WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.11.2023

Pronounced on : 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

W.P(MD)No.24567 of 2023
and
W.M.P(MD)No.20759 of 2023

Subbaiyan ... Petitioner

Vs.

1.The State rep. by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Trichy.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Trichy.

3.The General Manager,
(AAVIN),
Tiruchirapalli District Co-Operative Milk
Producers Union Ltd.,
Pudukottai Road, Kottapattu,
Kajanagar Post,
Trichy – 620 023. ... Respondents

https://www.mhc.tn.gov.in/judis

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or order to direct the Special Court for the cases under Prevention of Corruption Act, Trichy to proceed with the case after marking the exhibits to be marked in view of order passed in Cr.M.P.No.232 of 2022 dated 22.08.2022 and Crl.M.P.No.142 of 2023 dated 05.07.2023 filed in Special Case No.80 of 2011 and consequently direct the respondents 2 and 3 to comply with the order passed therein.

For Petitioner : Mr.N.Mohideen Basha

For R1 & R2 : Mr.B.Nambi Selvan
Additional Public Prosecutor

For R3 : Mr.J.Devasenan

O R D E R

The petitioner has filed this Writ Petition to issue a Writ of Mandamus or any other appropriate writ or order to direct the Special Court for the cases under Prevention of Corruption Act, Trichy to proceed with the case after marking the exhibits to be marked in view of order passed in Cr.M.P.No.232 of 2022 dated 22.08.2022 and Crl.M.P.No.142 of 2023 dated 05.07.2023 filed in Special Case No.80 of 2011 and consequently direct the respondents 2 and 3 to comply with the order passed therein.

https://www.mhc.tn.gov.in/judis

WEB COPY

2. Heard both side and perused the records in this Writ Petition.

3. The learned counsel for the petitioner has submitted that the petitioner is facing trial of case in Special Case No.80 of 2011 before the Special Court for the cases under Prevention of Corruption Act, Trichy. Trial has been commenced and the case is pending for further evidence of prosecution witnesses. Pending trial, the petitioner has filed the petitions in Crl.M.P.Nos.232 of 2022 and 142 of 2023 to direct the Aavin Management, Kottapattu, Trichy to send tender forms connected to four vehicles KA 01 B 6154, KA 01 AG 5965, KA 01 AA 5965 and KA 01 AB 5965. Though the petitions were allowed by the Trial Court, the respondents have not produced the same. The documents are vital to the case of the petitioner.

4. The learned counsels for the respondents vehemently contended that the case is a trap case which is relating to the year 2008 and the petitioner was furnished with all the documents relied on by the prosecution as per charge sheet. The petition to send for tender documents for vehicles is not related to the case on hand. Though the petitioner is well aware of the facts of the case, kept for all these years

https://www.mhc.tn.gov.in/judis

WEB COPY

from 2008, now chose to file these petitions to drag the further proceedings. The respondents filed their respective status reports.

5. On hearing both side rival arguments and on perusal of records, it is clear that the main case was registered against the petitioner for demanding bribe from the defacto complainant for favouring plying of vehicles TN 46A 9506 for Ayalur route, TN 45 AA 6357 for Ladapuram route, TN 46 C 3371 for Chettikulam route and TN 28 L 4876 for Ariyalur route. The owners of those vehicles are wife, close relative and friends of the defacto complainant. It is not disputed by the petitioner.

6. Whileso, the petitioner wants to send for tender documents for the vehicles KA 01 B 6154, KA 01 AG 5965, KA 01 AA 5965 and KA 01 AB 5965 for Anukur, Agraharam and Thondapadi routes, which are entirely different from the routes mentioned in the case. As per status reports and memo filed by the respondents, it is clear that the documents sought by the writ petitioner are not in the custody of the respondents.

7. The tender documents regarding the vehicles KA 01 B 6154, KA 01 AG 5965, KA 01 AA 5965, KA 01 AB 5965 for routes for Anukur,

https://www.mhc.tn.gov.in/judis

WEB COPY

Agraharam and Thondapadi are entirely different routes mentioned in the case. It is well settled principle that law never compels any person to do anything which is impossible. Therefore, the petitioner filed this petition without any *bona fide*, in order to drag on the legitimate prosecution of the Spl.Case No.80 of 2011.

8. The case was registered in the year 2008 and the same was pending for more than 15 years without conclusion of the trial. As per Section 19(3)(c) of the Prevention of Corruption Act, 1988, no Court has power to stay the trial. The petitioner to circumvent the above said legal bar, filed this writ petition. Hence, the petitioner's prayer to issue mandamus to the Court to conduct trial in particular direction is not legally maintainable. If any direction as sought by petitioner is passed regarding unavailable documents relating to some other vehicles, which are admittedly not related to the main case, the main case would be further dragged which is pending from the year 2008 as contended by the respondents. In these facts and circumstances, this Court is not inclined to give direction as sought in this Writ Petition.

https://www.mhc.tn.gov.in/judis

WEB COPY

9. In the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

1.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Trichy.

2.The Inspector of Police,
Vigilance and Anti Corruption,
Trichy.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

https://www.mhc.tn.gov.in/judis

WEB COPY

P.VADAMALAI, J

VSD

Order made in
W.P(MD)No.24567 of 2023
and
W.M.P(MD)No.20759 of 2023

07.03.2024

https://www.mhc.tn.gov.in/judis