

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.2623 of 2018

and

CrI.M.P.No.1082 of 2018

E.Nagammal

... Petitioner/Accused

Vs

1. State rep by
The Inspector of Police,
Sathuvachary Police Station,
Vellore District.
(Crime No.5 of 2018) ...1st Respondent/Complainant
2. S.Vijayaganeshwaramoorthy
The Head Clerk Special Subordinate
Court for Land Acquisition,
Vellore Sathuvachary,
Vellore.2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and to quash the FIR in Crime No.5 of 2018 pending on the file of the 1st respondent police.

For Petitioner : Mr.S.Venkatesh

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : No Appearance

O R D E R

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No. 5 of 2018 pending on the file of the 1st respondent police for the offence under section 409 of IPC.

2. It is seen from the FIR, the allegations against the petitioner are that while the petitioner working as Tahsildar, Kudiyatham, he has failed to pay the compensation amount of Rs.33,844/- and Rs.41,000/- respectively to the decree holder in E.P.No.88 & 81/2013 in LAOP.No.18 & 31/2002, on the earlier undertaking given by the Tahsildar. Hence, the Special Sub-ordinate Court for land acquisition has directed the Head clerk

to give complaint against the Tahsildar/petitioner. Therefore, a case was registered in Crime No.5 of 2018, for the offence under section 409 IPC. Hence, the petitioner has filed the present petition with the aforesaid prayer.

3.The learned counsel for the petitioner submitted that, the first respondent failed to see that the complaint given by the 2nd respondent does not constitute offence under section 409 of the IPC as no entrustment of any material or money has been given to the petitioner and earlier Tahsildar M.Gajendran who is presently working as a District Adi Dravidar Tribal Welfare Officer had given a undertaking on 18.11.2013 that the compensation will be paid to the decree holders in E.P.No.81 & 88 of 2013 in L.A.O,P.No.18 & 31 of 2002, was not aware by the petitioner as several Tahsildars have occupied the post from 2013 and the petitioner was appointed as the Tahsildar for Gudiyatham only on February 2017. Therefore, the 2nd respondent cannot fix responsibility on the petitioner as the undertaking was given only by the then Tahsildar Gajendran who alone is responsible for non payment of compensation to the decree holders. He submitted that already on 05.10.2017, the Revenue Divisional Officer has written a letter to the Finance Department to immediately sanction and release the funds for payment of Compensation to the Decree Holders. Therefore, there is no breach of trust committed by this petitioner on the undertaking given by the Then Tahsildar dated 18.11.2013. Further, he submitted that before lodging the FIR a written submission was given by the petitioner to the Court below on 21.12.2017, stating that she is not aware of the undertaking given by the then Tahsildar and she has not committed any breach of trust.He further submitted that subsequently, the entire award amount has been paid to the beneficiaries. Hence, he prays to quash the FIR.

4. In view of the above, keeping the FIR pending would not serve any purpose and it is clear process of abuse of law. To meet the ends of the justice, this Court is inclined to quash the FIR in Crime No.5 of 2018 .

5. Accordingly, the FIR in Crime No.5 of 2018 on the file of the first respondent is quashed and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

mpa

Sd/-
Assistant Registrar(AD-IV)

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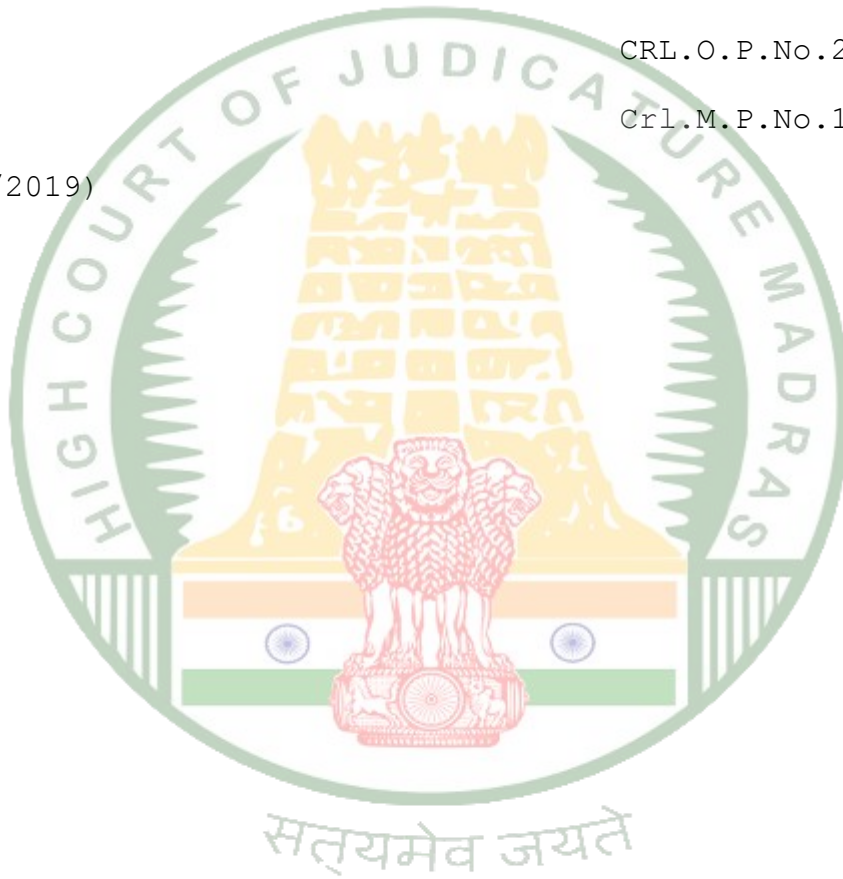
Sub Assistant Registrar

To

1. The Inspector of Police,
Sathuvachary Police Station,
Vellore District.
2. The Public Prosecutor,
High Court of Madras.

CRL.O.P.No.2623 of 2018
and
Crl.M.P.No.1082 of 2018

Kak(31/05/2019)



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