



WEB COPY



Crl.O.P.No.17954 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : .02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Orders Reserved On 21.11.2022	Orders Pronounced On .02.2023
----------------------------------	----------------------------------

Crl.O.P.No.17954 of 2022

and

Crl.MP.No.11909 of 2022

1.K.Maharaja
2.P.Gunasekaran
3.Periasamy
4.Jaisankar
5.K.P.Subramanian
6.Ponnuvel
7.Elanchezian

... Petitioners

Vs.

1.State rep. by its
The Additional Superintendent of Police,
Directorate of Vigilance & Anti-Corruption,
Villupuram, Cr.No.1/2015.

2.S.Krishnamurthy,
The Inspector of Police,
Directorate of Vigilance & Anti-Corruption,
Villupuram.

... Respondents



Crl.O.P.No.17954 of 2022

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records comprised in Spl.C.C.No.13 of 2022 on the file of the learned Special Judge for Cases under Prevention of Corruption Act, Villupuram and quash the same.

For Petitioners : Mr.Vimal B.Crimson

For Respondents : Mr.S.Udayakumar
Government Advocate [Crl. Side]

ORDER

The petitioners/accused A3 to A9 in Spl.C.C.No.13 of 2022, who are facing trial with other accused for the offences punishable under Sections 409, 417, 465, 471 and 477-A I.P.C. and Section 13(1)(c) r/w 13(2) of Prevention of Corruption Act r/w 109 I.P.C. have filed this quash petition.

2.The gist of the case is that during the period from 01.08.2011 to 10.09.2014, only 274 students availed hostel facilities in Government Tribal Residential Middle School, Paranginatham. But during this period the accused officer-Thilagavathi (A1) claimed the feeding charges for students



Crl.O.P.No.17954 of 2022

and claimed a sum of Rs.3,91,485/- as feeding charges during the same period in the names of 26 fictitious students by submitting the bills for 300 students in toto. Hence, A1 committed criminal misconduct in discharge of her official duties and made false entries in attendance register thereby caused loss to the Government to the tune of Rs.3,91,485/-.

3.The contention of the learned counsel for the petitioner is that A1 is the Headmistress cum Hostel Warden. Apart from school records, she has to maintain the hostel records and submit documents to the Special Tahsildar, Adi Dravidar Welfare Department, who on verification of the documents would forward the same to District Adi Dravidar Welfare Officer, who allot funds in the school bank account towards the feeding charges incurred by the Hostel. A1 claimed feeding charges for 300 students wherein actually there are only 274 students in the hostel. For 26 students, she created false documents and claimed feeding charges to the tune of Rs.3,91,485/-. F.I.R. in this case came to be registered in the year 2015 and final report filed only on 19.04.2022. The case taken on file on 26.04.2022 in Spl.C.C.No.13 of 2022 by the learned Special Judge for Cases under Prevention of Corruption



Crl.O.P.No.17954 of 2022

Act, Villupuram. He further submitted that most of the teachers have now retired and some of them are bedridden and some of them are seriously ill.

As regards the teachers are concerned, they have nothing to do with the functioning of the hostel and claim of feeding charges. There are two attendance registers maintained in the school, viz., (1) Attendance register for every classes in school and (ii) Attendance register for Hostel. There are totally 48 witnesses, of which, L.W.1 and L.W.2 are the sanctioning witnesses. L.W.3 to L.W.7 are official witnesses and L.W.8 to L.W.33 are the students. None of the students have stated anything against the petitioners. L.W.34 to L.W.45 are the Headmasters and Headmistress of Schools in which some of the 26 students studied during the relevant period. L.W.46 is the Inspector of Police who registered FIR after conducting preliminary enquiry. L.W.47 and L.W.48 are the subsequent Investigating Officers who conducted investigation and filed charge sheet in this case. Further, the official witness stated nothing about entrustment of money to the petitioners or misappropriation of the same. The learned counsel for the petitioners further submitted that FIR in this case came to be registered only after preliminary enquiry and even after preliminary enquiry in the FIR



Crl.O.P.No.17954 of 2022

the petitioners' name does not find place. Hence, he prayed for quashing the case against the petitioners.

