r/w 13(1) (d) of Prevention of Corruption Act, 1988. The charges against the accused are that, accused (i) Shri.P.Angalane, (ii) Shri.S.Kuppusamy (iii) Shri.P.I.Ashok Ramaasekar (iv) Shri.Srihari (v) Shri C.Periasamy conspired and agreed to do an illegal act by grossly violating the PHB Act of 1973, PHB Rules 1975, Regulations and instructions issued by Government of Puducherry among themselves. In furtherance of the said conspiracy they made an agreement with (i) Smt. S.Sarala (ii) Smt.R.Lakshmi (iii) Smt. P.Usha and (iv) Shri Asai Thambi, decided and purchased the lands measuring 18,720 sq.ft., 31.680 sq.ft., 31.680 sq.ft. in RS Nos.31/6 and 32/1 at an exorbitant rate for Rs.84,24,000/-, Rs.1,42,56,000/-, Rs.1,42,56,000/- (totaling a sum of Rs.3,69,36,000/-) from Smt.S.Sarala, Smt. R.Lakshmi and Smt. P.Usha at the rate of Rs.450/- per sq.ft. On 03.02.2010, whereas the GLR value of the said land during the period was Rs.18/- per sq.ft. and Rs.300/- per sq.ft. This



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

purchase was made without obtaining prior approval of the Government of Puducherry, which is mandatory as per Section 61 of PHB Act 1973. They paid Rs.1,75,91,040/- more than the GLR value to the land owners and caused loss to PHB and undue pecuniary advantage to (i)Smt.S.Sarala (ii)Smt.R.Lakshmi and (iii)Smt.P.Usha. Therefore, the public servants and private persons committed the offences punishable under Sections 120-B r/w 420 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988.

3. Learned senior counsel Mr.V.Raghavachari appearing for the petitioner in Crl.O.P.No.20169 of 2021/first accused Shri.Angalane submitted that as per section 3(3) of PHB Act 1973, the Board consists of 13 members and a Chairman cannot take any independent decision. There are three Committees namely Site Selection Committee, Price Fixing Committee and Disbursing Committee. The GLR value is not the reflection of the market value. Collector is the member of Price Fixing Committee. But Collector is not made as an accused. Petitioner is the Chairman of the Committee but he cannot take any individual decision. As a Chairman of the



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Committee, he had only endorsed the decision of the Committee. The land value is increasing day-by-day. There is no allegation against the petitioner or for that matter any of the accused that they made illegal gains and the Government suffered the loss. The land purchased situate abetting the ECR road and the purchase price was paid directly to the land owners through cheque. Merely because there was no approval got from the Government under section 61 of PHB Act, accused cannot be prosecuted under section 420 IPC. The complaint was not given by the Housing Board, but was given by the Union of Employees of Housing Board. There is no allegation of conspiracy among the accused. Now the price of the land had increased manifold. If the Housing Board does not want the land, it can return it to the land owners and get back the price paid. This Court had quashed the proceedings in Spl.C.C.No.2 of 2019 against A3 and A4. In the absence of any material to show that there is an offence of cheating committed, material to establish conspiracy among the accused, material to show that accused gained illegally and caused wrongful loss to the Government, that petitioner



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

had approved the proposal independently, proceeding the case against the petitioner is nothing but an abuse of process of law. Thus, he prayed for quashment of proceedings against the petitioner.

4. Learned senior counsel Mr.R.John Sathiyar appearing for the petitioners in Crl.O.P.No.8130 of 2021 submitted that the petitioners are the owners of the land. Petitioners sold the land for a genuine and competitive price. The sale price was paid through cheques. There is no material available against the land owners to show that they exercised undue influence on the officials or tried to influence the officials for selling the land. Adjacent land was sold to Matha Amirthananthamayi trust for more or less the same price. There is no material available against the land owners that they cheated the Government, indulged in corrupt practices and caused wrongful loss to the Government. Therefore, learned counsel for the petitioners prayed for quashment of the proceedings against the petitioners in Crl.O.P.No.8130 of 2021.



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021
and
Crl.M.P.Nos.5354 and 5355 of 2021
and
Crl.M.P.Nos.10985 and 10987 of 2021

5. Learned Special Public Prosecutor for CBI submitted that the petitioners in Crl.O.P.No.8130 of 2021 filed a discharge petition and that was dismissed. Without challenging the dismissal of the discharge petition, petition for quashment of the proceedings is filed. If the value of the property exceeds Rs.3,00,000/-, permission of the Government under section 61 of PHB Act is required for any transaction. A property can be acquired for Housing Board or through land acquisition proceedings or through private purchase, after following necessary procedures like giving publication in newspapers and vide publicity among the general public with a view to make large sections of the public to participate in the sale process. However, no proper procedure was followed for purchasing the lands under private sale. Even before purchasing the property, land owners and accused met. It shows that there is conspiracy among them. Guideline value of the property purchased is Rs.18/- and Rs.300/-, but a uniform value of Rs.450/- was fixed and it is a sky high price for a barren land. Petitioner/first accused



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Shri.Angalane exercised undue pressure on witness Shri. Spurgeon Gnanamuthu for clearing the bills. Shri.Spurgeon Gnanamuthu gave a clear statement in this regard. He was penalised by terminating him from service for not cooperating with the first accused. The accused conspired to buy a land at an exorbitant high rate and caused wrongful loss to the Government and illegal gain to the land owners. The offences under sections 120-B r/w 420 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 are clearly made out and therefore, learned Special Public Prosecutor for CBI prayed for dismissal of these petitions.

