

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P.No.21542 of 2011

and

M.P.No.1 of 2011

R.Rajagopalan

.. Petitioner

vs.

1. State by
Inspector of Police,
Udumalpet Police Station,
Tirupur District.

2. Kaliappan
Sub Registrar,
Udumalpet.

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the Charge Sheet in S.T.C.No.6046 of 2010, on the file of the Judicial Magistrate No.I, Udumalpet.

For Petitioner : Mr.L.Mouli

For Respondents : Mr.B.Ramesh Babu (for R1)

Government Advocate (Crl.Side)

JUDGMENT

The petitioner herein aggrieved over cognizance of S.T.C.No.6046 of 2010 on the file of the learned Judicial Magistrate No.I, Udumalpet is before this court seeking to quash the above final report in S.T.C.No.6046 of 2010 as illegal as against the petitioner for an offence under Section 186 of I.P.C.

2.The sum and substance of the petition is as follows:

The petitioner was then working as Sub-Registrar under Department of Registration deployed in Udumalaipet, Sub-Registrar Office.

3.In the meantime, on 23.09.2010 the petitioner was suspended from service facing a disciplinary proceeding. The said order of suspension was challenged before this court in W.P.No.22038 of 2009 and this court having found a prima facie case made out by the petitioner stayed the petitioner's suspension vide an order made in M.P.No.2 of 2009 dated 28.10.2009. However, one another person namely Kaliappan was found to be appointed as Sub-Registrar, Udumalaipet.

4.According to prosecution version, it is their case that in consequence to the above interim order, the petitioner went to the Sub Registrar Office on 21.12.2009 and having seated in the chair of the Sub Registrar he claimed himself entitled to discharge the duty of the Sub Registrar. The said conduct of the petitioner obstructed the latter appointed Mr.Kaliappan from functioning as Sub-Registrar. Therefore he made a complaint dated 21.12.2009 before the respondent Police praying for a suitable criminal action as against the petitioner for offence under Section 353 of I.P.C. for having obstructed a public authority from discharging his duty. In pursuance of complaint the respondent police has registered a case against the petitioner in Crime No.2981 of 2009 for an alleged offence punishable under section 353 of I.P.C.

5.Investigation was carried out by the respondent and version of complainant was found true and accordingly charge against the petitioner came to be altered for an offence under Section 186 of I.P.C. and laid before the Judicial Magistrate No I, Udumalaipet, which was taken cognizance by the Learned Magistrate in STC No.6046 of 2010.

6.According to the petitioner, the cognizance of final report itself is unsustainable under law and facts. Therefore challenging the said Impugned Final Report, the present Criminal Original Petition is filed.

7.The learned counsel for the petitioner would submit that a complaint cannot be lodged as against the petitioner in view of stay granted by this court in the above Writ Petition.

8.Only by virtue of the said order, the petitioner represented himself entitled to function as Sub-Registrar, Udumalaipet. Whereas in vengeance over the petitioner's act of filing Writ petition before this court, the above complaint was lodged at the instance of Inspector General of Registration.

9.However, the Learned Trial Judge without appraisal of the above facts had taken above S.T.C.No.6046 of 2010 on file. Therefore he prays to quash the said Criminal Original Petition as abuse of process of law and as an intimidating technique. It is his case that the respondent Police ought to have seen that the petitioner's claim was lawful and he is authorized to do the duties of Sub-Registrar, Udumalaipet. Accordingly he prayed for quashing the subject final report.

10.Per contra, the learned counsel for the respondent would submit that only over the illegal Act of the petitioner claiming himself authorized/empowered to function as Sub-Register, Udumalaipet, there was an obstruction in discharge of duty of the defacto complainant Kaaliappan who was appointed in the place of petitioner. Wherefore FIR was registered and after investigation came to be altered from 353 IPC to 186 of IPC and correspondingly final report filed.

11.I heard Mr.L.Mouli, learned counsel for the petitioner and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the 1st respondent and perused the entire materials available on record.

12.It is seen that as stated above the petitioner was suspended from service vide an order dated 18.09.2009 by the Inspector General of Registration by proceedings in proc. No.45786/62/2009 dated 18.09.2009. The said order of suspension was challenged before this Court in W.P.No. 22038 of 2009 and there was an order of interim stay of suspension dated 28.10.2009. The interim order was found initially granted for a period of six weeks.

