



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CrI.O.P (MD) No.8042 of 2019

WEB COPY

1. Balaraman
2. Vijayakrishnan
3. Vikram Balaraman
4. Kanagavalli
5. Prabha Vikram
6. Niranjani Vijay

... Petitioners/A1 to A6

Vs

1. The State represented by
The Deputy Superintendent of Police,
Periyakulam Division,
Jeyamangalam Police Station,
Theni District (Crime No.137/2018) ... 1st Respondent/Complainant

2. Amaravathi ... 2nd Respondent/Defacto
Complainant

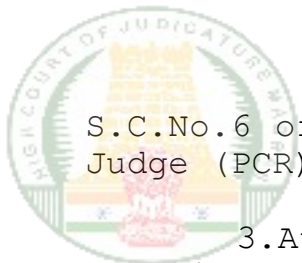
PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the special S.C.No.6/2019 on the file of the learned Principal District and Sessions Judge (PCR) Cases, Theni and quash the same.

For Petitioners	: Mr.Veerakathiravan Senior Counsel for M/s.Veera Associates
For R1	: Mr.A.Robinson Government Advocate (CrI.side)

ORDER

This criminal original petition has been filed for quashing the impugned proceedings insofar as the petitioners are concerned. Crime No.137 of 2018 came to be registered on the file of the Jeyamangalam Police Station for the offence under Sections 120 (B), 149, 465, 466, 468 and 477 (A) r/w 149 A of IPC r/w Section 3(f) 3(ii)(va) of SC/ST (POA) Act.

2. The defacto complainant is one Amaravathi. She belongs to Pallar Community which is a notified scheduled caste. The case of the defacto complainant is that the land belonging to her had been grabbed by the persons mentioned in the complaint. Thereafter, the offences under Sections 120 (B), 149, 465, 466, 468 and 477 (A) r/w 149 A of IPC r/w Section 3(f) 3(ii)(va) of SC/ST (POA) Act were also included and the first respondent herein took up the investigation. The final report came to be filed and the same was taken on file as



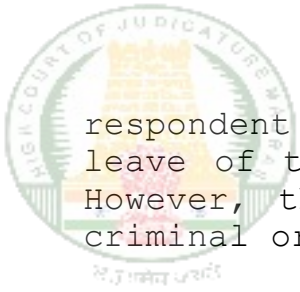
S.C.No.6 of 2019 on the file of the Principal District and Sessions Judge (PCR) Cases, Theni.

3. At this stage, the petitioners herein have come forward for quashing the proceedings against them. The defacto complainant also appeared before me in person and stated that she has no objection for quashing the proceedings. The U-turn by the defacto complainant is on account of the fact that her proprietary interest in the land has now been taken care. The petitioners have categorically affirmed before this Court that they will not have any claim over the land that belongs to the second respondent which was assigned to her by the Government.

4. It is true that the proceedings taken under SC/ST Act are not compoundable. But then, the learned counsel appearing for the petitioners drew my attention to the order dated 06.04.2017 made in Crl.O.P.(MD)Nos.3960 of 2017 and 3961 of 2017. The Hon'ble High Court observed that where the parties have arrived at an amicable settlement, no purpose will be served in continuing the prosecution. Therefore, I am of the view that the said approach can be followed in this case and accordingly, the proceedings, even though are under SC/ST Act, can be quashed. The second respondent filed the criminal case only because her land was sought to be grabbed by the petitioners herein. The petitioners have now beaten a retreat and recognise the right, title and interests of the second respondent over the land assigned to her. Therefore, the second respondent may not be serious in pursuing the matter. Hence, no purpose will be served in keeping the prosecution alive.

5. But then, the Government Advocate pointed out that this case involves forgery and fabrication of official records. In such an event, the case cannot be given burial, merely because, the defacto complainant wants to put an end to the matter. This Court therefore, wanted to know if there is any prima facie material against in any of the petitioners herein. This Court made an independent perusal of the materials on record and came to the conclusion that there is no material warranting the prosecution of the petitioners herein for the offences under Sections 120 (B), 149, 465, 466, 468 and 477 (A) r/w 149 A of IPC r/w Section 3(f) 3(ii) (va) of SC/ST (POA) Act. Therefore, this Court is of the view that the impugned proceedings deserves to be quashed insofar as the petitioners are concerned. It is made clear that the remaining accused namely VAO will have to face the trial. It is for him to work out his right in the manner known to law.

6. At this stage, the learned Government Advocate fairly informed the Court that the investigation has not been done in a proper manner and that, therefore the remaining accused also may go scot-free. This is the case, in which, the official records were fabricated and forged. Hence, even while, the impugned proceedings stand quashed insofar as the petitioners are concerned, this Court grants leave to the first



respondent to take out an appropriate application for getting the leave of the jurisdictional Court for reopening the investigation. However, the petitioner herein will not be roped in again. The criminal original petition is allowed accordingly.

7. It is seen that in the earlier case, the Hon'ble Mr. Justice P.N. Prakash, directed the petitioners therein to pay a certain sum as costs. I felt that the petitioners herein also can be called upon to make a similar contribution. At this stage, the petitioners on their own through their senior counsel offer to pay a sum of Rs.50,000/- as costs in the following manner. The petitioners shall pay a sum of Rs.10,000/- to the "AISHWARYAM TRUST" (Account No.6639017788, IFSC Code:IDIB000T032, Branch Name:Indian Bank, Tirunagar, Madurai) and a sum of Rs.25,000/- towards "Correspondent Image Special School" (Account No:880173661, IFSC Code:IDIB000T016, INDIAN BANK, THEVARAM BRANCH) and a sum of Rs.15,000/- shall also be paid to "MANGAYAR MANGALAM NAGERKOIL BRANCH" STATE BANK OF INDIA, (near nagarkoil head post office) (CURRENT A/C NO.37032461994, IFSC NO.SBIN0070686, NAGARKOIL 629 001, KANYAKUMARI DISTRICT).

sd/
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS)

To

1. The Principal District and Sessions Judge (PCR) Cases, Theni.
2. The Deputy Superintendent of Police, Periyakulam Division, Jeyamangalam Police Station, Theni District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-68161[F] dated 12/06/2019)

Cr1.O.P(MD)No.8042 of 2019
12.06.2019

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