

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.15051 of 2010
and
M.P.No.1 of 2010**

Nargis

... Petitioner

vs.

L.Arivazhagan

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.199 of 2009, on the file of the Judicial Magistrate No.II, Karaikal and quash the same.

For Petitioner : Mr.K.M.Aasim Shehzad

For Respondent : Mr.K.M.Subramaniam (No Appearance)

JUDGMENT

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The petitioner who has been arrayed as accused No.1 in C.C.No.199 of 2009, on the file of the Judicial Magistrate No.2, Karaikal, has come up with the present petition to quash the proceedings of the aforesaid Calendar Case.

2.It is the case of the petitioner that she was doing business Aquaculture Farm for the past 15 years and she owns an Aqua Farm under the name and style of M/s.Crescent Aqua Farm and the same is situated at Survey No.711/1, 712/2, 713/3, Keezhvanjore, T.R.Patinam, Karaikal. According to the petitioner, prior to 2005, to establish/continue an Aquaculture Farm, the owner of the Aquaculture farm was required to file an application with the Aquaculture authority, Ministry of Aquaculture, Government of India. The petitioner had applied for grant of license to establish Aqua farm. The authorities after scrutinizing the application was satisfied that the petitioner's farm was adhering to all the parameters laid down under Law granted license to establish the Aquaculture farm for the period of 3 years from 29.10.1999 to 29.10.2002. Thereafter, the petitioner has been filing application for the renewal of license from time to time.

3.The further case of the petitioner is that during Tsunami on 26.12.2004 the petitioner's farm suffered the brunt. The entire farm was devastated and the petitioner's business came to a standstill. The government of Pondicherry granted monetary compensation to all Aquaculture farm owner to the extent of damage suffered by them. Before accessing the extent of damage, the statutory authority of Pondicherry government visited the petitioner's farm and satisfied themselves that the

petitioner's farm was established with a valid license and renewal applications were filed periodically. The respondent herein who has no locus standi to question the compensation granted to the petitioner and others by the Government of Pondicherry, alleged that they have received compensation by creating fabricated documents. But the respondent alleged that the petitioner received compensation illegally from the Government in collusion with other accused by way of filing fake documents. By making false allegation against the petitioner and others, the respondent herein filed a private complaint under Section 190(1)(c) of Cr.P.C. before the learned Judicial Magistrate-II at Karaikal and the same was taken on file in C.C.No.199 of 2009, wherein the petitioner was arrayed as 1st accused. Questioning the same the petitioner has filed the present quash petition.

4.I heard Mr.K.M.Aasim Shehzad, learned counsel appearing for the petitioner. There is no representation for the respondent.

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5.The learned counsel for the petitioner would submit that the complainant/respondent has no locus standi to file the private complaint against the petitioner. In the complaint the respondent has not even disclosed any one of the specific offence committed by the petitioner.

Further the complaint is bereft of materials to take cognizance of offence

said to have committed by the petitioner. Further the respondent is not the affected person and if at all, he should have sent a petition/complaint to the authorities concern for taking necessary action at their end and it is for the authorities to file a complaint against the petitioner if any offence is alleged to have committed by the petitioner. In this case the respondent has not approached the authority concern before filing the private complaint and there is no single document produced before this Court to show that the respondent has sent any such complaint alleging that the petitioner and others have received compensation by fraud. Therefore, the learned counsel for the petitioner contended that the private complaint filed by the respondent against the petitioner and others is very vague and the same is liable to be quashed.

6.This Court has closely perused the complaint of the respondent and the same did not disclose any commission of offence by the petitioner. Further there is no specific averment to the effect that what is the offence committed by the petitioner and what would be the penal provision attracted for the alleged offence said to have committed by the petitioner. In the absence of any material particulars the private complaint filed by the respondent cannot stand and the same is liable to be quashed. Further, the respondent has no way connected with the petitioner and others. The respondent herein has no locus standi to

question the compensation granted to the petitioner and others for the damage suppressed for their aquaculture farm during Tsunami. Further the alleged offence said to have taken place in the year 2004, whereas the present complaint was filed in the year 2008 after lapse of 4 years. A plain reading of the complaint disclose that the respondent herein before approaching the Magistrate Court, has not even sent any complaint to the government for taking necessary action at their end with regard to the alleged offence.

