



Crl.O.P.(MD).No.23101 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 16.04.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD) No.23101 of 2023

and

CrI.M.P(MD) No.17975 of 2023

R.Somasundaram

... Petitioner/Accused No.6

Vs.

1.The Inspector of Police,
Vigilance and Anti Corruption,
Ramanathapuram.
(Crime No.1 of 2023)

...1st Respondent/Complainant

2.N.Rajeswari

...2nd Respondent/Defacto
Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records and to quash the First Information Report in Crime No.1 of 2023 for offences under Section 13(2) r/w. 13(1)(c)(d) of the Prevention of Corruption Act, 1988 and Section 120(B), 167, 408, 409, 465, 468, 471, 477(A) r/w. 34 of the IPC as against the petitioner.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi

For 1st Respondent : Mr.S.Ravi,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.1 of 2023 for offences under Section 13(2) r/w. 13(1)(c)(d) of the Prevention of Corruption Act, 1988 and Section 120(B), 167, 408, 409, 465, 468, 471, 477(A) r/w. 34 of the IPC as against the petitioner.

2. The accused Nos.1 to 4 were working in Mudukulathur Primary Agricultural Co-Operative Credit Society and 5th accused was the President of the above Society. The petitioner is the 6th accused, who was working as Branch manager in Central Co-Operative Bank, Muthukulathur Branch, Ramanathapuram District. During the year 2012 to 2013, the Government of Tamil Nadu has taken a policy decision to give drought relief fund to the farmers. The accused has not followed the guidelines framed by the District collector and Joint Registrar of Co-Operative Societies and disbursed the amount to 22 ineligible farmers on the basis of the false and bogus Adangal certificate issued by the 7th



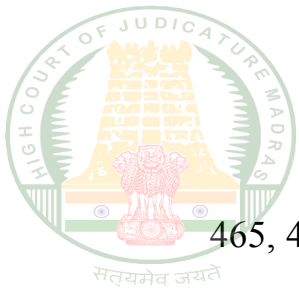
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and 8th accused, who were working as V.A.O., of Mela Mudukulathur and Keela Muthukulathur Groups respectively. Hence, the First Information Report was registered after 10 years from the date of alleged occurrence. Challenging the same, the present petition has been filed.

3. The learned Additional Public Prosecutor would submit that investigation is almost completed and only the Final Report has to be submitted before the concerned Court.

4. The learned counsel for the petitioner would submit that the petitioner is innocent and he is no way connected with the alleged occurrence. There is a delay of 10 years in registering the First Information Report. He would further submit that since the investigation is almost completed, it would suffice, if this Court grants liberty to file appropriate petition later.

5. This Court considers the material averments made in the FIR. In the considerable opinion of this Court, *prima facie* material is available to constitute the offences under Section 13(2) r/w. 13(1)(c)(d) of the Prevention of Corruption Act, 1988 and Section 120(B), 167, 408, 409,



465, 468, 471, 477(A) r/w. 34 of the IPC. Similar issue has been dealt by the Hon'ble Supreme Court in the case of ***State of Chattisgarh & Another Vs. Aman Kumar Singh & Others, etc.,*** reported in **2023 (6) SCC 559**, wherein, it has been held as follows:

*“74. Finally, following the above, what is of substantial importance is that if criminal prosecution is based upon adequate evidence and the same is otherwise justifiable, it does not become vitiated on account of significant political overtones and mala fide motives. We can say without fear of contradiction, it is not in all cases in our country that an individual, who is accused of acts of omission/commission punishable under the **P.C. Act** but has the blessings of the ruling dispensation, is booked by the police and made to face prosecution. If, indeed, in such a case (where a prosecution should have been but has not been launched) the succeeding political dispensation initiates steps for launching prosecution against such an accused but he/she is allowed to go scot-free, despite there being materials against him/her, merely on the ground that the action initiated by the current regime is mala fide in the sense that it is either to settle scores with the earlier regime or to wreak vengeance against the individual, in such an eventuality we are constrained to observe that it is criminal justice that would be the casualty. This is because, it is difficult to form an opinion conclusively at*



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the stage of reading a first information report that the public servant is either in or not in possession of property disproportionate to the known sources of his/her income. It would all depend on what is ultimately unearthed after the investigation is complete. Needless to observe, the first information report in a disproportionate assets case must, as of necessity, prima facie, contain ingredients for the perception that there is fair enough reason to suspect commission of a cognizable offence relating to “criminal misconduct” punishable under the [P.C. Act](#) and to embark upon an investigation. Having regard to what we have observed above in paragraph 49 (supra) and to maintain probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the high courts maintain a hands-off approach and not quash a first information report pertaining to “corruption” cases, specially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to quashing of first information reports pertaining to offences punishable under general penal statutes ex proprio vigore may not be applicable to a [P.C. Act](#) offence. Majorly, the proper course for the high courts to follow, in cases under the [P.C. Act](#), would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved



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party to pursue the remedy made available by law at an appropriate stage. If at all interference in any case is considered necessary, the same should rest on the very special features of the case. Although what would constitute the special features has necessarily to depend on the peculiar facts of each case, interference could be made in exceptional cases where the records reveal absolutely no material to support even a reasonable suspicion of a public servant having intentionally enriched himself illicitly during the period of his service and nothing other than mala fide is the basis for subjecting such servant to an investigation. We quite appreciate that there could be cases of innocent public servants being entangled in investigations arising out of motivated complaints and the consequent mental agony, emotional pain and social stigma that they would have to encounter in the process, but this small price has to be paid if there is to be a society governed by the rule of law. While we do not intend to fetter the high courts from intervening in appropriate cases, it is only just and proper to remind the courts to be careful, circumspect and cautious in quashing first information reports resting on mala fide of the nature alleged herein.

75. For the foregoing reasons, we have no option but to hold that there are no cogent grounds for quashing



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the FIR in the present case even on the ground of mala fide.”

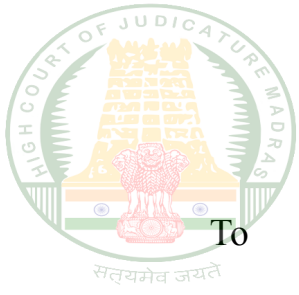
6. The above judgment is squarely applicable to the facts of this case. Therefore, this Court is not inclined to entertain this quash petition at this stage. However, liberty is granted to the petitioner to file a quash petition before this Court after filing the Final Report before the concerned Court. Further, the petitioner is at liberty to canvass all those points in the quash petition. Further, the first respondent is directed to file the Final Report before the concerned Court within a period of three months from the date of receipt of copy of this order.

7. With the above said direction and liberty, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

16.04.2024

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

Indu



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To

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- 1.The Inspector of Police,
Vigilance and Anti Corruption,
Ramanathapuram.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

Indu/sbn

**Order made in
Crl.O.P(MD) No.23101 of 2023**

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