



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.12964 of 2019

and

Crl.M.P. (MD) Nos.7971 and 7975 of 2019

- 1.Sheik Dawood
- 2.Abdul bakki
- 3.Mohammed Hassan
- 4.Sathakathulla
- 5.Thoulath Ali
- 6.Mohamed Mustafa
- 7.Sadhik Ali
- 8.Rahamath

..Petitioners/Accused Nos.3 to 10

Vs.

- 1.The State rep.by its
The Inspector of Police,
S.P.Pattinam Police Station,
Ramanathapuram District.
in Crime No.63/2017.

...1st Respondent/Complainant

- 2.P.Chithambaram,
Village Administrative Officer,
33, Marungoor Group,
Thiruvadanai Taluk,
Ramanathapuram District.

..2nd Respondent/Defacto
Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the entire records of the case relating to S.T.C.No.360 of 2017, pending on the file of Judicial Magistrate, Thiruvadanai, Ramanathapuram District and quash the same insofar as the petitioners 1 to 8/accused Nos.3 to 10 are concerned.

For Petitioners : Mr.S.Muthukumar

For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Criminal Side)



O R D E R

This criminal original petition is filed to quash the proceedings in S.T.C.No.360 of 2017, on the file of the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District, thereby having been taken cognizance for the offences under Sections 143 and 188 of I.P.C. as against the petitioners.

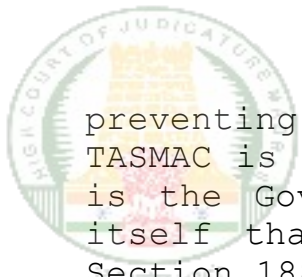
2.The case of the prosecution is that the second respondent being a Village Administrative Officer found that the petitioners and others unlawfully assembled before the TASMACH and prevented to open the TASMACH shop. Therefore, the defacto complainant lodged a complaint before the respondent police. The respondent police has been registered a case in crime No.63 of 2017, for the offences punishable under Sections 143 and 188 of IPC. In which, the petitioners are arrayed as accused Nos.3 to 10. Subsequently, the first respondent filed a charge sheet before the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District and the same was taken cognizance by the learned Judicial Magistrate, in S.T.C.No.360 of 2017.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not presented in the scene of occurrence. He also submitted that the sixth respondent was in abroad at the time of occurrence. The petitioners were falsely implicated in this case. Only for the statistics purpose, the respondent police implicated the petitioners in this case. Therefore, the petitioners filed this petition for quashing the proceedings.

4.Per contra, the learned Government Advocate (Criminal Side) would submit that the defacto complainant is a Village Administrative Officer. The petitioners unlawfully assembled in front of the TASMACH shop, preventing to open the TASMACH shop. He also submitted that if the TASMACH shop is opened, the petitioners would damage the shop, which is the Government property. Therefore, he opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal Side) appearing for the officials respondents and perused the materials available on record.

6.On a perusal of the charge as against the petitioners are concerned, the first respondent levelled the charge under Sections 143 and 188 of I.P.C. It is seen from the charge that the second respondent being a Village Administrative Officer found that the petitioners are unlawfully assembled in front of the TASMACH shop,



preventing to open the TASMAC shop. He also submitted that if the TASMAC is opened, the petitioners are would damage the shop, which is the Government property. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated by public servant - Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

7.Considering the aforesaid facts, this Court finds that for the simple charge, the petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in STC No.360 of 2017, on the file of the Judicial Magistrate, Thiruvadanai, Ramanathapuram District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

Das

1.The Judicial Magistrate, Thiruvadanai

1.The Inspector of Police,
S.P.Pattinam Police Station,
Ramanathapuram District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.MUTHUKUMAR, Advocate (SR-87719[F] dated 19/09/2019
)

Crl.O.P. (MD) .No.12964 of 2019
and
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16.09.2019

KM/ (30.09.2019) 4P 5C