4.Learned Government Advocate [Crl. Side] appearing for the respondent Police submitted that during the period 01.08.2022 to 10.09.2014 one Thilagavathi was working as Headmistress cum Hostel Warden in Government Tribal Residential Middle School [G.T.R. Middle School], Paranginatham, Chinnasalem, Villupuram District. During this period, the petitioners herein along with A2/Manivel, A10/Sivamani and A11/Marthandam were working as Teachers in the said G.T.R. Middle School which is run by Adi Dravidar Welfare Department, Kallakurichi District. In this case all the accused are public servants. A1/Thilagavathi claimed feeding charges for students and claimed a sum of Rs.3,91,485/- including the names of 26 fictitious students and in toto, bills were submitted for 300 students. Hence, A1 committed criminal misconduct in discharge of her official duties, created false accounts, made false entries in the attendance register maintained in school and hostel and caused pecuniary loss to the Government to the extent of Rs.3,91,485/-. Thus, A1



Crl.O.P.No.17954 of 2022

committed the offence punishable under Sections 409, 417, 465, 471, 477-A of IPC and Section 13(1)(C) r/w. 13(2) of the Prevention of Corruption Act, 1988. The other accused/A2 to A11 who were class teachers during the relevant period who made false entries in the class attendance register maintained in the School and created forged document by marking attendance for the students who not actually studied in the said School during the relevant period and thus A2 to A11 abetted criminal misconduct of A1 and hence, A2 to A11 committed the offence punishable under 409, 417, 465, 471 and 477-A I.P.C. and Section 13(1)(c) r/w 13(2) of Prevention of Corruption Act r/w 109 I.P.C. He would submit that the petitioners' submissions that the petitioners' name are not mentioned in the FIR is not proper. FIR is not an encyclopedia and only on examination of witness and collection of documents, the role of accused came to light. He further submitted that since the petitioners being teachers, they handle the School attendance register, who made entries in the names of fictitious students. Further, in this case L.W.3, L.W.4 and one G.Ragothaman specifically state about the role of the petitioners. During the investigation, relevant materials and documents collected. Finding that the petitioners



Crl.O.P.No.17954 of 2022

have abetted the main accused A1 charge sheet was filed against the petitioners. Hence, he prayed for dismissal of this petition.

5.Considering the submissions made and on perusal of the materials, it is seen that preliminary enquiry in No.123/2014/EDN/VPM was conducted as per the directions from the Directorate of Vigilance and Anti Corruption, Chennai and thereafter, FIR came to be registered, which reads as follows:

"The accused Mrs.Thilagavathy was Headmistress of GTR Middle School of Paranginatham from 01.08.2011 to 10.09.2014 and hence she was a public servant within the meaning of Section 2(c) of The Prevention of Corruption Act, 1988 at the relevant period of occurrence.

It is submitted that during the period when the accused was working as Headmistress of GTR Middle School of Paranginatham only 200 to 220 students had stayed and were fed in the hostel regularly. But the accused made false entries in records as though 300 students were regularly staying in the hostel and had claimed feeding charges for 300 students.



Crl.O.P.No.17954 of 2022

So the reliable information revealed that the accused falsified accounts and framed incorrect records in the name of students who were not available in reality in the hostel but claimed as though they were staying in the hostel and claimed feeding charges based upon such falsified amount and incorrectly framed records and thereby dishonestly and fraudulently induced the Government to pay the above said feeding charges which it would not have done unless so deceived and the accused, being a public servant and having entrusted with the said amount dishonestly misappropriated and converted to her own use that amount and also violated the direction of law prescribing the mode in which such ammount is to be disposed of and further by reason of the above said act she also suspected of the offence of criminal misconduct.