7.Hence, in the considered opinion of the Court, once it is found that the allegations of the complainant have not made out any prima facie case to satisfy the alleged offence said to have committed by the petitioner, then the continuation of proceedings as against the petitioner would tantamount to abuse of process of law. This Court by exercising inherent power conferred under Section 482 of Cr.P.C. finds that there is no prima facie case made out against the petitioner and to secure ends of justice, the proceedings against the petitioner is liable to be quashed.

8.In view of the same, the complaint filed by the respondent cannot stand either on law or on facts and the same is liable to be quashed and accordingly it is quashed.

9.In the result, the Criminal Original Petition is allowed and the complaint in C.C.No.199 of 2009 on the file of Judicial Magistrate No.2, Karaikal, is hereby by quashed in so far as the petitioner/accused No.1 alone. It is made clear that the proceedings in the above Calendar Case may go on in respect of other accused. Consequently, connected miscellaneous petition is closed.

12.04.2017

Note:Issue order copy on 18.08.2017

Internet : Yes

Index : Yes

vs

To

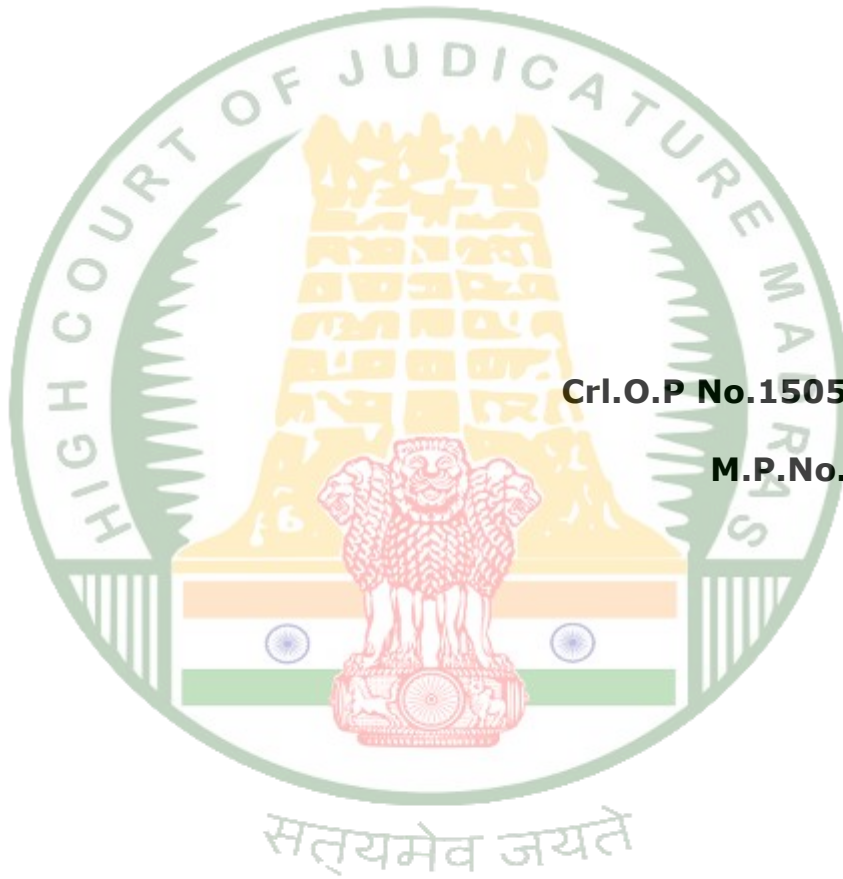
The Judicial Magistrate No.II,
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