6. Considered the rival submissions and perused the records.

7. Respondent registered the case RC-MA1 2015 A 0009 on 27.02.2015 for commission of offences punishable under sections 120-B r/w 420 IPC and 13 (2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 against the accused in this case and other private persons on the basis of the



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

orders of this Court in Criminal Original Petition No. 5969 of 2011 dated 27.11.2014. The allegations are that the accused persons conspired together to cheat PHB, purchased lands measuring 82,080 sq.ft located in Re-Survey No. 32/1 & 31/6 at Kirumampakkam village, Bahour Tahsil, Puducherry for Rs.3,69,36,000/- in the year 2010, which was Rs. 1,75,91,040/- more than the Guide Line Register (GLR) value. Accused did not follow the instructions contained in PHB Act, 1973 while purchasing the land. The excess amount Rs 1,75,91,040/- paid to the land owners was flown back to the accused persons and it was distributed / divided among themselves. Puducherry Housing Board (PHB) consists of ten members viz., 6 Ex-officio, 3 Non official members and 1 Chairman. (i) Chairman appointed by the Government, (ii) Secretary - Housing, Govt of Puducherry, (iii) Secretary - Finance, Government of Puducherry, (iv) District Collector - Puducherry (v) Director - Public Works Department (PWD), Government of Puducherry, (vi) Director - Health & Family Planning Service, Government of Puducherry, (vii) Senior Town & Country Planner, Government of



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Puducherry are members. 3 Non Official Members to be appointed by the Government (one Engineer and two Others). Secretary is appointed by the Board in the rank of Under Secretary to Government of Puducherry to assist the Chairman in day-to-day functioning of PHB and he will be the Head of Office. PHB has three wings viz. (i) Administration & Accounts Wing, (ii) Engineering Wing and (iii) Estate Wing. PHB purchase lands either from Government through Land Acquisition Act or from public through direct negotiation to implement its various housing schemes. If the land is required to be acquired from the public, notices in public places, paper advertisement in leading news papers are required to be published in the prominent places inviting the prospective sellers from the public to sell their land to PHB. If public submitted their willingness with the copies of their land documents with tentative price, those documents would be scrutinized by Estate Wing and Legal Adviser to ensure the authenticity of the documents. Thereafter, Site Selection Committee will be formed for inspection of the land and submit its recommendation. Based on the Site Selection Committee's report,



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Price Fixation Committee will be formed for fixing the price of the land on the basis of GLR value and the sale of the lands in the nearby areas. Once a settlement is reached between PHB and seller, proposal will be submitted to the Board for approval. As per Section 61 of the Pondicherry Housing Board Act 1973, if the value of land exceeds Rs.3 Lakhs, the Board shall not enter into an agreement with any person for acquisition of land without previous approval of the Government. Investigation revealed that A1 to A5 were contacting the public, who were willing to sell their lands and they came across A9. A9 intended to sell his land and also his relatives namely A6, A7 and A8. The lands were abetting Puducherry to Cuddalore ECR. No record or document available to authenticate that PHB was having any housing scheme to be implemented and developed and publicity was given in Puducherry inviting prospective land owners to sell their lands to PHB. A1 to A5 decided to purchase lands for PHB and informed the Site Selection Committee comprising of District Collector, Puducherry, Chief Engineer Puducherry and other members to inspect the lands of Shri.Asaithambi and



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

his relatives and submit a report. Site Selection Committee inspected the lands on 23.06.2009 and gave recommendation for purchase of lands in R.S.Nos.32/2A, 31/2, 31/3, 31/4, 31/5, 31/6, 32/1, 32/2B1 of Kirumampakkam Revenue village, Puducherry.

8. On 30.10.2010, first accused constituted a Price Fixation Committee comprising (i) Shri N Rajasekar, IAS (Rtd), (ii) Shri S Manohar, Chief Engineer, (iii) Shri Ramaradjou - private person, besides himself second accused - Shri S Kuppusamy to decide the rate of the land. As per Section 16(1) of PHB Act, 1973 only the Board can appoint Committees. A1 – Angalane, as Chairman of PHB, has no individual authority to constitute / appoint any Committee. A7 to A9 attended the meeting with Price Fixation Committee and offered to sell their lands to PHB. Accordingly, the Committee, after discussion with the land owners, agreed and approved to purchase the lands as per the price detailed below:



WEB COPY

Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

SI. No.	Land Situated at	Name of the Rev. Village	RS No	Extent proposed to be purchased Ka-Ku-Vee or H-A-Ca	Rate finally offered by land owner
1	Kirumampakkam m (Arupadaiveedu Medical College)	Kirumampakkam Revenue Village Pondicherry	32/2A	00-65-04 or 00-34-91	Rs.2,59,20,000/- per kani or Rs 450/- per sq.ft
2			31/2,	01-69-17 or 00-91-00	
3			31/3	01-70-01 or 00-91-00	
4			31/4	00-15-00 or 00-08-00	
5			31/5	00-31-12 or 00-16-99	
6			31/6	02-10-00 or 01-12-37	
7			32/1	00-54-14 or 00-29-36	
			32/2B		



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

(It is to be noted that GLR value of the above said lands were Rs.300/- and Rs.18/- per sq. ft. during the financial year of 2009-2010).

