

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.19491 of 2019
and
Crl.M.P No.9984 of 2019

Seventh Day Adventist Matriculation
School, rep. by its Principal
Mr.Edwin Samuel
No.79/249, GST Road,
Tambaram, Chennai-600 045.

...Petitioner

Vs.

The Commissioner,
Tambaram Municipality
Chennai-600 045.

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records culminated in S.T.C No.65 of 2018 pending on the file of the Judicial Magistrate Court, Tambaram and quash the same.

For Petitioner : Mr.R.Prabhakaran

ORDER

This petition has been filed challenging the criminal proceedings initiated by the respondent for an offence under Section 216(1)(2)(3) r/w 313, 317(a)(c) of the District Municipalities Act 1920.

2. The learned counsel for the petitioner submitted that the offence itself has not been made out in this case. The respondent has proceeded to file a complaint on the ground that the petitioner has put up illegal construction without sanction. However, it is the case of the petitioner that the sanction was sought for and it was not processed within time and it was kept pending and therefore, there was a deemed sanction in favour of the petitioner. Therefore, the prosecution initiated by the respondent itself is an abuse of process of Court.

3. The learned counsel for the petitioner, in order to substantiate his arguments relied upon various documents.

4. This Court exercising its jurisdiction under Section 482 of Cr.P.C cannot conduct a roving enquiry on this issue. This issue as to whether there was a deemed sanction in favour of the petitioner, under the provisions of the Act, requires a factual finding based on documents. That can be done only by the Court below and not by this Court exercising its jurisdiction under Section 482 of Cr.P.C.

5. It is left open to the petitioner to raise all these grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

6. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C No. 65 of 2018 within a period of two months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Tambaram.

2. -do-Through The Chief Judicial Magistrate,
Tambaram.

3. The Commissioner,
Tambaram Municipality
Chennai-600 045.

+1cc to Mr.R.Prabhakaran, Advocate SR.No.62743

CRL.OP.No.19491 of 2019
and
Crl.M.P.No.9984 of 2019

GMV (31/07/2019)