IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3386 and 3479 of 2014
and M.P.Nos.1,1, 2 and 2 of 2014

M.S.Selvaraj
S/o Samiyappan,
Director,
Adhavan Process (P) Ltd.,
210, Chinnamuthu 3rd Street,
Erode - 11. ...Petitioner in both the petitions

Vs.

The Executive Officer,
Suriyampalayam Special Village Panchayat,
Erode Taluk,
Erode District. ...Respondent in both the petitions

PRAYERS: Criminal Original Petition filed under Section 482 of Cr.P.C.,to call for the records in S.T.C.Nos.1501 of 2005 and 2054 of 2006 on the file of Judicial Magistrate No.III, Erode and to quash the same as regard to the prosecution of petitioner concern.

For Petitioner : Mr.D.Selvaraju
(both the petitions)

For Respondent : M/s.M.Rajamathivanan
(both the petitions)

COMMON ORDER

These petitions are filed challenging the complaints made in S.T.C.Nos.1501 of 2005 and 2054 of 2006 on the file of Judicial Magistrate No.III, Erode.

2. The learned counsel for the petitioner submitted that alleging the petitioner has not paid property tax owned by the Company, the respondent has instituted the complaints in S.T.C.Nos.1501 of 2005 and 2054 of 2006 on the file of Judicial Magistrate No.III, Erode. The learned counsel raised a ground

that the de-facto complainant filed the complaints straight away without taking distraint warrant against the property. Moreover, the Company is the owner of the property and without prosecuting the Company, prosecuting the petitioner / Director through the impugned proceedings is unsustainable in law. The learned counsel for the petitioner further raised a ground that under Section 365 of the Tamil Nadu District Municipalities Act, only the period of three years preceding the demand can be taken even for the distraint warrant, whereas, the demand for 5 assessment years is taken as the basis for prosecution. Therefore, taking cognizance of the above complaint is unsustainable, as it is barred by limitation.

3. Per contra, the learned counsel for the respondent would submit that the petitioner is a habitual offender under the Tamil Nadu District Municipalities Act, 1920 for the offence under Section 124, Schedule IV, Rules 30, 32, 33, 34 and 36 and also produced the statement of arrears dated 13.02.2019 by the petitioner for the property. According to him, the petitioner is in arrears of Rs.7,67,460/- from the year 2001 to 2019. Therefore, the learned counsel vehemently opposed to quash the complaint.

4. Heard the learned counsel for the petitioner and the learned for the respondent.

5. These petitions are filed to quash the complaints in S.T.C.Nos.1501 of 2005 and 2054 of 2006 initiated by the respondent under the Tamil Nadu District Municipalities Act, 1920 for the offence under Section 124 Schedule IV, Rule 30, 32, 33, 34 and 36. The main allegation is that failure to remit the property tax of Rs.1,23,750/- for the years 2001 to 2006. It is also seen from the statement produced by the respondent that the petitioner is in total arrears of Rs.7,67,460/- for the period between 2001 and 2019. The petitioner continuously violates the proceedings from 2001 to 2019 and did not pay any property tax. Therefore, the complaints cannot be quashed. Hence, this Court is not inclined to entertain the petitions. Accordingly these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Judicial Magistrate No.III,
   Erode.

2. The Executive Officer,
   Suriyampalayam Special Village Panchayat,
   Erode Taluk,
   Erode District.

3. The Public Prosecutor,
   High Court of Madras.

+1cc to M/S.M.Rajamathivanan, Advocate Sr.13614

Crl.O.P.No.3386 and 3479 of 2014

cp[co]
srg 22/03/2019