9. The Committee did not give any reason for fixing the land value in R.S.No.31, whose GLR value was only Rs.18/- per sq.ft., whereas, the GLR value of the lands in R.S.No.32 was Rs.300/- per sq.ft. However, the Committee fixed uniform rate of Rs.400/- per sq.ft for all the lands in the aforesaid survey numbers. The minutes of 111th Board meeting dated 05.11.2009 shows that it was attended by A1-Shri P.Angalane and others. The Board members approved the recommendation of the Site Selection Committee and Price Fixation Committee for the purchase of lands at Kirumampakkam. There was a proposal for the enhancement of powers of the Board to purchase land (i) by direct negotiation by increasing the ceiling from Rs.3,00,000/- (Rupees three lakhs only) to Rs.10,00,00,000/- (Rupees ten crores only) (ii) proposal exceeding Rs.10,00,00,000/- (Rupees ten crores only) has to be referred to the Government for approval. The Board



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

approved powers to the Chairman of PHB up to Rs.1,00,00,000/- (Rupees one crore only) in each case. No positive action was taken on the proposals for enhancement of monetary ceiling from Rs.3,00,000/- (Rupees three lakhs only) to Rs.10,00,00,000/- (Rupees ten crores only) and powers of the Chairman of PHB upto Rs.1,00,00,000/- (Rupees one crore only). A4 and A5 placed a note before A1 seeking expenditure sanction for Rs.4,06,29,600/- towards sale price and registration charges. First accused on 01.02.2010 approved this note and sent to Financial Advisor and Chief Accounts Officer (FA & CAO) Shri.Spurgeon Gnanamuthu, for his opinion.

10. Shri Spurgeon Gnanamuthu, remarked as "please put up the file immediately for Government of Puducherry approval under Section 61 of the PHB Act 1973 " and the file was forwarded to the Secretary, PHB on 02.02.2010. A1 summoned Shri Spurgeon Gnanamuthu to his Chamber on 02.02.2010, where A2 was also there. A1 and A2 pressurized Shri Spurgeon Gnanamuthu to issue cheque for Rs.4,06,29,600/- for completion



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

of the sale on 03.02.2010. Shri Spurgeon Gnanamuthu explained the rule position and that he was prepared to sign and issue the cheque after approval from the Government. A1 and A2 repeatedly insisted Shri Spurgeon Gnanamuthu to issue cheque, else they threatened him to face dire consequences, if he declined to issue the cheque. Shri Spurgeon Gnanamuthu received message from his home that his father was serious therefore, he sent a telegram to Secretary, PHB to grant four days Earned Leave from 02.02.2010 to 05.02.2010. Second accused made a note that "it is submitted that we issue sanction and get it ratified in ensuing Board Meeting and also by the Government. Submitted to the Chairman for orders please". First accused approved in the note as "Yes approved" on 02.02.2010. A2 remarked in the note as "FA & CAO may be directed to put up sanction and prepare cheque in favour of land owners as detailed above. For Orders Please" on 02.02.2010. First accused approved as "Yes" on 02.02.2010. The file was marked to FA & CAO and Superintendent Accounts Mr.R.Parthiban and he prepared bills for Rs.3,69,36,000/- and



WEB COPY

Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Rs.39,64,000/- and remarked “as approved by Chairman. Bill for Rs.3,69,36,000/- for land owners and bill for Rs.39,64,000/- for miscellaneous expenditure had been prepared by Bill No.618/619/PHB/Acct/09-10 dated 02.02.2010. A2 issued an office order with approval of A1. A1 appointed A3 as Head of Office and Drawing and Disbursing Officer (DDO) with immediate effect and he joined as Head of Office and Drawing and Disbursing Officer (DDO) on 02.02.2010. Note dated 01.02.2010 of A4 and remarks of A1 and A2 was put up to A3 by Shri R.Parthiban. The note and bills were signed by A2. Thereafter the note and bills were forwarded by A2 to A3 and he in turn forwarded to Shri R.Parthiban on 02.02.2010 for preparation of cheque. On instructions of Shri R.Parthiban, Shri C.Mandjini, then Assistant prepared three bills for Rs.3,69,36,000/- (Rs.1,42,56,000/-, Rs.1,42,56,000/- and Rs.84,24,000/- in the name of Smt.P.Usha, Smt.R.Lakshmi and Smt.S.Sarala respectively) and another bill for Rs.39,64,000/- (Rs.36,93,600/- and Rs.2,70,400/- towards registration charge and purchase of stamp papers & miscellaneous expenses



