



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.02.2017

WEB COPY

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH**  
**and**  
**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**

W.A.(MD)No.1653 of 2016  
and  
C.M.P.(MD).No.12543 of 2016

1. The District Collector,  
Tirunelveli District,  
Tirunelveli.
2. The Block Development Officer,  
Valliyoore Panchayat Union,  
Tirunelveli District. ... Appellants/Respondents

**vs.**

I.Manivarnaperumal ... Respondent/Writ Petitioner

**Prayer:** Writ Appeal has been filed under Clause 15 of the Letters Patent, against the order dated 09.11.2016, made in W.P.(MD). No.20820 of 2016 by a learned Single Judge of this Court.

Prayer in WP(MD). 20820/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari by calling for entire records pertaining to the proceedings in Na.Ka.No. Nga12/36619/2016 dated 22.09.2016 issued by the 1st Respondent and quash the same.

For appellants : Mr.V.R.Shanmuganathan,  
Addl. Government Pleader  
For respondent : Mr.R.Anand

JUDGMENT

**(Judgment of the Court was delivered by R.SUBBIAH, J.)**

This writ appeal has been filed by the State as against the order, dated 09.11.2016, passed by a learned Single Judge of this Court in W.P.(MD).No.20820 of 2016, whereby and whereunder the learned Single Judge has set aside the impugned order, dated



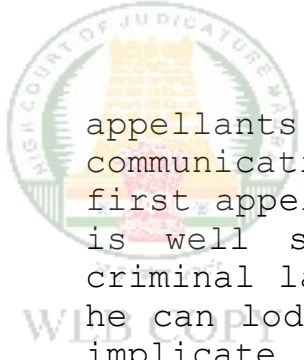
22.09.2016, issued by the first appellant directing the second appellant to set the criminal law in motion against the respondent herein.

2. The case of the respondent before the learned Single Judge is that the respondent is an elected Panchayat President of Levinchipuram Panchayat. When the respondent/writ petitioner was discharging his official function, the 1<sup>st</sup> appellant has, vide proceedings dated 22.09.2016, has directed the second appellant to give a criminal complaint as against the respondent/writ petitioner. The respondent came to know that there are three charges framed against him by the first appellant. The first charge is that he had granted permission for operating electric motor with a capacity of 350 HP vide receipt No.55564 dated 06.09.2016, for which a sum of Rs.3,500/- was collected as a fee, but subsequently, the same was cancelled and the amount was credited with the bankers at the account of Panchayat on 16.09.2016. The second charge is that without obtaining prior permission, the respondent on 10.09.2016 collected a sum of Rs.1,000/- each from 170 persons for the purpose of giving drinking water connection. But, later on, the said amount has been deposited before the bankers. The third charge is that the respondent has sponsored ineligible persons to the second respondent for providing the benefit of free house scheme. But, after setting aside the said recommendation, the Zonal Deputy Block Development Officer has informed to the 1<sup>st</sup> respondent that forwarding those five persons names are not in conformity with the guidelines issued by the Central Government in this regard. The first appellant, after holding enquiry, has come to the conclusion that the charges have been partly proved and hence, by issuing the impugned order, directed the second appellant to set the criminal law in motion against the respondent herein. Accordingly, at the instance of the 2<sup>nd</sup> appellant, a case in Crime No.192 of 2016 has been registered under Sections 409, 468 and 420 IPC on the file of the Palavoor Police Station, Tirunelveli District. As the impugned order was passed without following the principles of natural justice, the respondent herein has filed the writ petition challenging the said order.

3. The learned Single Judge, after hearing both sides, has set aside the impugned order and remitted the matter back to the file of the first appellant with liberty to issue a show cause notice to the respondent and after getting explanation, to peruse the same and if the explanation is not acceptable, then proceed with necessary charge memo and for consequential enquiry, if need be. All the consequential actions taken including the registration of FIR, based on the impugned order dated 22.09.2016, stand set aside. Aggrieved by the same, the appellants have come up with

<https://hdcervices.courts.gov.in/hdcervices/>.

4. The learned Special Government Pleader appearing for the



appellants submitted that the impugned order is only an internal communication. In fact, absolutely there is no necessary for the first appellant to conduct enquiry before lodging a complaint. It is well settled legal principle that any person can set the criminal law in motion. When that being so, even without enquiry, he can lodge a complaint. More over, the impugned order does not implicate civil consequences. It is only a fact finding enquiry. The learned Single Judge has erroneously set aside the FIR registered. Thus, he prayed to set aside the order passed by the learned Single Judge.

5. Countering the above submissions, the learned counsel appearing for the respondent submitted that when the appellant has chosen to enquire into the charges levelled against the respondent, they ought to have given an opportunity to put forth his case. But, without doing so, the first appellant has directly instructed the second appellant to lodge a criminal complaint against the respondent. Therefore, there is no infirmity in the order passed by the learned Single Judge. Thus, he prayed for dismissal of this appeal.

6. Keeping the submissions made on either side, we have carefully gone through the entire materials available on record.

7. It is well settled legal principle that any person can set the criminal law in motion. There is no need to conduct enquiry before lodging FIR. More over, in the instant case, by the impugned order dated 22.09.2016, no civil consequences was implicated on the respondent. As contended by the learned counsel for the appellants, it was only a fact finding enquiry and consequently a direction was given to the second respondent to lodge a criminal complaint against the respondent. Further, it is only an internal communication which cannot be a subject matter of challenge. Therefore, the order passed by the learned Single Judge is liable to be set aside and accordingly set aside. However, in case of any departmental proceeding is initiated, the respondent may be given a fair opportunity of hearing in accordance with law.

8. This writ appeal is accordingly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To

1. The District Collector,  
Tirunelveli District,  
Tirunelveli.

2. The Block Development Officer,  
Valliyoor Panchayat Union,  
Tirunelveli District.

GCG

TE/KP/SAR-IV : 27/04/2017 : 4P/3C

Writ Appeal (MD) No.1653 of 2016 and  
C.M.P. (MD) .No.12543 of 2016  
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