13.At this juncture, on perusal of the First Information Report it appears that the allegation set forth in the complaint is that the act of the petitioner claiming himself entitled to act as Sub Registrar had obstructed the discharge of duty of defacto-complainant.

14.It is noteworthy to find in F.I.R. that there is a specific query made by the defacto complainant as to whether he had an order of the Inspector General of Registration to that effect. It is also seen that the petitioner made a reply that the said order was challenged before this Court and accordingly he also produced the interim order made by this Court staying the suspension.

15.In the said circumstance, it would be mindful that for a Criminal action there must be a criminal intention. Unless there is an intention to commit crime, a person cannot be charged with an offence.

16.In the case on hand admittedly at the relevant point at time there was an order in favour of the petitioner and which he is supposed to reply and put as his claim and defense.

17.In my considered opinion such claim cannot be considered as criminal intent by any stretch of imagination. It would also be pertinent to state that record discloses that subsequently petitioner was reinstated in service by an order dated 12.01.2011 by the Inspector General of Registration by proceedings in No. 52065/A2/2010.

18.In the said circumstances it is my firm opinion that further proceedings of S.T.C.No.6046 of 2010 would be nothing but an abuse of process of law resulting wastage of precious Court hours.

19.Thus, this Court finds the case on hand as an appropriate case to exercise its inherent jurisdiction vested under section 482 of Cr.P.C.

20.In the result, the Criminal Original Petition is allowed and the order passed in S.T.C.No.6046 of 2010, on the file of the learned Judicial Magistrate No.1, Udumalaipet is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

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Sub Assistant Registrar

vs
To

1. The Judicial Magistrate No.I,
Udumalapet.

2. The Inspector of Police,

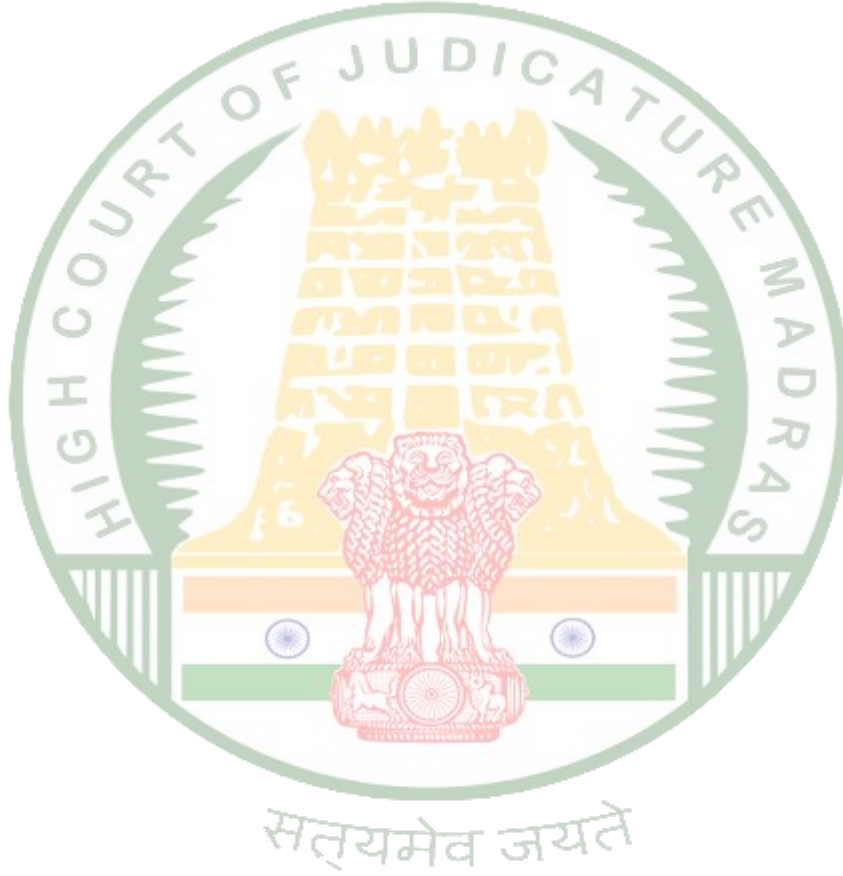
Udumalpet Police Station, Tirupur District.

+1cc to Mr.L.Mouli, Advocate, S.R.No.22856

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CS/30/10/2018



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