WEB COPY



CrI.O.P.Nos.8130 and 20169 of 2021

and

CrI.M.P.Nos.5354 and 5355 of 2021

and

CrI.M.P.Nos.10985 and 10987 of 2021

respectively) and after getting signature of Shri.P.I.Ashoka Ramashekar - then Executive Engineer, Shri.Jayashakar - then Cashier prepared three cheques in favour of Smt.P.Usha, Smt.R.Lakshmi and Smt.S.Sarala for Rs.1,42,56,000/-, Rs.1,42,56,000/- and Rs.84,24,000/- respectively and another cheque for Rs.39,64,000/-. Smt.P.Usha, Smt.R.Lakshmi and Smt.S.Sarala executed sale deeds as detailed in the final report for the consideration noted. A sale agreement was entered with A.Asai Thambi by paying an advance of Rs.10,000/- for purchasing 29 acres and 38 cents in Rs.No.32/2B. In 110th Board Meeting of PHB, the Board accorded approval and ratified the decision of PHB for purchase of these lands. The investigation revealed that the lands were purchased for Rs.3,69,36,000/- which is Rs.1,75,91,040/- more than the Guide Line Register (GLR) value. The lands were purchased without following the procedure under Section 61 of PHB Act. In the process, wrongful loss was caused to the Government and land owners had gained illegally. All the accused shared the booty among themselves.



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

11. Prosecution examined 23 witnesses and produced 34 documents. Though petitioners produced copies of the statement of the witnesses, except the copies of the prosecution sanction orders in respect of some of the accused, none of the other documents have been filed despite specific direction from this court on 16.02.2023 to produce copies of all the documents filed along with the final report. Therefore, this Court had sent for all the documents from the court concerned.

12. Learned senior counsel for the petitioners relied on the statement of Shri R.Jayakumar @ Djeacoumar, S/o Shri S.Ramanujan, Secretary, Pondicherry Housing Board that the Site Selection Committee after inspecting the lands in R.S.Nos. 32/2A, 31/2, 31/3, 31/4, 31/5, 31/6, 32/1 and 32/2B/1 of Kirumambakkam Revenue Village unanimously recommended the proposed lands as suitable for implementation of various schemes. Thereafter, the proposal of purchase of lands recommended by the Site Selection Committee was placed before the Price Fixation Committee



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

consists of (i) Shri P. Angalane, then Chairman PHB (ii) Shri Rajashekar, IAS Rtd (iii) Shri S. Manohar, Chief Engineer, PWD, (iv) Shri C. Ramaraju, Non Official Member (v) Shri S. Kuppusamy, then Secretary, PHB. Price Fixation Committee was formed by the Chairman as per the Note dated 29.10.2009. There are no guidelines available in the PHB to fix the price of the land to be purchased for PHB by the Price Fixation Committee. The Committee after taking into account of the price offered by the land owners and the report of the Executive Engineer, PHB, prevailing market rate of the adjacent lands collected by him, found that the market value of the lands proposed for purchase seems to be more or less equal to the value quoted by the land owners and after elaborate discussion with the members, the Committee has approved the proposal for purchase of the lands for the prices mentioned in the minutes of the Price Fixation Committee Meeting dated 04.11.2009. He further stated in his statement that, Price Fixation Committee had fixed the rate of the land according to the Market Value of the land at that point of time collected by the PHB officials and negotiations



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

made with the owners of the land. Rate of the land was fixed unanimously by the said Committee which was above the GLR Value. The same statement was given by Shri.Rajendran, S/o.Shri.Parthasarathi, Development Officer, PHB.

13. It is the submission of the learned senior counsel for the petitioners that the statements of these prime witnesses make it clear that proper procedure was followed for identifying the lands by the Site Selection Committee and fixing the price by price fixation Committee. Based on various factors like price offered by the land owners, report of the executive Engineer, PWD, prevailing market value of the adjacent land, Price Fixation Committee found that the market value of the lands proposed for the purchase was more or less equal to the rates quoted by the land owners and then approved the price. Therefore there is nothing to suggest that first accused, along with other accused, had involved in the offences referred in the final report.



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

WEB COPY

14. The main allegation against the petitioners, who are Chairman of PHB and officials and owners of the land, before this court are that:-

i) Petitioner Shri P.Angalane is well acquainted with PHB Act, Rules, Regulations, Office Orders, Instructions, Procedures and Formalities to be followed while purchasing lands to PHB Housing Project either through land acquisition process or by direct negotiation with the land owners. However in furtherance of conspiracy and collusion with other accused, he deliberately negated section 61 of PHB Act 1973 as stated by Shri.Spurgeon Gnanamuthu in the note dated 01.02.2010 and approved the purchase of the lands comprised in R.S. Nos. 31/6 and 32/1 from petitioners Smt.S.Sarala, Smt.R.Lakshmi and Smt.P.Usha for Rs.3,69,36,000/- when the GLR value of this



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

property was Rs.18/- per square feet and Rs.300/- per square feet and therefore, Rs 1,75,91,640/- was paid more than the GLR value and caused loss to Government and undue pecuniary advantage to aforesaid persons.

ii) There was also an agreement with Shri Asai Thambi to purchase the land measuring 29 Ares 38 cents comprised in R.S.No. 32/2B for consideration of Rs.1,42,25,400/- and a sum of Rs 10,000/- was paid as advance to Shri Asai Thambi.

iii) Price Fixation Committee ought to have been constituted by PHB, but Price Fixation Committee was not constituted by PHB, but constituted only by the Chairman of PHB, namely Petitioner Shri



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

P.Angalane.

iv) Price Fixation Committee without inclusion of a member from revenue is inappropriate.

v) The value of the proposal is worth more than Rs.3 lakhs. Permission of the Government is required under section 61 of PHB Act, 1973, but the lands were purchased without obtaining permission from the Government.

vi) There was no housing scheme pending to be implemented.

