

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.9.2015

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 957 of 2015

K.Ekambaram

.. Petitioner

Versus

The Revenue Divisional Officer - cum -
Executive Magistrate, Ponneri

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. against the Order dated 12.8.2015 passed by the respondent in Na.Ka.No.1949/2014/A1.

For Petitioner : Mr. T.S.Rajmohan

For Respondent : Mr. V.Arul
Government Advocate (Crl.side)

ORDER

The petitioner has filed this Criminal Revision Case as against the order dated 12.8.2015 passed by the respondent under Section 133 (A) of Cr.P.C.

2. The petitioner is running a Prawn Farm at Periya Karumbur village, Ponneri Taluk, Thiruvallur District. Since the drainage water from the said Farm is being connected with the nearby canal, lake, channel and pond and as it affects the agricultural land as well as the drinking water in the said locality, based on the report of the Agricultural Department dated 27.11.2014, a show cause notice was issued to the petitioner on 30.3.2015 directing the petitioner to appear on 06.4.2015 to submit explanation. The petitioner has also submitted a reply dated 06.4.2015 denying the allegations. However, without considering the said reply, the respondent has passed the impugned proceedings under Section 133 (A) of Cr.P.C directing the petitioner to remove the Prawn Farm, as against which, the petitioner has filed Crl.RC.No.442 of 2015. By order dated, 09.6.2015, this Court directed the petitioner to appear before the respondent, by treating the impugned proceedings dated 16.4.2015 as a show cause notice, within a period of one week and adduce evidence to show that there is no violation in running a Prawn Farm. This Court also directed the respondent to pass orders in accordance with law, after hearing all the parties concerned. Pursuant to the said order, the respondent, has passed the present impugned order. Therefore, the petitioner has filed the above Criminal Revision.

3. The learned counsel for the petitioner submitted that pursuant to the order of this Court dated 09.6.2015, the petitioner has submitted a reply dated 11.8.2015 but in spite of the same, the respondent has passed the impugned order stating that reply was not given by the petitioner.

4. The learned Government Advocate (Criminal side) submitted that this Court has passed the order on 09.6.2015 and the copy was made ready on 03.7.2015 and the same was received by the petitioner on 06.7.2015. As per the order of this Court, the petitioner ought to have submitted his reply on or before 13.7.2015. But the petitioner has not submitted his reply on or before 13.7.2015. Even the alleged reply, which has been produced before this Court in the typed set of papers at page No. 17, does not contain any date at all whereas, the courier receipt shows that the reply contains the date as 11.8.2015. According to the petitioner, he has sent reply on 11.8.2015. It is submitted by the learned Government Advocate that even if it is taken that the petitioner has sent reply on 11.8.2015, it should have reached the respondent on 12.8.2015. The impugned order has been passed only on 12.8.2015. Even in the order dated 12.8.2015, the respondent has stated that after considering the request of the petitioner and after inspecting the prawn, the order has been passed. Further, it is stated that petitioner's prawn is not functioning. Therefore, impugned order is correct and it does not require any interference.

5. Admittedly, this Court, while remitting the matter back to the respondent, by order dated 09.6.2015 has given the following direction:-

3. Having regard to the order passed by this Court in the above Criminal Revision case and following the same, this Criminal Revision case is also disposed of directing the petitioner to appear before the respondent and to submit his explanation by treating the impugned proceedings as a show cause notice, within a period of one week from the date of receipt of a copy of this order and adduce evidence to show that there is no violation in running a Prawn Farm. On such appearance, the respondent shall pass orders in accordance with law, after hearing all the parties concerned. Consequently, connected miscellaneous petition is closed."

6. As per the above order, the petitioner ought to have given his reply within one week from the date of receipt of the said order. No doubt, the order was made ready on 03.7.2015 and the same was received by the petitioner on 06.7.2015. Therefore, the petitioner ought to have given its reply on or before 13.7.2015. The impugned order has been passed only on 12.8.2015, i.e. after one month from the date of receipt of the order by the petitioner. The copy of the reply submitted by the petitioner has been enclosed in the typed set of paper, which does not contain any date. According to the petitioner, he submitted his reply on 11.8.2015. Even if it is taken that the petitioner has sent his reply on 11.8.2015,

definitely, it should have reached the respondent on 12.8.2015. Therefore, it is clear that after considering the reply sent by the petitioner, the impugned order has been passed. Further, the respondent in the impugned order has specifically stated that the petitioner's Prawn is not functioning now. Hence, I am of the view that the direction given by this Court has been properly followed by the respondent.

7. In view of such circumstances, I do not find any reason to interfere with the reasoned order of the respondent. The Criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

It is made clear that the petitioner is at liberty to approach the concerned authority in the manner known to law, if he is so advised.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ga

To

1. The Revenue Divisional Officer - cum - Executive Magistrate, Ponneri.
2. The Public Prosecutor, High Court, Madras

1 cc to Mr.T.S. Rajamohan, Advocate, Sr. 49470

Cr1.RC No. 957 of 2015

SVI (CO)
kk 5/10

WEB COPY