



WEB COPY



Cr.O.P.No.7620 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr.O.P.No.7620 of 2024
and Cr.L.M.P.No.5519 of 2024

K.Shanmugam

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Vigilance and Anti Corruption,
Namakkal District.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to call for the records of the respondent relating to the impugned First Information Report No.05/AC/2023 registered on the file of the respondent and quash the same.

For Petitioner : Mr.N.Subramaniyan
For Respondent : Mr.S.Santhosh
Government Advocate (Cr.L.Side)



Cr.L.O.P.No.7620 of 2024

ORDER

WEB COPY

This Criminal Original Petition has been filed seeking to quash the First Information Report, which has been registered by the Inspector of Police, Vigilance and Anti-Corruption, Namakkal. The impugned First Information Report came to be registered on 09.12.2022 after preliminary enquiry conducted by the Vigilance and Anti Corruption-Police and on being satisfied that there is cognizable offence made out in the allegations found in the complaint.

2. The present petition has been filed by the petitioner (A8), who is the President of Sri Konur Kaliyamman Small Farmers Lift Irrigation Association, Pothanur. According to the First Information Report, the named accused conspired with each other and in connivance with the public servants, who are the officers working in the Water Resources Department, Salem by furnishing fabricated and false documents and mislead the government and got the G.O.Ms.No.331, Public Works (N1) Department, dated 12.10.2007, amended, and thereby had obtained advantage of lifting the water from the river cauvery for private use.



3. The learned counsel appearing for the petitioner while seeking to quash the First Information Report submitted that the certificate given by the Village Administrative Officers regarding the survey numbers and the land for which the Lift Irrigation Facility sought are in existence and the adangal for the said survey numbers of the village are not fictitious as alleged in the First Information Report. While the factories and the lands are very well in existence, the respondent has maliciously registered the First Information Report and there are materials available to prove that the offence is not made out as alleged. The First Information Report registered maliciously based on a false complaint is an abuse of process of law and thereby would seek for quashing.

4. Mr.Santhosh, the learned Government Advocate (Crl.Side) would submit that the co-accused in this case have filed petitions in Crl.O.P.No14515 and batch of 2023 seeking to quash and this Court, finding that there were no malafides and also finding that there were materials available for registration of the case and also finding that if at all the accused have any material to prove their innocence they can place it before the respondent, had dismissed the same and had directed the Investigating Agency to complete the investigation. He would



further submit that the investigation is almost in the final stage.

WEB COPY

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent and perused the materials available on record.

6. The petition has been filed seeking to quash the First Information Report. In *State of Chhattisgarh vs. Aman Kumar Singh* reported in (2023) 6 SCC 559, the Hon'ble Apex Court had held about the principle of non interference followed by the Courts in respect of cases regarding quashment of the First Information Report/investigation in Prevention of Corruption Act/Corruption cases.

7. It is submitted by the learned Government Advocate (Criminal Side) that some of the co-accused have approached this Court seeking to quash the First Information Report in CrI.O.P.No14515 and batch of 2023 and this court finding that there were no malafides and also finding that there were materials available for registration of the case had dismissed the petitions by order dated



07-07-2023. The relevant portion of the order passed by this Court is extracted

WEB COPY hereunder :-

“ 4. This Court, after perusing the documents is satisfied that the First Information Report is registered, based on the *prima facie* material available and collected during the preliminary enquiry conducted for nearly 5 years. The reasons stated for quashing of First Information Report in this case is unfound, in view of the *prima facie* material.