I therefore register a case in Vigilance & Anti-corruption detachment, Villuppuram Cr.No.1/2015 u/s. 167,477-A, 420, 409 of IPC and Section 13(2) r/w. 13(1)(c)&(d) of The Prevention of Corruption Act, 1988.

The original FIR is submitted to the Court of Hon'ble Special Judge for P.C. Act Cases, Villuppuram and copies to the Officer's concerned."



Crl.O.P.No.17954 of 2022

WEB COPY

6. After conclusion of investigation, charge sheet was filed. L.W.1 and L.W.2 are the Sanctioning witnesses. L.W.1 granted sanction for A1 and L.W.2 granted sanction to A2 to A11. L.W.3 is the District Welfare Officer, Adi Dravidar Welfare Department, Villupuram District, who states about the administrative control over the Schools, hostels and his duty is to provide uniform, books and to ensure that stipends are being paid to the College and School students. Further, it is the duty of the District Welfare Officer to make a monthly visit to the Schools, Hostels and to ensure its proper functioning. Normally, the hostel Wardens used to pay from their pocket for the rations or get the provisions on credit basis from the shops and thereafter the Warden to submit Form Nos.7 and 8 along with purchase receipt to the Special Tahsildar, Adi Dravidar Welfare Department who scrutinize those documents and thereafter, forward it to the District Welfare Officer, Adi Dravidar Welfare Department who would approve the same and make payment either by cheque or ECS mode to the Wardens. The Special Tahsildar is to inspect the Schools and Hostels periodically every month, verify the students studying in the Schools and Hostels with the



Crl.O.P.No.17954 of 2022

School and Hostel attendance registers, make entries and to submit monthly report to the District Welfare Officer. The officials from the Revenue Department, Education Department would also make regular visit and inspect the School and Hostel. L.W.3 confirms that it was A1 who was the Headmistress cum Warden during 01.08.2011 to 10.09.2014 to the G.T.R. Middle School, Paranginatham and the petitioners herein and three others were class teachers. He further confirm that though claim was made for 300 students, actually there are only 274 students during the relevant period and the names of 26 fictitious students were entered and received a sum of Rs.3,91,485/-, thereby A1 committed a criminal misconduct and enriched herself. He also confirms that the monthly feeding charges is disbursed based on the Hostel register particulars and Form Nos.7 and 8 submitted by the Warden. Admittedly, the Hostel register and Form Nos.7 & 8 along with purchase bill are submitted by the Warden and the petitioners who are class teachers have nothing to do with the entires in the Hostel register, its maintenance and it is the duty of the Warden to maintain Hostel register and prepare Form Nos.7 & 8 which are the primary documents in claiming the feeding charges. He further stated that 26 students have either joined the



Crl.O.P.No.17954 of 2022

other Schools and continued their studies or some of them discontinued the education. Thus, he confirm that originally 26 students studied here, thereafter left the School and this has not been updated in the attendance register.

7.L.W.4 is the Successor to A1 who took charge as Headmaster in the School and Hostel from 08.01.2017 and he corroborates L.W.3. L.W.5 is the Watchman, L.W.6 and L.W.7 are the Cooks who state that in the Hostel there were never 300 students during the relevant point of time. The witnesses, L.W.5 to L.W.7 statements are general in nature corroborates with each other. L.W.8 to L.W.33 are students who have stated that they studied in G.T.R. Middle School, Paranginatham, Cuddalore for some time and thereafter joined other Schools and continued their education, some of them discontinued their education. L.W.34 to L.W.45 are the Headmaster and Headmistress of Danish Mission Middle School, Good Shaped Higher Secondary School, Dr.Pappiars Good Shaped Higher Secondary School, Seva Primary & Middle School, Yehalaiva GTRMS, Komugi Dam GTR High School, GTR Primary School, Government Middle School, GTR High



Crl.O.P.No.17954 of 2022

School, Panchayat Union Elementary School, Murugu Government Aided

Middle School and GTRPS. These witnesses state about the 26 students

who studied in their School during the relevant period in various classes.

