

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.2522 of 2014 and
M.P.No.1 of 2014

V.Anbalagan

... Petitioner/Accused

Vs

Dharmapuri Market Committee,
Represented by the Head of Market/Supervisor,
Regulated Market Supervisor,
A.Tamilmani,
Pappireddipatti,
Dharmapuri District

... Respondent/Complainant

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in S.T.C.No.38 of 2008, pending on the file of Judicial Magistrate, Pappireddipatti and quash the complaint.

For Petitioner : Mr.V.P.Sengottuvel

For Respondent : No Appearance

ORDER

This quash petition has been filed to quash the proceedings in STC.No.38 of 2008 on the file of the learned Judicial Magistrate, Pappireddipatti, having been taken cognizance for the offences punishable under Section 48 (1) (a) of the Tamil Nadu Agricultural Product Market (Regulation) Act, 1987 as against the petitioner.

2. Heard the learned counsel for the petitioner.

3. It is seen that the respondent filed complaint alleging that non payment of market fee for the period from 01.04.2006 to 31.03.2007 and thereby the petitioner committed offence under Section 48 (1) (a) of the Tamil Nadu Agricultural Product Market (Regulation) Act, 1987. Though the learned counsel for the petitioner raised so many grounds in the petition, he urged the

quash petition only on the main ground that as per Section 58 (2) of the Tamil Nadu Agricultural Product Market (Regulation) Act, cognizance of the offence under this Act can be taken by criminal code only when the complaint is made in writing either by the Director or by an Officer empowered by the Director by means of a special order. In this case by order dated 25.02.2008, the Director of Agricultural Marketing authorised the respondent to file a complaint against the petitioner for non payment of market fee for the period between October 2006 and March 2007 for the period of six months whereas it is seen from the complaint the respondent alleged that the petitioner did not pay market fee for the period between 01.04.2006 and 31.03.2007 for a period of 12 months. Therefore, the respondent has no jurisdiction to lodge complaint without any authorisation from the Director of Agricultural Marketing to prosecute the petitioner for the period of 12 months namely 01.04.2006 to 31.03.2007.

4. In this regard, the learned counsel for the petitioner relied upon the judgment rendered by the Division Bench of this Court in W.A.(MD)No.408 of 2006 and batch of cases dated 28.03.2008, wherein it is held as follows:

"2. Learned single Judge by referring to Section 58 of the Act to the effect that no cognizance of any offence under the Act should be taken except "... on a complaint in writing made by the Director or any Officer empowered by him in this behalf by special order", quashed the prosecution or taking of cognizance on the conclusion that the complaints had not been filed by the Director or "any Officer empowered" by him. While, thus, allowing the writ petitions, the learned single Judge negatived the contention raised by the writ petitioners to the effect that the prosecutions were barred by limitation as contemplated under Section 468 Cr.P.C., by observing that the alleged offences were continuing offences.

11. The basic conclusion of the learned single Judge is to the effect that the person who had filed the complaint in writing was admittedly not the Director or the "empowered Officer". Even though in the writ appeals the conclusion that complaints had not been filed by the competent officer has been challenged in a rather halting manner, the learned Addl. Advocate General in his usual forthright and fair manner has conceded that the conclusion of the learned single Judge on the above aspect is justified and the complaint had not been filed by the officer contemplated under Section 58 of the Act. Therefore, it is apparent that the appeals filed by the State

Government had no legs to stand upon."

5.He also cited another judgment of this Court dated 16.07.2012 in Crl.O.P.Nos.4509 to 4514 of 2012, wherein this Court has held as follows:

"As I have already stated, Section 58(2) of the Act mandates that a Criminal Court can take cognizance of the offence only on the complaint either made by the Director of Agricultural Marketing or an officer authorised by him by means of a special order. In this case, admittedly, the said order authorising the Superintendent to file private complaints have been issued only by the Commissioner of Agricultural Marketing. Whether the Commissioner of Agricultural Marketing and the Director are one and the same came to be considered by a Division Bench of this Court in a batch of cases in W.A(MD) No.408 of 2006 etc, batch. In the batch of cases, similar plea was taken that the special order empowering the Superintendent was not passed by the Commissioner of Agricultural Marketing and instead, it had been passed by the Commissioner of Agricultural Marketing. It was contended before the learned single Judge that it does not satisfy the mandatory requirement of Section 58(2) of the Act. That plea was accepted by the learned single Judge and the criminal prosecutions were quashed....."

6. In view of the above facts and circumstances of the case, the above judgments are squarely applicable to the present case on hand. In the present case, the respondent filed a complaint without any authorisation by the Director of Agricultural Marketing. Therefore, the complaint cannot be sustained as against the petitioner.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.38 of 2008, pending on the file of the learned Judicial Magistrate, Pappireddipatti is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

The learned Judicial Magistrate,
Pappireddipatti

Copy To
The Public Prosecutor,
High Court, Madras

+2cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.32904

CrI.O.P.No.2522 of 2014 and
M.P.No.1 of 2014

SVI (CO)
CS/26/06/2019



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