(2012) 10 MAD CK 0083

In the Madras High Court

Case No : Writ Petition (MD) No. 265 of 2012

R. Mariappan APPELLANT

Vs

District Revenue Officer, Tiruchirapalli RESPONDENT

Date of Decision : 11-10-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 420, 465, 468, 471
Prevention of Corruption Act, 1988 — Section 13(1)(d)

Citation : (2013) 2 MLJ 264

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : E. Udhaya, for the Appellant; M. Govindan, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioner prays for the issuance of a writ in the nature of certiorari to quash the charge memo Na. Ka. No. A3/17300/2009 dated 13.11.2011 on the ground of delay in issuance of a charge memo. The translated copy of the charge memo reads as under:

Charge No. 1: Mr. R. Mariappan, Assistant grade, who belongs to the Trichirapalli District Revenue Unit now serving as Revenue Inspector at the office of the Assistant Commissioner (Revenue Court) has involved in a criminal conspiracy to get Rupees one crore loan for Target Overseas Export Limited which is functioning at "Mangalam Towers" in Kochin Bye-pass road, in Kerala State in an illegal manner from State Bank of Travancore of Kaduthuruthi in Kerala State. He has involved in a criminal conspiracy with the director and Manager of the above export company for providing valuable land as security to get a loan to the tune of Rs. One crore for the above export company. He has helped them to make fake document with the help of one document pertaining to Mr. Jahir Khan, who had owned 2.62 Acres of land which comprised in Survey Nos. 106/1, 106/4, 184/1 in Ariyamangalam Village in Trichy District, stating that the land comprised in the above document is situating in Dharanallur on the Trichy-Chennai Bye-pass road and it is fit to construct buildings its value is over Rupees one crore. In the period between September-October months in 1999 Mr. R. Mariappan has involved in a criminal conspiracy with the men belongs to the above company and other persons and also abetted with one V. Sundara Raman, who is residing at Door No. 113/55, Ambikapuram, Rail Nagar East, Trichy for fabricated a false "Value Report" for the land which is situated on the Trichy-Chennai Bye-pass Road, which is in any way not connected with the above Bank Guarantee. Further he has prepared a fake sketch with the help of V. Sundarraman and S. Vincent Adaikalaraj. Further he had involved in a criminal conspriacy with one K.G. Sowrirajan, residing at Door No. 74, in Srirangam Rayar Thope, and one Mr. V.C. Sivaprakasam residing at plot No. 21, Sosiyagar Nagar, Karumandapam, Trichy, to obtain a bogus Attested copy of sketch and obtained the fake signature of the Tahsildar of Trichy.

Charge 2:

Mr. R. Mariappan has been the reason behind the loss occurred by Government Bank (State Bank of Trivancore, Kaduthuruthi, Kerala State) for a tune of Rupees one Crore, by way of involving a criminal conspiracy with individual persons for the sake of increasing the value of the land which was put in to bank guarantee for the loan issued by the bank by way of preparing bogus sketch and to abetted in the process of getting fake signature of the Tahsildar.

Charge No. 3:

He has involved in a criminal conspiracy with Target Overseas Exports (Private) Limited Company for getting one crore Loan from a Government Bank in an illegal manner.

Charge No. 4:

Being a Government servant the above person has not concentrated on the government service and involved in criminal conspiracy with an intention to earn money in illegal manners.

Charge No. 5:

Mr. R. Mariappan, the above said individual has received a bribe of Rs. 1500/- through one Broker C.P. Kannan, who is an Textile Exporter from Tiruppur, for fabricating bogus sketch and put up bogus signature of the Tahsildar on the above sketch by misusing his government post thereby he has committed an offence punishable u/s 13(1)(d) of Prevention of Corruption Act 1988.

Charge No. 6:

Mr. R. Mariappan has prepared bogus sketch, put fake signatures of government officials, involve in a criminal conspiracy to get loan for incompetent land by way of cheating Government Bank in an illegal manner and thereby he has committed offences punishable under Sections 120B, 420, 465, 468 and 471 IPC. The above said individual is incompetent to hold a government post through his illegal activities.

Charge No. 7:

From the above said mistakes, Mr. R. Mariappan has causing hindrances to the government service and failed from his duty.

2. The petitioner joined the Revenue Department of the Government of Tamil Nadu as Junior Assistant in the year 1973. The petitioner is now working as Revenue Inspector.

3. It is submitted that the petitioner was falsely implicated in the criminal case involving loss to the State Bank of Travancore, Kottayam Branch where the three borrowers viz., Ajay Kumar, Fakruddin and K.J. Joseph belonging to Kerala are said to have committed illegalities and cheated the Bank. The petitioner was also the one of the accused in the criminal case. The petitioner has already attained the age of superannuation, but he was not allowed to retire and placed under suspension because of pendency of the departmental proceedings against the petitioner.

4. It is submitted by the petitioner that the charges referred above related to the year 1999 and there is no explanation for the delay in issuance of charge memo, therefore, the charge memo deserves to be quashed. In support, reliance was placed on the judgment of the Hon''ble Division Bench in G. Maragatha Meenakshi & 3 Others v. District Collector, Madurai & 6 Others (2010) 2 CWC 154, wherein this Court has been pleased to lay down as follows:

4. As far as the first contention relating to the delay in initiating the Disciplinary proceeding is concerned, we may point out that it is not general rule that the delay in initiation of Disciplinary proceedings by itself would be a ground for quashing a Charge-Memo. The employee would always be entitled to explain such a delay to the satisfaction of the Court. Further in the event the charges are very serious and the delay has also been explained then the Court would not interference and quash the Charge Memo solely on the ground of delay in initiating the Disciplinary proceedings.

5. However, on the facts of this case, though the occurrence was noticed during the Year 1994-95 and the respective 3rd Respondent-Panchayats became aware of the incident immediately, as could be seen from the fact that the prime officer, who had indulged in the purchase of ordinary clothes at the guise of purchasing uniforms, was punished in the Year 1996, had kept quiet to initiate action against the Appellants, who are staff of the Panchayats and through whom such clothes were distributed. Though the learned counsel appearing of the 3rd Respondent-Panchayats has made fervent attempt that the delay was only in the process of file to get approval for initiating Disciplinary proceedings, in the absence of any acceptable materials indicating a reasonable explanation, at least for such delay, mere submission that the delay had occasioned in the movement of files for

approval cannot be accepted. In the absence of any such explanation, we are not inclined to accept the submission of the learned counsel for the respective 3rd Respondent-Panchayats that the Charge Memos cannot be quashed. In our considered view, the impugned Charge Memos are liable to quashed on the ground of inordinate delay in the initiating of Disciplinary proceedings.

5. The writ petition is opposed by the learned Special Government Pleader by contending that in this case, enquiry is already over and the Enquiry Officer has already submitted the enquiry report. The petitioner has also been issued a show cause notice, therefore, this is not a stage when the charge memo can be quashed.

6. On consideration, I find no force in this writ petition. The judgment of the Honourable Division Bench has no application to the facts of the present case. Even otherwise, the Honourable Supreme Court has laid down, that the mere delay in issuance of a charge memo cannot be a ground to quash the charge memo in absence of any material placed on record, showing the prejudice to aggrieved party in the raising of defence.

7. In this case, the petitioner participated in the enquiry and the enquiry stands concluded and nothing has been pointed out against conduct of enquiry.

8. Once no prejudice has been caused to the petitioner because of delay, the mere delay in issuance of a memo cannot be a ground to quash the charge sheet as prayed for. The decision of Division Bench of this Court therefore has no application to this case. In the result, there being no merit in this writ petition it is ordered to be dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

