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Crl.O.P(MD)No.12306 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

Crl.O.P(MD)No.12306 of 2020 and
Crl.M.P(MD).Nos.7355 of 2020 and 1861 of 2021

M.Elangovan

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.
(Crime No. 813 of 2020)
(amended as per the Court order, dated
22.12.2020 in Cr.M.P(MD).No.7356 of 2020)
2.J.Jeyakanthan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to
call for the records relating to the impugned FIR registered in Crime No.
813 of 2020, on the file of the 1st respondent and quash the same.

For Petitioner : Mr.A. Robinson

for Mr.M.Saravanan

For 1st Respondent : Mr.T. Senthil Kumar



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Additional Public Prosecutor
ORDER

The petitioner is the accused in Crime No.391 of 2020 on the file of the Sakkottai Police Station, Sivagangai District. Subsequently, it was transferred to the Karaikudi North Police Station and re-numbered as Crime No.813 of 2020. Now, he has filed the present petition to quash the impugned FIR registered in Crime No.813 of 2020.

2. The main allegation made against the petitioner in First Information Report is that he has not properly carried out the Covid-19, Pandemic Prevention duties and he was absent from duty for 10 days without any intimation. Further, the petitioner failed to hand over the receipt books and other records to the Vice President of the panchayat and he failed to disburse the salary to the Over Head Tank Operators and Street Light Maintenance workers.

3. The learned counsel appearing for the petitioner submitted that entire reading of First Information Report, there was no offence made out and also the charge memo issued for the same



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allegation was quashed by this Court in W.P(MD).No.16997 of 2020 by order, dated 26.10.2022.

4. Per contra, the learned Additional Public Prosecutor submitted that there is material available to continue the investigation. Hence, the Director General of Police transferred the case to the Vigilance Department and the same was pending for consideration before the Vigilance Department.

5. This Court considered the rival submissions made by both side counsel and perused the materials and the precedents relied upon by them.

6. This Court perused the FIR as well as the connected documents and charge memo issued against the petitioner. The allegation against the petitioner in First information Report as well as the charge memo is similar. This Court quashed the charge memo and specifically held that the charges are not make out any mis-conduct. Further, the charges and the incriminating materials filed along with the charge memo did not make out the any case for disciplinary proceedings.



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7. Perusal of First Information Report, this Court does not find any material averment to constitute any offence. Further, the allegation is that he did not hand over the charge after the transfer. But the records shows that he already handed over the documents and also the same was duly acknowledged by the competent person.

8. Apart from that no other allegations made against the petitioner. In addition to that the Department proceedings for the same set of allegations initiated by the Department on the basis of the same material is quashed by this Court in W.P(MD).No.16997 of 2020. In the said circumstances, it is relevant to follow the principles laid down by the Hon'ble Supreme Court in ***Ashoo Surendranath Tewari v. CBI***, reported in (2020) 9 SCC 636 wherein the Hon'ble Supreme Court held as follows:

13. It finally concluded: (Radheshyam Kejriwal case [Radheshyam Kejriwal v. State of W.B., (2011) 3 SCC 581 : (2011) 2 SCC (Cri) 721], SCC p. 598, para 39)

“39. In our opinion, therefore, the yardstick would be to judge as to whether the allegation in the adjudication proceedings as well as the proceeding for prosecution is identical and the exoneration of the person concerned in the adjudication proceedings is on merits. In case it is found on merit that there is no contravention of the provisions of the Act in the adjudication proceedings, the trial of the person concerned shall be an abuse of the process of the court.”

15. Applying the aforesaid judgments to the



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facts of this case, it is clear that in view of the detailed CVC order dated 22-12-2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment [Ashoo Surendranath Tewari v. CBI, 2014 SCC OnLine Bom 5042] of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code.

9. Considering the above ratio laid down by the Hon'ble Supreme Court, since the Department proceedings which same allegation on the same materials is quashed by this Court in W.P.(MD)No.16997 of 2020, the impugned First Information Report did not make out any offence. So, this Court is inclined to quash the proceedings in Crime No. 813 of 2020, on the file of the 1st respondent police and accordingly, quashed. Consequently, the proceedings pending before the Director, Vigilance Directorate, Chennai, is also set aside.

10. Accordingly, this Criminal Original Petition is allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

04.07.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/ No
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To

1. The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K. RAMAKRISHNAN. J.,

trp

Order made in
CrI.O.P(MD)No.12306 of 2020 and
CrI.M.P(MD).Nos.7355 of 2020
and 1861 of 2021

Dated : 04.07.2023