



Criminal Original Petition No.19430 of 2023

WEB COPY

A.D.JAGADISH CHANDIRA, J.

The Criminal Original Petition has been filed seeking to call for the records in Crime No.06 of 2023 on the file of the respondent and quash the same.

2. Brief facts of the prosecution case are as under:-

i) Chennai Metropolitan Development Authority had floated a tender-cum-auction notification for the sale of four types of unsold shops viz., (1)Vegetable (2)Fruit (3)Flower and (4)Foodgrain market at the Koyembedu Wholesale Market Complex (KWMC) located at Koyembedu, Chennai vide Tender Notice No.2/2019-20 dated 22.07.2019.

ii) The upset price (market value) fixed for running a Restaurant was fixed at Rs.18,750/- per sqft., whereas the upset price (market value) fixed for running a vegetable shop was fixed within a range from Rs.23,750 to Rs.26,250/- depending upon the location.

iii) One Senthilkumar was declared as the highest bidder for Shop No.VH 83. The said Shop was originally identified as one for running a Restaurant alone. However, in the intimation letter dated



14.11.2019 issued by the petitioner herein, it was noted as a premises for running a vegetable shop. In the allotment order dated 26.11.2019 issued by the Chief Executive Officer also, it was noted as one for running a vegetable shop.

iv) The truth has come out when a writ petition in W.P.No.19913 of 2020 came to be filed by one V.Anandan, a competitive bidder, pointing out some irregularities in the tender process and utilization of the shop by the auction purchaser for running vegetable shop when it was meant for running a Restaurant alone. Initially, an interim order was passed in the said writ petition on 4.1.2021 preventing the auction purchaser from using the premises as restaurant and later, on 26.2.2021, the writ petition came to be disposed on the undertaking given by the auction purchaser to use the shop only for running a restaurant.

v) In the interregnum, viz., from 23.12.2020 to 25.1.2021, the auction purchaser is said to have used the premises for running a vegetable shop. In this regard, the petitioner being the Superintending Engineer, Chennai Metropolitan Development Authority, Chennai is proceeded with a case alleging that he was entrusted with the allotment of vacant shops and in the capacity of a



public servant, he has committed an offence of criminal breach of trust by allotting the property bearing No.VH 83 as vegetable market and thereby caused a wrongful loss of Rs.86,87,450/- to the Government exchequer and wrongful gain to the auction purchaser Senthilkumar.

3. The submissions of Mr.John Sathyan, learned Senior Counsel appearing for the petitioner are as under:-

i) The petitioner has been serving as Superintending Engineer in Chennai Metropolitan Development Authority for more than 30 years and he is in the verge of retirement and thus, the pendency of the criminal proceedings is causing much hardship to him.

ii) Except signing the intimation letter and sending the communication to the Chief Executive Officer requesting to hand over the shop with clearance certificate and issue the sale deed, the petitioner has no role in the tender process and the sale certificate has also been signed by the Chief Executive Officer and thus, he is not connected with the offence alleged against him.

iii) The premises is now being used to run a Restaurant alone and there is no loss caused to the Government exchequer or the Chennai Metropolitan Development Authority. The petitioner had



sought for information under the RTI Act from the Chennai Metropolitan Development Authority with regard to the loss, if any, caused and they sent a letter No.G/PIO/461/2023 dated 31.8.2023 contending that in the Audit Reports for the years 2019, 2020, 2020-2021 and 2021-2022, there is no mention about the loss.

iv) The sale certificate has not been issued by the petitioner. The petitioner is also not responsible for conducting any inspection. If there is any violation of conditions of tender or conversion of the use of the premises, it is for the Estate Officer concerned and the Marketing Management Committee to inform it to the authorities concerned and that the petitioner, at the verge of his retirement has been unnecessarily implicated in the case.

v) If at all the petitioner can be alleged to be responsible for dereliction of duty in not properly assessing the notes put up by his subordinates and there is absolutely nothing to show that the petitioner, by sending the intimation letter indicating the premises as vegetable shop, has made any wrongful gain.

4. After having heard the learned counsel for the parties and



perused the materials available on record, this court had directed the respondent to find out whether any loss has been caused to the CMDA and whether the petitioner is responsible for issuance of sale certificate and also the role of the petitioner in the conversion of the shop. Accordingly, a status Report has been filed by the respondent today.

5. In the Status Report, it is stated that the investigation had revealed that certain violations had been committed by the Administrative Officer and other officers and though the loss is not apparently seen as of now, enquiry is pending to ascertain the loss to the Government if any and the role of officials in giving wrongful gain to the auction purchaser and their conspiracy with him and if there is no loss to the Government and no offence is made out, suitable action will be recommended to the Department concerned.

6. The learned Government Advocate would submit that if the respondent is able to cull out any material in respect of wrongful loss to the Chennai Metropolitan Development Authority or wrongful gain to the petitioner and other accused, they may be permitted to pursue the criminal proceedings.



WEB COPY

7. The status report is taken on file. Considering the circumstances of the case viz., the petitioner is at the verge of retirement and no material and the stage of the criminal proceedings, the respondent is directed to gather the required information from the CMDA and file the final report on or before 19.12.2023.

12.12.2023.

Index: Yes/No.
Internet: Yes/No.
ssk.

Note to office:-

- 1) Issue copy of the order forthwith (15.12.'23.)**
- 2) List the matter for reporting compliance on 21.12.2023.**



7

A.D.JAGADISH CHANDIRA, J.

ssk.

Crl.O.P.No.19430 of 2023

12.12.2023.