Vii) Wide publication to the general public, required for private purchase, is not given.



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

15. Learned senior counsel for the petitioners in Crl.O.P.No.20169 of 2021 relied on the judgments reported in,

(i) ***2015 SCC OnLine Mad 6606 (M.G. Sekar v. Inspector of Police)***

for the propositions that,

a) *Merely levelling charge of conspiracy, without mentioning how, where, when and which of the conspirators hatched the conspiracy is not sufficient to mulct criminal liability on the Respondents.*

b) *There may have been some irregularities committed in the matter of allotment of work to the appellant or breach of codal provisions, circulars and departmental instructions, for preparation of estimates etc. and those irregularities give rise to a*



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

strong suspicion in regard to the bonafides of officials of the department and their link with the appellant, but that suspicion cannot be a substitute of proof.

- c) *Even if it is found that accused had acted against the regulations, it will not constitute a criminal offence.*

(ii) **2021 SCC OnLine Mad 8021 (Hari v. State)** for the preposition that the case against one of the co-accused was quashed by this court for the reason that the charge sheet does not disclose that Sri Hari had obtained any pecuniary advantage in the deal and the action of accused in breach of codal provisions, by themselves, will not amount to criminal offence though the State would have suffered financially. The statement of LW.16 that the lands were purchased at an exorbitant rate and that excess amount were shared



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

with the officials of the PHB was purely hearsay.

16. It is further submitted by the learned senior counsel for the petitioners that there is absolutely no document or statement of witnesses to show that the alleged excess money was shared by the accused. The land owners were paid through cheques and there is no evidence that the amount paid to them through cheques were distributed/shared by other accused.

17. The judgment reported in ***2006 (0) Supreme (Mad) 996 (M/s.Sakthi & Co. through its partner Veeranan ..vs..Shree Desigachary)*** is relied for the methods of valuation for ascertaining the market value. As per this judgement, the guideline value cannot form a foundation to determine the market value of the property. The price in bonafide sales between willing prudent vendor and prudent vendee of the lands acquired or situated near about that land possessing same or similar advantageous



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

features would furnish basis to determine market value.

18. It is submitted by the learned senior counsel for the petitioners that merely because the guideline value of the land purchased is less, we cannot come to the conclusion that the price for which the lands were purchased was excessive. The reason is that nearby lands were sold for more or less the same price, which reflects the market value of the land.

19. Consideration of final report and statement of witnesses, documents produced along with the final report especially the statement of Shri.K.Ramadose, Sub-Registrar, Taluk Office Complex, Bahour Sub-Registrar Office, shows that as per the guideline value registered by the Sub-Collector (Revenue), South, Villianur Village, Pondicherry for the financial year 2009-10 in respect of (1) R.S No. 31/6 was Rs.19,500/- per Are or Rs.18.123ps per square feet and (2) R.S.No.32/1 was Rs.3,22,800/- per Are



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

feet or Rs.300/- per square feet. However the Price Fixation Committee fixed the uniform price of Rs.450/- per square feet for these lands, which according to the prosecution is very excessive. The Price Fixation Committee consisted of (i) Shri P. Angalane, then Chairman PHB (ii) Shri Rajashekar, IAS (Rtd.) (iii) Shri S. Manohar, Chief Engineer, PWD, (iv) Shri C. Ramaraju, Non Official Member (v) Shri S. Kuppusamy, then Secretary, PHB.

20. As per 16 (1) of PHB Act 1973, the Board has from time to time appointed Committees including Price Fixation Committee on such terms and conditions as may be prescribed by the regulations. This section makes it clear that only the Board can appoint Committees including Price Fixation Committee. Price Fixation Committee in this case was not appointed by the Board but was appointed by the Chairman Shri P.Angalane, who has no authority to constitute / appoint Price Fixation Committee.



Crl.O.P.Nos.8130 and 20169 of 2021
and
Crl.M.P.Nos.5354 and 5355 of 2021
and
Crl.M.P.Nos.10985 and 10987 of 2021

21. Though the witness Shri R. Jayakumar @ Djeacoumar, S/o Shri S. Ramanujan and Shri.Rajendran, S/o.Shri.Parthasarathi gave statements as referred above, Shri R. Jayakumar @ Djeacoumar, S/o Shri S. Ramanujan stated that,

(1) There is no record to show that PHB had invited prospective seller of lands at Kirumambakkam Revenue Village through notices or leading news papers in the year 2009.

