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Crl.O.P.No.16435 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.16435 of 2021

and

Crl.M.P.Nos.8983 & 8986 of 2021

Nageswaran

...Petitioner / Accused - 2

-Vs-

1.The State Rep. by,

Deputy Superintendent of Police,

Organized Crime Unit-II,

CBCID, Chennai – 600 003.

..... 1st Respondent / Complainant

2.Agricultural Production Commissioner and

Principal Secretary to Government,

(Surjit K. Chaudhary, I.A.S.,)

Agriculture (AA7), Department,

Secretariat, Chennai – 600 009.

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.4009 of 2011 pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

For Petitioner

: Mr. K. R. Ramesh Kumar



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Crl.O.P.No.16435 of 2021

For Respondents : Mr. A. Damodaran,
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the proceeding in C.C.No.1009 of 2011 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai.

2.The allegation in the final report is that the accused had entered into a conspiracy to cause loss to the Government by diverting Potash fertilizer imported under subsidy, which was meant only for agricultural purposes, to chemical industries for illegal gain. It is further alleged that A1 being the proprietor of a company by name, Ennor Muds and Chemicals, had purchased the fertilizer from the petitioner for industrial use and thereby caused loss to the Government to the tune of Rs.5,00,000/- and gained a sum of Rs.23,200/-.

3(a).The learned counsel for the petitioner submitted that the final report was filed pursuant to investigation in Crime No.1 of 2009 on the file of the respondent police. The respondent police also had filed another



Crl.O.P.No.16435 of 2021

final report in C.C.No.10731 of 2010 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai, pursuant to the investigation in the very same crime number. Two final reports were filed, since the conspiracy period differed in the two cases. In the impugned prosecution, the conspiracy said to have taken place in the year 2005. Whereas, in C.C.10731 of 2010 the conspiracy said to taken place in 2008. That apart, there is no other difference between the two final reports and the allegations are similar.

3(b).The learned counsel submitted that the petitioner was prosecuted in C.C.No.10731 of 2010 as well and he had filed quash petition in Crl.O.P.No.5975 of 2021 before this Court and the said petition was allowed. The learned counsel further submitted that this Court had quashed the proceedings against the petitioner, since the co-accused in that case, had filed quash petitions and the same was allowed by this Court in a series of petitions viz., Crl.O.P.Nos.27503, 27504 of 2010, Crl.O.P.No.18266, 19101, 19148 of 2017 and Crl.O.P.No.6544 of 2013.

3(c).The learned counsel further submitted that the order passed by this Court in Crl.O.P.Nos.27503 and 27504 of 2010 dated 05.09.2014



Crl.O.P.No.16435 of 2021

was challenged before the Hon'ble Supreme Court and the same was dismissed in S.L.P.Nos.10465 – 10466 of 2015.

3(d).The learned counsel submitted that the final reports arising from the same crime numbers, which make similar allegations have been filed by the respondent police. The main case, in which 15 persons were arrayed as accused has been quashed by this Court. Therefore, the proceedings against this petitioner has to be quashed on the ground of parity.

4.The learned Additional Public Prosecutor, however submitted that there are allegations in the impugned final report, which has to be adjudicated only before the trial Court. However, the learned Additional Public Prosecutor, also fairly submitted that the final report arising out of the same crime number, in which the major allegations have been made has been quashed by this Court as against all the accused and which has been confirmed by the Hon'ble Supreme Court.

5.Considering the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor, this Court finds



Crl.O.P.No.16435 of 2021

force in the submissions made by the learned counsel for the petitioner.

The final report which has been filed against 15 accused alleging conspiracy to sell fertilizer, which was imported under subsidy to chemical companies has been quashed. The instant final report relates to a different period making similar allegations. Since the substantial case has been quashed by this Court in the above said series of petitions as against all the accused, no useful purpose would be served in keeping the proceedings pending as against the present petitioner in the instant prosecution.

6.It is also stated that the 1st accused is no more.

7.This Court in the order in Crl.O.P.Nos.27503 and 27504 of 2010 dated 05.09.2014, while quashing the proceedings in the other final report, had held as follows:

“16.Thus, the discussion held above would amply go to show that no case is made out and the facts involved in the present case and the materials made available



Crl.O.P.No.16435 of 2021

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herein would not attract the commission of any offence charged against A1 to A3 as such if the criminal proceedings is allowed to go on against the petitioners, it will amount to abuse of process of law and in order to secure the ends of justice, the criminal proceedings is liable to be quashed and stands quashed.”

8. Therefore, this Court is of the view, that the continuation of the impugned proceedings would amount to abuse of process of law. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

09.06.2023

smv

Index : Yes/No

Speaking order : Yes / No

Neutral Citation : Yes / No

To,

1. The Deputy Superintendent of Police,



Crl.O.P.No.16435 of 2021

Organized Crime Unit-II,
CBCID, Chennai – 600 003.

WEB COPY

- 2.The Agricultural Production Commissioner and
Principal Secretary to Government,
Agriculture (AA7), Department,
Secretariat, Chennai – 600 009.
- 3.The XI Metropolitan Magistrate, Saidapet, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

SUNDER MOHAN,J.

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Crl.O.P.No.16435 of 2021

Crl.O.P.No.16435 of 2021

09.06.2023