

Crl.OP.No.13572 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13572 of 2023

G.Thenmozhi

... Petitioner

Vs.

1. State Rep by the Inspector of Police,
CBCID Kancheepuram North,
Office of the CBCID, Kancheepuram

2. G.Venkatesan, S/o.Late Govindasamy,
Tahsildar, Sriperumpudur,
Kancheepuram District.
(Cr.No.04 of 2021)

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records with respect to the first information report in Cr.No.04 of 2021, on the file of the CBCID, Kanchipuram North, Kancheepuram, quash the same.

For Petitioner : Mr.L.Ramesh

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)
for R1

ORDER

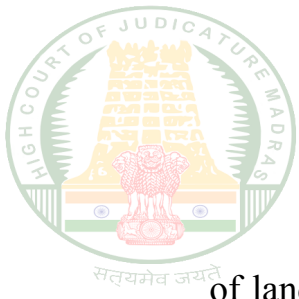


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2. The case of the prosecution is that the defacto complainant G.Venkatesan, who is working as a Tahsildhar, Sriperumpudur, Kanchipuram District lodged a complaint before the CBCID, Kanchipuram North, Kanchipuram, has alleged that the land comprised in survey No.310/1 to an extent of 7.5 acres situated at Beeman Thangal Village, Sriperumpudur Taluk, Kancheepuram has been fraudulently undergone change of patta in the name of one Ashish J @Ashish Metha and thereby causing a loss to the tune of Rs.33 crores to the exchequer.

3. The learned counsel appearing for the petitioner submits that the petitioner had joined in service as Special Thasildar (Land Acquisition) in Kanchipuram District in the year 2017 with respect to the acquisition of land for the Bangalore-Chennai Express Highway. As per notification issued by the Government of India for acquisition



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of land between Poonamalle to Walajapet on National Highways 4 in expansion of six lining scheme, the petitioner had followed all procedures as contemplated under the Land Acquisition Act. The Special District Revenue Officer (Land Acquisition), National Highways, Kancheepuram passed an award on 06.03.2018. Based on the award passed by the Special District Revenue Officer, (LA)(NH) kpm the necessary funds for disbursement towards compensation had been deposited by requisition body to the account of Spl.D.R.O(LA)(NH) Kpm.

4. The learned counsel further submits that on an application for disbursement of compensation made by Mr.Aashishmetha, the Special District Revenue Officer (LA)(NH), Kancheepuram in the proceedings dated 23.07.2018 had passed an order to disburse the compensation to the account of the claimant.

5. The learned counsel further submits on verification, of available records, it was to understood that the said Aashishmetha had obtained an order in the year 2000 from the Assistant Settlement Officer, Tiruvannamalai directed the Revuenue Tahsildar to issue Ryotwari Patta in his name. It was further revealed that the said



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Aashishmetha also filed a writ petition before this Court in W.P.No.28923 of 2004 to issue a Writ of Mandamas directing the Revenue Tahsildar to consider his representation to issue of Ryotwari Patta as per the order of the Assistant Settlement Officer, Thiruvannamalai dated 26.07.2000. As per the order of this Court, necessary order had been passed by the then Tahsildar and changes had been made in the revenue records in the name of Aashishmetha. The office of the Land Commissioner, Chepauk, Chennai had addressed a letter to the Tahsildar Sriperumpudu Revenue Taluk to clarify the nature of the land in the name of Aashish Mehta, by his order dated 25.11.2004. Thereafter, an enquiry was conducted and an order was passed dated 20.01.2005 to issue revenue patta in his name. Accordingly, he was issued patta.

6. While being so, upon receipt of petition from one Navakodi Narayanan for the issuance of patta in Kancheepuram District, the Principal Secretary/Commissioner of Land Administration, Chepauk, Chennai had passed an order dated 17.03.2021. In the said order, it had been concluded that the said Aashish Mehta in collusion with the Assistant Settlement Officer and the then Tahsildar, Sriperumpudur



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had created forged documents for obtaining patta with respect to the valuable government lands.

7. The learned counsel further submits that the only charge made against the petitioner is that she had not scrutinised the record submitted by the claimant with the records available in the Revenue Department of the Village. Other than that, there are no allegations made against the petitioner. Therefore, the petitioner sought for quashing the entire allegations.

8. Learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and submitted that there is a loss to the exchequer to the tune of Rs.33,00,00,000/- with respect to the acquisition of land for the Bangalore-Chennai Express Highway.

9. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

10. A perusal of records revealed that in so far as the petitioner



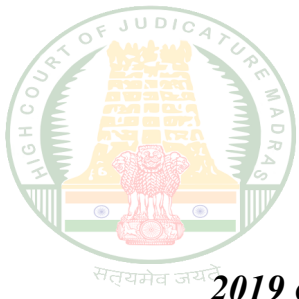
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is concerned, the petitioner before verifying the earlier records issued patta, except the said allegations no other allegations as against the petitioner. Therefore, the petitioner sought for quashing the entire allegations. The entire allegations are very serious in nature as against the petitioner. The first respondent ought to have enquired to find out the truth, since there is a loss to the exchequer to the tune of Rs.33,00,00,000/-.

11. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in its threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

12. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of***



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2019 dated 12.02.2019) held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with the view to taking cognizance of the offence whether a *prima facie* case has been made out for summoning the accused person. The learned Magistrate is not required to evaluate the merits of the materials or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to conviction or not. Only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive, the complaint/FIR can be taken for consideration for quashment. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by Magistrate, it can be considered for quashment. Therefore, it is not necessary that a meticulous analysis of the case should be done before the trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification to interfere. At the initial stage of issuance of process, it



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is no open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Therefore, the criminal complaint cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.

13. Further the Hon'ble Supreme Court of India issued directions in the judgment reported in **2021 SCC Online SC 315** in the case of ***M/s.Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra & ors.***, as follows :-

“23.

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

xii) *The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the*



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court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

.....

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;”

14. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, considering



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the crime is of the year 2021, the first respondent is directed to complete the investigation in Crime No.04 of 2021 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

15. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

04.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Vv
To

1. The Inspector of Police,
CBCID Kancheepuram North,
Office of the CBCID, Kancheepuram
2. G.Venkatesan, S/o.Late Govindasamy,
Tahsildar, Sriperumpudur,
Kancheepuram District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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