(2) He did not find any correspondences for choosing the lands for inspection to find out the suitability to purchase the lands for implementation of various schemes of PHB.



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

(3) There is no record available to substantiate the Price Fixation Committee's remarks that

- (a) The price offered by the Land Owners;
- (b) Report of Executive Engineer, PHB on prevailing market rate of the adjacent land.

(4) Though, the minutes of the Committee incorporated in its report that the rate offered by the land owner as Rs.2,75,00,000/- per Kani or Rs.477/- per sq. ft., there is no record available in the file concerned to substantiate the statement.

(5) Shri Sri Hari placed a Note to the Chairman through Secretary, PHB seeking expenditure sanction for Rs 4,06,29,600/- (Rupees Four Crores Six lakhs twenty Nine Thousand Six Hundred Only). That note



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

was approved by Shri S. Kuppusamy, then Secretary, PHB and placed for approval of the Chairman. Chairman Shri P. Angalane on 01.02.2010 remarked in the note as "Yes, approved".

(6) When the file was referred to then FA & CAO / Superintendent Account, Shri Spurjeon Gnanamuthu on 01.02.2010, he remarked as "please put up the file immediately for Government of Puducherry for approval under Section 61 of the PHB Act 1973". Shri R. Parthiban on 02.02.2010 prepared a letter to Under Secretary to the Government seeking approval. It was submitted to the then Secretary Shri S. Kuppusamy. Shri S.Kuppusamy remarked on 02.02.2010 as "it is submitted that we issue sanction and get it ratified in ensuing Board Meeting and also by the Government



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

and submitted to the Chairman for orders."

(7) The then Chairman Shri P.Angalane remarked as "Yes approved" on 02.02.2010. Then Secretary Shri S. Kuppusamy remarked as "FA & CAO may be directed to prepare cheque in favour of land owners". Chairman approved this note on 02.02.2010 and marked to FA & CAO and Superintendent, Accounts on the same date.

(8) This file was not put up to Shri Spujeon Ganamuthu, then FA & CAO, but was put up to the Superintendent Accounts Shri. R. Parthiban. He remarked as "as approved by Chairman, a bill for Rs. 3,69,36,000/- for land owners and a bill for Rs. 39,64,000/- for miscellaneous expenses has been prepared.



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

(9) This witness reiterated that if the cost of land is more than Rs 3,00,000/-, the same should be sent to the approval of the Government and thereafter only the lands should be purchased.

22. Similar references are also found in the statement of witness Shri.Rajendran.

23. Witness Shri Raja Manickam, S/o Singara Vel, then Deputy Collector (Revenue) South, Villianur, Puducherry has given a statement that GLR Value of (1) R.S.No. 31/6 was Rs.19,500 per Are or Rs. 18.123 Ps per sq.ft and (ii) R.S.No. 32/1 was Rs.3,22,800/- per Are or Rs. 300 per sq.ft.

24. Witness Shri G. S. Karthigeyan, S/o Shri Sreenivasan, then Tahsildar, Taluk Office, Bahour, Pondicherry, has given a statement with



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

regard to the procedure for fixing the GLR value.

25. Witness Shri Spurgeon Gnanamuthu S/o Chittaranjan Gnanamuthu, then Financial Advisor & Chief Accounts Officer, Puducherry Housing Board, stated that after receiving approval of Chairman Shri P.Angalane for expenditure of Rs.4,06,29,600/- on 01.02.2010, he made a remark in the note on 02.02.2010 as "please put up the file immediately for Government of Puducherry approval under Section 61 of the Puducherry Housing Board Act, 1973" and marked the file to Superintendent (Accounts) Shri R. Parthiban. On the same day, Shri P. Angalane, then Chairman (PHB) summoned him to his chamber, where Shri S. Kuppusamy, then Secretary (PHB) was already sitting. Both of them pressurized him to issue cheque for Rs.4,06,29,600/- for purchase of the lands, so that payment could be made to the land owners and registration of the lands could be completed before 03.02.2010. He explained the rule position and informed them that he was ready to sign and issue the cheque once approval from the Government



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

is obtained under Section 61 of PHB Act, 1973 since the value of the land is more than Rs.3,00,000/-. They insisted him again and again to issue cheque, for which, he vehemently refused to do so. At one point of time, they threatened with dire consequences if he declined to issue cheque. He received a telegram stating "father serious start immediately". After informing the Secretary, he prayed for four days leave till 05.02.2010 and left Pondicherry to Madurai. On return to Pondicherry on 05.02.2010, he received a courier from PHB and found that his service was terminated by Chairman Shri P. Angalane, through this letter.