5. The law is well settled by the Hon'ble Supreme Court that only if no cognizable material available, First Information Report can be quashed. In this case, the respondent police has gone through the complaint of improper drawer of cauvery water by fabricating documents and had come to the conclusion that it is a fit case for investigation, hence registered the First Information Report on 09.12.2022. Unless the investigation is completed, merely based on the documents produced by the petitioners that the innocence cannot be presumed. However, the learned counsel appearing for the petitioners wants to read through the documents which he relies upon to quash the First Information Report. This practice showing the document to High Court instead of participating in the investigation and produced the same before the Investigating Officer is highly deplorable. Catena of judgments passed by the Hon'ble Supreme Court from Bhajan Lal case, the



First Information Report cannot be quashed for asking, unless it is registered with malafide or bereft of details. This is a case registered after preliminary enquiry. The offence is based on documents. It is unfortunate that alleged perpetrator of crime wants to delay the investigation by filing petition under Section 482 of Cr.P.C to quash the First Information Report so that they will have enough time to manipulate the records. It is the case, where after five years of belated enquiry , First Information Report has been registered with the following allegations:-

“In the banks of river Cauvery, various types of irrigation systems are being carried out. To facilitate irrigation to the lands in the higher altitude areas and interior areas where canal irrigation is not possible. Lift Irrigation System is being carried out by the farmers. In the Light Irrigation System, water from the wells located in the banks of river Cauvery is lifted by the Farmers Association through pipe line to their areas and distributed to the lands. The AO-8, Tr.K.Shanmugam started lift irrigation scheme in the name of Shri Konur Kaliyamman Small Farmers Lift Irrigation System, Pothanur to irrigate the villages of Paramathi, Pilakalathur, Villipalayam, Manickanatham and Veeranampalayam. Sri Konur Kaluyamman Small Farmers lift irrigation Association is registered on 06.08.2001 and its registration number is 61/2001. 60 farmers of Pothanur, Karaiyanputhur, Sundakampalayam, Rasampalayam, Konur, Keelsathambur and Kandampalayam villages are the members of the association. AO-8 Tr.K.Shanmugam, President of the said Sri Konur Kaliyamman Small Farmers lift Irrigation Association applied Govt.Order for lift irrigation in the year 2006 and Govt. ordered in G.O.Ms.No.331, Public Works (N1) Department, dated 12.10.2007. Totally 250 acres of lands are



covered in that G.O. For irrigation of 112 farmer of Paramathy, Pillakalathur, Manikanatham and Veeranampalayam villages. But, he did not execute the work in the above said villages whereas he without any authorization voluntarily diverted the work and started laying pipelines to supply river water to the villages of Konur, Keelsathampur, Vallipuram, Rasampalayam, Keerampur, Nallagoundampalayam, Periyagoundampalayam and Thindamangalam villagers. Though those villages were not listed in the G.O.No.331, AO-8 changed the irrigation villages so that he can get several lakhs of rupees from the farmers of this area.”

5. If at all there is any evidence or material to prove their innocence, the persons, who are arrayed as accused can place it before the Investigating Officer during the course of investigation and establish their innocence. It is unfair the learned counsel appearing for the petitioner to expect the High Court summarily decide the case, where the competent investigating agency has gone in detail and made preliminary enquiry before arriving at an conclusion that there is a *prima facie* case of cognizable offence made out.

6. For the said reason, this Court finds that these petitions are frivolous and filed with ulterior motive to delay the investigation, which has already taken five years of time to complete the preliminary investigation. Hence, this Criminal Original Petition stands dismissed. The Investigating Agency is directed to complete the investigation and file a final report within



CrI.O.P.No.7620 of 2024

a period of four months from today.”

WEB COPY

8. In view of the above, this Court does not find any valid grounds available to quash the proceedings, thereby, the Criminal Original Petition seeking to quash the First Information Report stands dismissed, however, permitting the petitioner to place the material available to prove his innocence within a week from the date of receipt of a copy of the order. Consequently, connected miscellaneous petition is also closed.

27.03.2024

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

To

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

A.D.JAGADISH CHANDIRA, J.



WEB COPY



CrI.O.P.No.7620 of 2024

ham

***CrI.O.P.No.7620 of 2024
and CrI.M.P.No.5519 of 2024***

27.03.2024