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Crl.O.P.No.23645 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.23645 of 2023
and Crl.M.P.No.16464 of 2023

R.Sathya Prabha

... Petitioner

Vs.

1. State represented by
The Inspector of Police,
Vigilance and Anti - Corruption,
Coimbatore.

2. C.Latha

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records of Cr.No.01/2022/AC/CB on the file of the Vigilance and Anti-Corruption, Coimbatore dated 07.01.2022 and quash the same.

For Petitioner : Mr.R.Arvind

For Respondents : Mr.C.E.Pratap
Government Advocate (Crl.Side)
for R1



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ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings in Cr.No.01/2022/AC/CB on the file of the Vigilance and Anti-Corruption, Coimbatore dated 07.01.2022.

2. The case of the prosecution is that the first accused Yuvaraj has held the charges of Record Clerk and Bill Collector (Full Additional Charge), East Zone, Coimbatore Municipal Corporation, Coimbatore in Ward No.61 during the period from 24.02.2019 to 27.08.2020 and in Ward No.64 during the period from 24.10.2018 to 27.08.2020 (Now under suspension). The second accused, petitioner herein has held the charge of Assistant Revenue Officer, East Zone during the period from 12.07.2019 to 06.10.2020 and now she is working as Assistant Revenue Officer, South Zone, Coimbatore Municipal Corporation, Coimbatore. Both the first and second accused are Public Servants as defined under Section 2(c) of the Prevention of Corruption Act, 1988.

3. Further, the prosecution has stated that the Coimbatore Municipal Corporation comprises of five Zones, in which East Zone alone consists of 20



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wards. At the time of fixation of house tax to the newly constructed house/building, the building owner has to submit an application to the Municipal Corporation with relevant documents. The Application would be received by the Assistant Revenue Officer (ARO) and would be entered in the relevant registers. Subsequently, the application would be sent to the concerned Bill Collector for measuring the buildings and submitting the inspection report. During the measurement of buildings, if measurement exceeds the approved building plan, it would be considered as a deviation in the building plan approval. Thereafter, the Bill Collector will fix charges for the deviation and the building owner shall remit the said amount to the Zonal Office concerned.

4. During the said tenure, as Bill Collector in charge of East Zone, Coimbatore Municipal Corporation, the first accused colluded with the second accused, petitioner herein and prepared false challan, false seal in the name of the Coimbatore Municipal Corporation, and by using the same, A1 had collected money from the building owners and maliciously issued the cash receipts with forged signature of the cashier in order to make them believe that the deviation charges are paid to the treasury. By doing so, the accused have misappropriated amounts to the tune of Rs.3,40,205/- from 18 building owners



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in Ward No.61 and the amount to the tune of Rs.4,17,225/- from 17 building owners in Ward No.64 and thereby, totally they have misappropriated a sum of Rs.7,57,430/-. Further, the first and second accused have also misappropriated amounts pertaining to 14 building owners in Ward No.61 and thereby, the case has been registered in Cr.No.01/2022/AC/CB for the offences under Sections 120(B), 167, 465, 468, 471, 477(A) and 409 of IPC and under Sections 13(2) r/w 13(1)(a) of the Prevention of Corruption Act, 1988 as amended by the Prevention of Corruption (Amendment) Act, 2018. Seeking to quash the FIR the present case has been filed by the second accused.

5. Learned counsel for the petitioner submitted that the alleged offence is stated to have been committed during the period from 24.02.2019 to 27.08.2020, whereas, the petitioner has taken charge as Assistant Revenue Officer (ARO) only on 12.07.2019 and the complaint *prima facie* does not disclose any material for the alleged offences with regard to the petitioner herein (A2). During the official course as Assistant Revenue Officer (ARO), the petitioner came to know from one Madhanlal Mali Prakash on 25.08.2020 that A1/Yuvaraj had not handed over the receipt with respect to his newly constructed building and further finding that A1 had not deposited the amount



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into the treasury of the Corporation the petitioner had warned A1 and only thereafter, A1 had deposited the amount of Rs.3,45,530/- into the Treasury.

Further, concerning the lapse by A1, the petitioner has given a complaint to the higher Authorities on 26.08.2020 and she has also sent a detailed report to the Commissioner of Coimbatore City on 16.10.2020. Whereas, the petitioner had now been implicated in the offence committed by A1. Further the petitioner Counsel submits that there is absolutely no material to show that the petitioner herein colluded or conspired with the main accused. Thereby, he would seek for quashing of Cr.No.01/2022/AC/CB on the file of the Vigilance and Anti-Corruption, Coimbatore.

6. Learned Government Advocate (Crl.Side) submitted that the preliminary investigation reveals that the petitioner colluded with the main accused and by fabrication of documents and issuing forged receipts, have cheated the Corporation to the tune of Rs.7,57,430/-. The alleged occurrence is stated to have been committed during 24.02.2019 to 27.08.2020. Though, the petitioner had taken charge as Assistant Revenue Officer (ARO) on 12.07.2019, she along with the main accused had indulged in the offence. Only after one Madhanlal Mali Prakash had given written complaint, the petitioner had



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feigned ignorance and in order to save herself attempted to act against A1 on 25.08.2020. During the interregnum period, she and A1 by fabrication of documents knocked out the amounts and only on 26.08.2020, in order to protect herself, she had given the complaint against A1 to her higher officials. Further, learned counsel for the Government side submits that the investigation of the case is at crucial stage and there are materials to show that the petitioner has colluded with other accused. In support of his argument, he relied on *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others* reported in 2021 SCC Online SC 315, to emphasize the principle that the courts should not thwart investigation at the initial stage itself. Further, in this case the petitioner has not made out any ground for quashing the FIR, thereby, he prays for dismissal of the petition.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) and perused the materials available on record.

8. In this case the Petitioner along with A1 is alleged to have conspired, fabricated, forged documents and is stated to have misappropriated the money of the corporation. Further in the case of *Inspector of Police v M.*



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Maridoss, 2023 SCC OnLine SC 47, the Court reiterated the settled position of law that, while exercising the powers under Section 482 Cr.P.C., the High Courts are not required to conduct a mini trial and what is required to be considered is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR *prima facie* discloses the commission of the cognizable offence or not. This Court finds that there are *prima facie* materials available for initiation of the investigation which cannot be scuttled at the threshold. Further the grounds raised by the petitioner do not make a case for quashing.

9. Accordingly, this Criminal Original Petition stands dismissed. However, the first respondent Police is directed to complete the investigation and file the final report as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

17.10.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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To

1. The Inspector of Police,
Vigilance and Anti - Corruption,
Coimbatore District.
2. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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