



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C. (MD) No.48 of 2018

P.S.Ganesan

... Petitioner/Complainant

vs.

1. Nandagopal,
District Collector,
Collectorate,
Vellore District.
2. Rakkappan,
Chief Engineer (Buildings),
Thoothukudi Corporation,
Thoothukudi.
3. Selvaraj,
Clerk, East Zone,
Madurai Corporation,
Madurai-625 009
4. Devadass,
Assistant Commissioner,
South Zone-4,
South Zonal Office,
West Perumal Maistry Street,
Madurai-625 001
5. Narayanan,
Assistant Engineer (Project),
South Zone-4,
South Zonal Office,
West Perumal Maistry Street,
Madurai-625 001
6. Sonai,
Junior Town Planning Officer,
South Zone-4, South Zonal Office,
West Perumal Maistry Street,
Madurai-625 001



7. Kani,
Assistant Engineer,
Madurai Corporation,
Sewage Pumping Station,
Thilagar Thidal Market,
Tamil Sangam Road,
Madurai-625 001

... Respondents/Accused

PRAYER: Criminal revision filed, under Sections 397 and 401 Cr.P.C., to call for the records pertaining to impugned order dated 09.06.2015 on the file of the learned Judicial Magistrate No.II, Madurai, in the CrI.M.P.No.5472 of 2014, set aside the same and direct the Trial Court to take cognizance of the offences as narrated in (the complaint) CrI.M.P.No.5472 of 2014 and proceed with the case against the respondents in accordance with law.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.R.Murali for R5

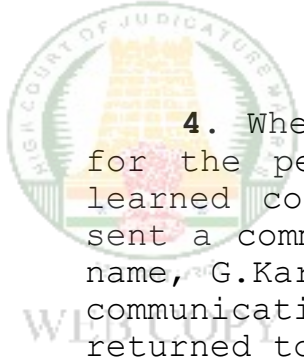
Mr.R.Surianarayanan for R7

ORDER

P.S.Ganesan filed a private complaint in Cr.M.P.No.5472 of 2014, before the learned Judicial Magistrate No.II, Madurai, for the offences under Sections 147, 294-B, 323, 453 and 506(i) I.P.C., against the District Collector, Vellore, Executive Engineer (Buildings) and other Government Officials.

2. It is the case of Ganesan that he had put up a construction in Survey No.580-1-2. While so, a notice for demolition, dated 20.09.2013, was issued to Ganesan alleging that he had put up construction without obtaining planning permission and therefore, he was called upon to show-cause as to why the building put by him should not be demolished. Challenging the same, Ganesan filed a writ petition in W.P.(MD) No.15910 of 2013, but no stay was granted by this Court. While so, on 26.09.2013, the building put up by Ganesan was demolished. Hence, Ganesan filed a private complaint against the District Collector and the Municipal Authorities for the aforesaid offences. On behalf of Ganesan, statement of two witnesses were recorded under Section 200 Cr.P.C., by the learned Judicial Magistrate No.II, Madurai and thereafter, the private complaint has been dismissed by the impugned order, dated 09.06.2015. Challenging the same, the present revision has been filed with a delay of 149 days.

3. This Court condoned the delay by order dated 23.01.2018 in CrI.M.P. (MD) No.890 of 2016 in CrI.R.C.(MD) No.SR2845 of 2016 and took up the main revision itself for final disposal.



4. When the revision taken up for hearing, the learned counsel for the petitioner submitted that the petitioner had died. The learned counsel for the petitioner further submitted that he has sent a communication by registered post to the petitioner's son, by name, G.Karthikeyan, but the same returned "Unserved". The unserved communication was produced before this Court and it has been returned to the learned counsel for the petitioner.

5. In a revision petition, even if the revision petitioner dies, this Court has power to see as to whether the order under challenge suffers from any illegality or impropriety. In this case, the District Collector and the Municipal Authorities have demolished the building put up by the petitioner, since there was no sanction for the construction. In such view of the matter, no prosecution can be initiated against the District Collector and the Municipal Authorities, being Government Servants, without appropriate sanction. Hence, this Court does not find any infirmity in the impugned order warranting interference from this Court.

6. In the result, the criminal revision is devoid of merits and it is dismissed.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To:

The Judicial Magistrate No.II,
Madurai.

+ 1 CC TO Mr.M.SARAVANAN, ADVOCATE IN SR No. 43727

KRK
TE/GT/SAR-2 : 06/02/2018 : 3P/3C

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23.01.2018