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Crl.O.P.No.21540 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.21540 of 2023

Ramachandiran

... Petitioner

-VS-

State Rep. by
Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Cuddalore District, Cuddalore.

...Respondent

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code, to direct the respondent to furnish certificate copies of the all witnesses and all documents collected during detailed enquiry in DE/54/2021/RDP/HQ, dated 20.10.2021 by respondent in accordance with law.

For Petitioner : Mr.M.Velmurugan

For Respondent : Mr.S.Udayakumar,
Government Advocate (Crl.Side)

ORDER

The petitioner Ramachandiran is a resident of Korakkavadi Village, Thittakudi Taluk, Cuddalore District. Specific Allegations of mis-appropriation of funds under the Pradhan Manthiri Avas Yojana (PMAY) Scheme against



Village Panchayat Secretary and Block Development Officer been made and complaint given to the respondent police about the mis-appropriation of funds. Similar complaint was also made by one Panjavarnam.

2. Both the complaints were not acted upon and the said Panjavarnam, moved this Court in Crl.O.P. No.17525 of 2021. In the said petition, it was reported by the Vigilance Department that a detailed enquiry been initiated and the enquiry is under progress. Recording the same, her petition was disposed of vide order dated 22.10.2021. Since the enquiry has not been completed after waiting for nearly a year, Panjavarnam again moved the High Court in Crl.O.P. No.21327 of 2022 to know about the fate of the detailed enquiry. The respondent reported that the detailed enquiry completed and the Vigilance Commission has recommended departmental action against the Panchayat President and S.R. Sankar, Block Development Officer and R. Angeswari, Village Panchayat Secretary.

3. This petitioner who is also similarly placed like Panjavarnam, aggrieved by the alleged act of misappropriation is now before this Court seeking the details of DE/54/2021/RDP/HQ to take further course of action as a



person aggrieved being a victim.

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4. The learned Government Advocate appearing for the respondent referring the Vigilance Manual submitted that though detail enquiry is an open enquiry, it is desirable not to give undue publicity about the enquiry exposing the public servant and also the information ascertained during the course of investigation has to be kept confidential by referring to Section 8(4) of Right to Information Act, 2005. He has also submitted that the information collected during the process of investigation are not amenable to disclosure.

5. The learned counsel appearing for the petitioner submitted that being a victim and aggrieved by inaction on the part of the respondent redressal through Court been sought and only on the direction of the Court the detailed enquiry was conducted. However, instead of prosecuting the persons who misappropriated the public fund, Vigilance Commissioner has suggested and recommended only for departmental action, which is a farce action to cover and protect the erred public servant. Therefore, being a victim, he has every right to initiate criminal prosecution as contemplated under the Prevention of Corruption Act, 1988.



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6. For the said purpose, the documents collected during the detailed enquiry is required. It is neither a privilege document nor a secret document, requires non disclosure in the nations interest. The refusal to furnish documents collected during the detailed enquiry is only to protect the erred public servant and therefore submitted that the documents collected during the detailed enquiry is to be furnished.

7. This Court after considering the submissions and the law on the right of victim to have the advantage of documents collected during the detailed enquiry vis-a-vis, the right of accused is of the firm view that both the victim as well as the accused are to be treated on par and whatever materials collected in the course of investigation, after completion of the investigation they are entitled for the copies.

8. The desirability of the Department of Vigilance and Anti-corruption as found in the Manual is only during the pendency of the investigation and not after completion of investigation. Once the investigation is completed, the documents collected are to be furnished to the accused, if he desires to get it



whether they proceed with prosecution or not.

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9. Similarly, the complainant or a victim if wants to pursue his remedy in the manner known to law should also be furnished with the copies of the material collected. A public servant cannot claim any privilege or protection from disclosing documents collected during the course of investigation against him. Therefore, the petitioner seeking documents collected during the detailed enquiry registered in DE/54/2021/RDP/HQ is allowed. The respondent is directed to furnish the DE/54/2021/RDP/HQ documents to the petitioner within a period of seven days from the date of receipt of the order copy. Accordingly, this Criminal Original Petition is allowed.

25.09.2023

Internet : Yes/No

Index : Yes/No

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To

1. The Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Cuddalore District, Cuddalore.
2. The Public Prosecutor,
Madras High Court, Chennai.



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Dr.G.JAYACHANDRAN, J.

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