26. Witness Shri R. Parthiban, S/o Shri C. Ramasami, Superintendent (Accounts), Puducherry Housing Board, stated that though he refused to initiate note on 02.02.2010 after the remark of Shri S. Gnanamuthu with regard to sending of letter to Under Secretary, Government Housing requesting approval under Section 61 of PHB Act, he was pressurized and threatened by Shri S. Kuppusamy, then Secretary, Shri



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Sri Hari, then Administrative officer cum DO and Shri P. Angalane, then Chairman that he has to face major departmental action, which may lead to suspension/dismissal from service, if he did not comply with their instructions. He explained them the Act and Rule position for the purchase of land worth more than Rs.3,00,000/- as remarked by Shri S. Gnanamuthu, but due to pressure exerted by the above said officials, he succumbed to their pressure. He had no other option but to comply with the instructions of the then Chairman and Secretary and other officials. He knew pretty well that purchase of land worth more than Rs.10 lakhs requires Government approval and after obtaining approval only the sale deed could be executed and payment should be made to the land owners. But in the instant case. i.e, purchase of land in R.S.No. 31/6 and 32/1, PHB officials right from Chairman to DO grossly violated the legal position and purchased the lands in contravention to the PHB Act, 1973 and Rule, 1975.

27. Witness Smt.E.Rajeswari Wlo L.Sekar, Under Secretary



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

(Housing & Environment), Government of Puducherry, Secretariat, Puducherry stated that the Government of Puducherry has not given ratification for purchase of 3 pieces of lands at Kirumampakkam on 03.02.2010 for the reason that officials of Pondicherry Housing Board did not follow the procedures laid down by the Government and stipulation made in the PHB Act, 1973. Price Fixation Committee offered a very high rate of Rs.450/- per square feet for disadvantaged lands. Members from Revenue, Finance and Housing Department have not been included in Price Fixation Committee. There is no precedent in PHB for fixation of land price in the absence of a member from Revenue Department. The fixation of land price without a Revenue Department member is unprecedented. The lands in R.S.No. 31/6 and 32/1 (part) are disjointed. The lands in R.S.No. 31/6 and 32/1 (part) have no access to road. The land in R.S.No.31/6 is located at the back and away from the land in R.S.No.32/1 (part). By purchasing these landlocked plots, without access to road, the Board has been forced to a situation to acquire further lands for providing proper access to the lands in



WEB COPY



CrI.O.P.Nos.8130 and 20169 of 2021

and

CrI.M.P.Nos.5354 and 5355 of 2021

and

CrI.M.P.Nos.10985 and 10987 of 2021

R.S.No.31/6 and 32/1 (part). The role of then Secretary - Shri.S.Kuppusamy, then Assistant Engineer - Shri.P.I.Ashok Ramaasekar , and Dealing Assistant, who processed the file and released the cheque payment towards cost of land in an unusual speed, in the absence of then Financial Advisor & Chief Accounts Officer (FA & CAO) and overlooking the provision of Section 61 of PHB Act,1973 supports the existence of certain degree of meeting of minds in purchasing the lands. It would be apparent that there has been complex interaction among then Chairman - Shri P. Angalane, then Secretary - Shri.S.Kuppusamy, then Assistant Engineer - Shri.P.I.Ashok Ramaasekar and other PHB officials, non officials and vendors in effecting the controversial transaction. Therefore, the Government decided not to ratify the purchase of three pieces of lands at Kirumampakkam village by PHB and Chairman on 03.02.2010, and decided to take action against the erring officials. Sanction of approval for enhancement of financial powers to PHB as well as Chairman, PHB was not favourably considered by the Government for the reason that no reply was



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

received from PHB for the query raised by the Chief Secretary, Government of Puducherry.

28. The same statement is given by witness Shri C.H. Surendran S/o. Kunhappu, Assistant, Chief Secretariat (Housing), Puducherry.

29. Witness Shri Giddi Balaram, S/o late Shri Giddi Suryanarayana, Secretary, Pondicherry Housing Board, Pondicherry stated that lands were purchased by direct negotiation, with the prior approval of the Government only, except Kirumampakkam lands.

30. The minutes of the Price Fixation Committee though refers as follows:-

Chairman and members insisted the land owners to reduce cost of the land. But the land owners informed that prevailing market value of similar type of lands and that the lands to be purchased is from Rs.160/- to Rs.840/-



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

per square feet. Moreover the report of the Executive Engineer, PHB, on prevailing market value of the adjacent lands has also been collected. After analysing the report, it is found that the market value of the lands proposed for purchase seems to be more or less equal to the value quoted by land owners. This can be proved by the following table. However, no such comparative table is produced. The table relates to the price agreed by land owners alone is found. Thus it is obvious that without any report of the Executive Engineer, PHB on prevailing market value of the adjacent lands and the rate analysis, the price was fixed.

31. From the statement of these witnesses, it is plain and clear that,

(i) Price Fixation Committee was unauthorisedly appointed by then Chairman;

(ii) Sky high price was fixed in excess of guideline value.

(iii) There is no proper notice to prospective land owners by advertisement and publication giving them an opportunity to participate in



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

the sale of lands, especially when there is no pending housing scheme.

(iv) It appears that Site Selection Committee has not conducted any meeting with the land owners to sell the lands.

(v) There is no comparative statement/table available with regard to the market value of nearby lands to justify the price at Rs.450/- per square feet.

(vi) There is patent violation of Section 61 of PHB Act which mandatorily requires that if the value of the land exceeds Rs.3,00,000/-, the Board shall not enter into any agreement for purchase, without prior approval of the Government.

