D. Mahendran Vs. Deputy Superintendent of Police, District Crime Branch, Tiruvarur

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Court : Chennai

Decided On : Aug-19-2016

Judge : P.N. Prakash

Appeal No. : Crl.OP.No. 18559 of 2016 & Crl.MP.No. 8716 of 2016

Appellant : D. Mahendran

Respondent : Deputy Superintendent of Police, District Crime Branch, Tiruvarur

Judgement :

(Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and to quash the proceedings of the respondent in C.C.No.8 of 2016 [Charge Sheet No.1 of 2016] on the file of the Judicial Magistrate Court, Thiruthuraipoondi.)

1. This petition has been filed to quash the proceedings in C.C.No.8 of 2016 on the file of the Judicial Magistrate Court, Thiruthuraipoondi.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

3. It is seen that this petitioner was working as Revenue Inspector in Muthupettai village. During 2010, when there was heavy floods in that area, the Government sanctioned around Rs.30Lakhs for disbursement of aid to various villagers in Muthupettai area. It was found that there were serious irregularities in the disbursement of amount to the affected victims and therefore, a preliminary enquiry was conducted at the collectorate level and the District Collector, Thiruthuraipoondi by his Proceedings dated 09.05.2011 had directed the conduct of departmental action against certain revenue officials in this regard. Thereafter, the respondent Police registered a regular case in Crime No.3 of 2011 and after completing the investigation, filed final report in C.C.No.8 of 2016 before the learned Judicial Magistrate, Thiruthuraipoondi against [1] Karthik[A1], [2] Muniyasamy [A2], Mahendran [A3-petitioner herein], [4] Jayasimman[A4] and [5] Kamalathiyagarajan [A5] for offences under Section 120B, 409, 408, 467, 468, 471 and 477[A] r/w 120B IPC. Challenging which, Mahendran [A3] is before this Court.

4. Mr.Vijayakumar, learned counsel appearing for Mahendran [A3] submitted that there is no iota of material as against the petitioner for prosecution to proceed. He submitted that even in the Proceedings dated 09.05.2011 issued by the Collector, it is clearly stated that the amount was disbursed by the Ward Members of the Panchayat and not by the revenue officials. He also submitted that even in the departmental action that has been initiated against the petitioner, he has been charged only for dereliction of duty and not for the aforesaid misconducts.

5. Mr.Vijayakumar, learned counsel placed strong reliance on the unreported Judgment of this Court in P.Thangaraju Vs State represented by its Deputy Superintendent of Police, Vigilance and Anti Corruption, Dharmapuri, wherein, this Court in paragraph No.34 has stated as follows:

34. The records available would reveal that the following irregularities were noted in the R.D.O.'s file [i] A common note was submitted to the RDO without mentioning the names of the applicants, merits and demerits of each case were not discussed and certificate to the effect that the passports, family cards, etc. were scrutinised at the Divisional Officers level is not available in the file; [ii] the RDO, Dharmapuri has not inspected even a single case to find out the proper

utilisation of loan amount. Thus, according to the case of the prosecution, without making proper inspection, without verifying the identity of the persons who made loan applications and without verifying the identity certificates by means of photos in their family cards, passports and without proper documents, the loans have been sanctioned in violation of the procedures and the amount has been misappropriated.

6. The sum and substance of the contention of Mr.Vijayakumar is that even according to the prosecution, the relief amount was collected by the Panchayat officials and was distributed by the Ward Members and therefore, this petitioner is a revenue official cannot be mulcted with criminal liability.

7. On a close reading of the final report, it is seen that there is charge under Section 120B IPC conspiracy against all the accused. The final report filed by the Police states that a sum of Rs.30lakhs was sanctioned for disbursement to the victims and it was entrusted to the Executive Officer of the Panchayat, namely, Muniyasamy [A2]. However, the allegation against the revenue officials is that they, in collusion with Karthik[A1] and Muniyasamy [A2], prepared false list of alleged victims, on the strength of which, the amount has been distributed to even non-existent persons.

8. Mr.Vijayakumar, learned counsel placed strong reliance of the Circular dated 03.12.2008 that was issued by the Government, wherein, it is stated that it is the responsibility of the District Collector to certify and sanction the disbursement and therefore, there is nothing illegal in the act of the petitioner. The guidelines dated 03.12.2008 issued by the Government states that the District Collector shall be assisted by the Tahsildar and Revenue Divisional Officers in preparing the list of villages for identification, for disbursement of relief amount. As regards the identification of individual beneficiaries, it is not the duty of the District Collector to go house to house and find out, who has been affected. He has to place reliance on the inspection that has been conducted by the Revenue Inspector and the Village Administrative Officer, who are the persons required to have their ears to the ground.

9. Mr.Vijayakumar, learned counsel further placed reliance on Clause xvii of the instructions, which cast a duty on the Village Administrative Officer to identify the beneficiaries and not the Revenue Inspector.

10. Had everything happened in accordance with the guidelines, there would not have been any complaint of misappropriation. In this case, the very allegation against the petitioner is that he and the other accused had conspired to prepare a bogus list of beneficiaries, on the strength of which, the amount of Rs.30Lakhs has been disbursed.

11. As regards the judgment relied upon by Mr.Vijayakumar, the facts in the case is that a loan was sanctioned in violation of certain departmental guidelines and in that context, a learned Single Judge of this Court had placed strong reliance upon the judgment of C.Chenga Reddy and Others Vs State of Andhra Pradesh 1886 SCC[Crl] 1205 and quashed the proceedings as against the petitioner in that case. The facts in that case has no bearing in the allegations against the petitioner in this case. The allegation against the petitioner is for creating a bogus list of beneficiaries, on the strength of which, much money has been distributed.

12. In view the aforesaid materials against the petitioner, this is not a fit case to quash the proceedings and in the light of the Judgment of the Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal 1992 Supp [1] SCC 335, this petition stands dismissed. It appears that the petitioner was not arrested. Under such circumstances, the trial Court is directed to obtain a bond under Section 88 Cr.P.C. for Rs.5,000/- with two sureties and proceed with the trial expeditiously. Consequently, connected Miscellaneous Petition is closed.

Anything observed herein is only for the limited purpose of deciding the quash petition and the Trial Court is directed to decide the case on merits, without being influenced whatever observation made herein.