

(2015) 02 MAD CK 0450

Madras High Court

Case No: Criminal O.P. No. 29360 of 2014 and M.P. No. 1 of 2014

S. Krishnamoorthy

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Feb. 9, 2015

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 156, 157, 177
- Prevention of Corruption Act, 1988 - Section 12, 13(1)(d), 13(2), 7

Hon'ble Judges: R. Mala, J

Bench: Single Bench

Advocate: V. Krishnamoorthy, for the Appellant; V. Arul, Government Advocate, Advocates for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R. Mala, J.

Challenging the impugned order dated 10.09.2014 made in CrI.M.P. No. 192 of 2014 in Spl.C.C. No. 67 of 2014 on the file of the learned Chief Judicial Magistrate, Villupuram, the present petition is filed by the petitioner/2nd accused.

2. Learned counsel for the petitioner submitted that the petitioner herein, who is Forest Ranger, Panruti Range, Cuddalore District, is the 2nd accused and he has been facing trial for offences under Sections 7, 12 and 13(1)(d) read with 13(2) of Prevention of Corruption Act. But the Inspector of Police, Vigilance and Anti-Corruption Wing, Cuddalore, is not a competent person to conduct investigation, since the Head office of the forest is situated at Villupuram and the alleged trap proceedings was conducted at Ulundurpet. So the respondent herein is not a competent person to investigate the matter. But the trial Court without considering the above aspect, has erroneously dismissed the petition filed by the petitioner/2nd accused and hence, he prayed for setting aside the order passed by

the trial Court. To substantiate his arguments, he relied upon the following decisions:

(i) [The State of Madhya Pradesh Vs. Mubarak Ali](#), AIR 1959 SC 707 : (1959) CriLJ 920 : (1960) 1 LLJ 36 : (1959) 2 SCR 201 Supp ;

(ii) [State of Haryana and others Vs. Ch. Bhajan Lal and others](#), AIR 1992 SC 604 : (1992) CriLJ 527 : (1990) 4 JT 650 : (1990) 2 SCALE 1066 : (1992) 1 SCC 335 Supp : (1990) 3 SCR 259 Supp ;

(iii) [Ms. Mayawati Vs. Union of India \(UOI\) and Others](#), AIR 2013 SC 3765 : (2012) CriLJ 4282 : (2012) 3 JCC 1955 : (2012) 6 JT 49 : (2012) 8 SCC 106 ;

3. Resisting the same, learned Government Advocate (Crl.side) submits that A2 is working in Panruti which comes under the jurisdiction of Vigilance and Anti-Corruption Wing, Cuddalore. A1 is the Regional Manager, TAFCON, Villupuram, but he had done his work only in respect of office at Panruti. The defacto complainant, who is a Forest Contractor, has given a tender to clean and carry over the dead woods and at the time of accepting his tender, he had given security deposit and after completion of his work, he sought for return the security deposit, at that time, it is alleged that first and second accused had demanded bribe. Hence, he approached the Vigilance and Anti-Corruption Wing, Cuddalore and in pursuance of the same, a trap proceedings was conducted and after following the procedure, investigation has been conducted and charge sheet has been laid, which was taken on file as Spl.C.C. No. 67 of 2014 and charges were framed. Out of 15 witnesses, 10 witnesses have been examined. With a view to drag on the proceedings only, this petition is filed by the petitioner. It is further submitted that both the Vigilance and Anti-Corruption Wings at Villupuram and Cuddalore are having jurisdiction to entertain the matter. Hence, he prayed for dismissal of the petition.

4. Considered the rival submissions made on both sides and perused the typed set of papers.

5. According to the learned counsel for the petitioner, the trap proceedings was conducted at Ulundurpet and the Forest Head office is at Villupuram, but registration of case and investigation was done by the Vigilance and Anti-Corruption Wing, Cuddalore, which has no jurisdiction. It is an admitted fact that the defacto complainant has taken tender to clean and carry over the dead wood in the forest which is situated in Panruti and it comes under the jurisdiction of Vigilance and Anti-Corruption Wing, Cuddalore District. But admittedly, the Forest Head Office is at Villupuram.