(vii) It is also seen from the statement of witnesses Shri Spurgeon Gnanamuthu and Shri R.Parthiban that they were pressurized rather threatened by the petitioner/then Chairman Shri P. Angalane, then Secretary Shri.S.Kuppusamy and other officials to clear the bills for payment of sale price to the land owners, despite them explaining the rule position that the Government approval is necessary for purchase of lands worth more than



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

Rs.3,00,000/-.

(viii) The speed with which the bills prepared, landlocked, disjoint lands without road access purchased, fixation of price without including the members in Price Fixation Committee from Finance and Revenue Department, which is unprecedented, would all go to show that there are prima facie materials available against the petitioners to come to a conclusion that the petitioner in Crl.O.P.No.20169 of 2021 Shri P.Angalane committed the offence of criminal misconduct by corrupt or illegal means and abused his position as public servant to obtain illegal pecuniary advantage to the land owners and in the process, caused loss to the public exchequer.

32. In the judgment reported in ***(2013) 10 Supreme Court Cases 581 (Vinod Raghuvanshi v. Ajay Arora and others)***, it is observed in para-30 as follows:-

"30. It is a settled legal proposition that



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

while considering the case for quashing of the criminal proceedings the court should not "kill a stillborn child", and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegations have some substance. When a prosecution at the initial stage is to be quashed, the test to be applied by the court is whether the uncontroverted allegations as made, prima facie establish the offence. At this stage neither can the court embark upon an inquiry, whether the allegations in the complaint are likely to be established by evidence nor should the court judge the probability, reliability or genuineness of the allegations made therein. More so, the charge-sheet filed or charges



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

framed at the initial stage can be altered/amended or a charge can be added at the subsequent stage, after the evidence is adduced in view of the provisions of Section 216 CrPC. So, the order passed even by the High Court or this Court is subject to the order which would be passed by the trial court at a later stage."

33. It is relevant to consider the judgment relied by the learned Special Public Prosecutor for CBI in **(2012) 9 Supreme Court Cases 460 (Amit Kapoor v. Ramesh Chander and another)** with the regard to framing of charges. It is observed in paragraphs 17 & 19 as follows:-

"17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

under Section 227 of the Code. Under both these provisions, the court is required to consider the "record of the case" and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the section exists, then the court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

jurisdiction. It may even be weaker than a prima facie case. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is the expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.

18.

19. *An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We*



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227."

34. May be that case against the co-accused A3 and A4 is quashed. Finding that there are no materials available against them, the case against them was quashed. That is not the case against the petitioners. There are enough materials available against the petitioners as discussed above, for



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

framing charges against them.

35. With regard to the submission that District Collector and certain other officials are not shown as accused, this Court is of the view that, if the District Collector and other officials are involved in the commission of offences, they can be added as accused under Section 319 Cr.P.C, if sufficient evidence is available.

36. Now on considering the final report, statement of witnesses and documents filed along with the final report, this Court finds that there are enough materials for presuming that petitioners/accused in both the Criminal Original Petitions committed the offences punishable under Sections 120-B r/w 420 IPC and 13 (2) r/w 13(1) (d) of Prevention of Corruption Act, 198. In this view of the matter, this Court finds that there is no merit in the prayer for quashing the charge sheet in FIR Number RC.MA1 2015 A 0009 on the



WEB COPY

Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

file of the respondent, which was taken on file as Spl.C.C.No.2 of 2019 on the file of Special Judge (Principal District and Sessions Judge), Puducherry, against the petitioners.

37. In the result, both the Criminal Original Petitions are dismissed. Trial Court is directed to proceed with the case further and dispose the case on merits and in accordance with law, without being influenced by the observations made by this Court in this order. Consequently, connected Miscellaneous Petitions are closed.

mra

24.04.2023

Index :Yes

Internet:Yes

Speaking Order/Non-speaking Order

To

1. The Special Judge
(Principal District and Sessions Judge),
Puducherry.

51/54



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021

and

Crl.M.P.Nos.5354 and 5355 of 2021

and

Crl.M.P.Nos.10985 and 10987 of 2021

2. The Superintendent of Police
Central Bureau of Investigation
Anti-Corruption Branch
Sastri Bhavan
Nungambakkam, Chennai -6
(FIR Number RC.MA1 2015 A 0009)

3. The Additional Superintendent of Police
Central Bureau of Investigation
Anti-Corruption Branch
Sastri Bhavan
Nungambakkam
Chennai – 600 006.

4. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021
and
Crl.M.P.Nos.5354 and 5355 of 2021
and
Crl.M.P.Nos.10985 and 10987 of 2021

G.CHANDRASEKHARAN,J.

mra

Common order in

Crl.O.P.Nos.8130 and 20169 of 2021
and
Crl.M.P.Nos.5354 and 5355 of 2021
and
Crl.M.P.Nos.10985 and 10987 of 2021



WEB COPY



Crl.O.P.Nos.8130 and 20169 of 2021
and
Crl.M.P.Nos.5354 and 5355 of 2021
and
Crl.M.P.Nos.10985 and 10987 of 2021

24.04.2023