L.W.46 is the Investigating Officer who registered the FIR and states about the preliminary enquiry conducted by him before registration of FIR.

L.W.47 and L.W.48 are Investigating Officers who conducted further investigation and finally filed the charge sheet. Thus, on going through the

statements of all the witnesses, it is seen that none of the witnesses stated anything about these petitioners to have consciously made entries in the

class attendance register. There is no evidence to show that the attendance register was entered with names of fictitious students from the tabulation

given. It is seen that for certain of the days, attendance was marked as present and in certain of the days, it is marked as absent. The class

attendance registers are not the basis on which the feeding charges were paid by the Adi Dravidar Welfare Department. In this case, the attendance

may be marked mechanically which might lead to dereliction of duty.

8.L.W.3 and L.W.4, District Welfare Officer, Adi Dravidar Welfare



Crl.O.P.No.17954 of 2022

Department and the successor to A1, both categorically state that Warden is the in-charge of Hostel and in this case, A1 is the Headmaster cum Warden and there is a separate register maintained in the hostel regarding the particulars of students, visit of their parents, particulars of dates in which the students go out and come back, etc. There is separate attendance register maintained in the Hostel. Further, there is a procedure put in place whereby claim submitted by the Warden are by a prescribed format, Form Nos.7 and 8 submitted along with purchase bills of provision, which ought to be scrutinized and recommendations are made by the Special Tahsildar, Adi Dravidar Welfare Department and thereafter it is further processed by District Welfare Officer and payments are made. A duty is cast upon the Special Tahsildar, Adi Dravidar Welfare Department, not only to scrutinize the Form Nos.7 & 8 with the bills submitted but also to conduct physical inspection of the School and Hostel which is confirmed in the statement of L.W.3 and L.W.4. Further, in this case there is no evidence or material to show that the petitioners who are class teachers had any role whatsoever in preparation and submission of these documents and thereafter receipt of the grant. The other witnesses, namely, L.W.6 to L.W.8, Watchman and the



Crl.O.P.No.17954 of 2022

Cooks who were present in the Hostel have not stated anything specific about the petitioners in any manner in taking part in the hostel activities.

The students, L.W.8 to L.W.33, the Headmaster and Headmistress, L.W.34 to L.W.45 only state about the students studying during the relevant period in various other Schools and they have not whispered any thing about the petitioners. The FIR is registered only after a preliminary enquiry, during which documents and records were scrutinized. After registration of case, investigation conducted, statement of witnesses recorded and none have stated anything about the petitioners. Thus, the petitioners might have committed dereliction of duty for not properly marking the attendance in the class and nothing more, for which they can be dealt with departmentally. The petitioners act cannot be termed as abetment and the petitioners cannot be termed as abettors. The uncontroverted statement of witnesses does not implicate the petitioners. In view of the same, this Court finds that continuation of prosecution against the petitioners as abettors would amount to abuse of process of law.

9.In the result, the proceedings in Spl.C.C.No.13 of 2022 against the



Crl.O.P.No.17954 of 2022

petitioners/A3 to A9 as well as A2, A10 and A11 who are also similarly placed as that of the petitioners in Spl.C.C.No.13 of 2022 pending on the file of the learned Special Judge for Cases under Prevention of Corruption Act, Villupuram is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

.02.2023

Index : Yes/No
Neutral Citation: Yes/No
cse

To

- 1.The Additional Superintendent of Police,
Directorate of Vigilance & Anti-Corruption,
Villupuram, Cr.No.1/2015.
- 2.The Inspector of Police,
Directorate of Vigilance & Anti-Corruption,
Villupuram.
- 3.The Special Judge for Cases
under Prevention of Corruption Act,
Villupuram.



WEB COPY



Crl.O.P.No.17954 of 2022

M.NIRMAL KUMAR, J.

cse

Pre-delivery order made in

Crl.O.P.No.17954 of 2022

.02.2023