6. Further, the learned counsel for the petitioner contended that the demand was made at Villupuram and the trap proceedings was conducted at Ulundurpet. It is true, the above two occurrences were committed within the jurisdiction of

Villupuram.

7. As per Section 177 Cr.P.C., every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. In the case on hand, the origin of offence occurred in the jurisdiction of Panruti, which comes under Cuddalore District.

8. At this juncture, it is appropriate to consider the decisions of the Apex Court relied upon by the learned counsel for the petitioner.

(i) In [The State of Madhya Pradesh Vs. Mubarak Ali](#), AIR 1959 SC 707 : (1959) CriLJ 920 : (1960) 1 LLJ 36 : (1959) 2 SCR 201 Supp , wherein it was held that in a case where an officer, other than the designated officer, seeks to make an investigation he should get the order of a Magistrate empowering him to do so before he proceeds to investigate and it is desirable that the order giving the permission should ordinarily, on the face of it, disclose the reasons for giving the permission. Investigation done by the officer, without getting permission from the Magistrate, is vitiated. There is no quarrel over the above proposition. But the above decision is not applicable to the facts of the present case.

(ii) In 1992 SCC (Cri) 426 (State of Haryana and others v. Bhajan Lal and others), in para-60, it was held that investigation of an offence is the field exclusively reserved for the police officers whose powers in that field are unfettered so long as the power to investigate into the cognizable offences is legitimately exercised in strict compliance with the provisions falling under Chapter XII of the Code and the Courts are not justified in obliterating the track of investigation when the investigating agencies are well within their legal bounds as aforementioned. There is no quarrel over the same.

(iii) In [Ms. Mayawati Vs. Union of India \(UOI\) and Others](#), AIR 2013 SC 3765 : (2012) CriLJ 4282 : (2012) 3 JCC 1955 : (2012) 6 JT 49 : (2012) 8 SCC 106 , in para-30 , it was held as follows:

"30. As rightly pointed out that in the absence of any direction by this Court to lodge an FIR into the matter of alleged disproportionate assets against the petitioner, the investigating officer could not take resort to Section 157 of the Code of Criminal Procedure, 1973 (in short "the Code") wherein the officer in charge of a police station is empowered under Section 156 of the Code to investigate on information received or otherwise. Section 6 of the DSPE Act prohibits CBI from exercising its powers and jurisdiction without the consent of the Government of the State. It is pointed out on the side of the petitioner that, in the present case, no such consent was obtained by CBI and submitted that the second FIR against the petitioner is contrary to Section 157 of the Code and Section 6 of the DSPE Act. It is not in dispute that the consent was declined by the Governor of the State and in such circumstance also the second FIR No. RC 0062003A0019 dated 5-10-2003 is not sustainable."

The above decision is not applicable to the facts of the present case, because in the above case, it was held that CBI without obtaining any permission from the Court of law and consent from the State, registered the case and investigated the matter.

9. As per Section 156 Cr.P.C., any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire.

10. Considering the Bhajanlal's case as well as Section 156 Cr.P.C., now this Court has to decide whether the respondent is having jurisdiction to register the case and investigate the matter. As already stated that the work has been done in Panruti and also the offence is alleged to have taken place in Panruti and the defacto complainant has sought for refunding of security deposit is alleged to have taken place in Panruti, which comes under the jurisdiction of Cuddalore District. Further, the office of the petitioner/A2/Forest Ranger is at Panruti range, Cuddalore District. In such circumstances, I am of the view, the trial Court has considered all the aspects in proper perspective and came to the correct conclusion that the respondent is having jurisdiction to register the case and investigate the same.

11. One more adding circumstance is that charges have been framed and out of 15 witnesses, 10 witnesses have been examined and documents were marked. At this stage, the petitioner has come forward with this petition only to drag on the proceedings. So I do not find any merits in this petition and hence, this petition is dismissed as devoid of merits and it is hereby dismissed.

12. In the result, the Criminal Original Petition is dismissed by confirming the order dated 10.09.2014 made in Crl.M.P. No. 192 of 2014 in Spl.C.C. No. 67 of 2014 on the file of the learned Chief Judicial Magistrate, Villupuram. The trial Court is directed to dispose of the case within a month from the date of receipt of a copy of this order, since major portion of the witnesses have already been examined.