IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos.280, 2010 & 2013 of 2020 and
CMP.Nos.165, 166, 1245, 1246. 1248 & 1249 of 2020

Crl.OP.No.280 of 2020

L.Gurusave ... Petitioner/Accused

Vs.

The Executive Officer,
Natrampalli Selection Grade Town Panchayath,
Natrampalli Taluk,
Vellore District ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records pertaining to the complaint culminated in STC.No.92 of 2019 on the file of the Judicial Magistrate No.3, Thirupattur and quash the same.

For Petitioner : Mr.Caldwell Justine
For Mr.C.Johnson
For Respondent : Mr.A.N.Thambidurai,
Special Public Prosecutor

Crl.OP.No.2010 of 2020

L.Gurusave ... Petitioner/Accused

Vs.

The Executive Officer,
Natrampalli Selection Grade Town Panchayath,
Natrampalli Taluk,
Vellore District. ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records pertaining to the complaint culminated in STC.No.94 of 2019 on the file of the Judicial Magistrate No.3, Thirupattur and quash the same.

For Petitioner : Mr.Caldwell Justine
For Mr.C.Johnson
For Respondent : Mr.A.N.Thambidurai,
Special Public Prosecutor

Crl.OP.No.2013 of 2020

L.Gurusave ... Petitioner/Accused

Vs.

The Executive Officer,
Natrampalli Selection Grade Town Panchayath,
Natrampalli Taluk,
Vellore District ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the entire records pertaining to the complaint culminated in STC.No.93 of 2019 on the file of the Judicial Magistrate No.3, Thirupattur and quash the same.

For Petitioner : Mr.Caldwell Justine
For Mr.C.Johnson
For Respondent : Mr.A.N.Thambidurai,
Special Public Prosecutor

COMMON ORDER

These petitions have been filed challenging the proceedings in STC.Nos.92, 93 and 94 of 2019 respectively on the file of the Judicial Magistrate-III, Tirupattur.

2. Mr.Caldwell Justine, the learned counsel for the petitioner would submit that the impugned proceedings have been initiated by the respondent for non payment of House tax for the year 2016-2017, 2017-2018 to the tune of Rs.20,908/- in each proceedings to the property of the petitioner herein that even after repeated reminders and as such the petitioner did not pay the same to Town Panchayat Natrampalli, Vellore District as per the Tamil Nadu District Municipalities Act, 1920 under Sections 306, 308 and 320. The learned counsel for the petitioner further submitted that the property comprised in door Nos.21/7, 21/8 and 21/9 situated at Thamma Street, Natrampalli Town Panchayat originally stood in the name of the petitioner. Thereafter by the settlement deeds dated 03.03.2011 and 18.03.2011 vide

document Nos.471 of 2011 & 612 of 2011 with the Office of the Sub Registrar, Natrampalli, the petitioner has settled the said properties in favour of his wife, namely K.Indhumadhi. Therefore, no property stands in the name of the petitioner ever since the date of the settlement deed. It was also duly informed to the respondent herein to carryout necessary changes in the records of Town Panchayat. The petitioner also paid necessary requisite fee as charges for change of name by deleting his name from the Panchayat records and include the name of his wife. In fact, the said change has been made in the proceedings in MM.No.50 dated 25.03.2017. Thereafter his wife had paid property tax in her name for the period 2016-2017 relating to the property bearing door Nos.21/7, 21/8 and 21/9. All the payments were duly received and acknowledged by the respondent by issuing separate receipts.

2.1 He further submitted that except these properties, the petitioner has no other property in his name. Therefore, the claim of the respondent is highly illusory and cannot be sustained as against the petitioner. In fact, the wife of the petitioner sent a detailed legal notice to the respondent and the same was duly received and acknowledged by the respondent. The said notice is self explanatory in nature and admitted the entire content in the notice by the respondent herein. The wife of the petitioner also called upon the respondent to drop all further proceedings relating to the assessment of property tax in the name of the petitioner herein. In fact, thereafter the wife of the petitioner also paid property tax upto date by demand draft for a sum of Rs.25,212/- in favour of the respondent herein and the same was duly received and acknowledged by the respondent. There is absolutely no due on account of the properties comprised in door No.21/7, 21/8 and 21/9 as on 2019. When no property stands in the name of the petitioner, no offence is made out as alleged by the respondent under Sections 306, 308 and 320 of Tamil Nadu District Municipalities Act, 1920.

2.2 He further submitted that the demand proceedings relating to the assessment Nos.3447, 3448 and 3449 dated 17.05.2018 in respect of the property comprised in door Nos.21/10, 21/11, 21/12, Thamma street, Ward No. 2, Natrampalli Town Panchayat, Dharmapuri District issued in the name of the petitioner has been challenged before this Court in WP.No.34948 of 2019, in which this Court by an order dated 18.12.2019 stayed all the proceedings on the ground that since the property in respect of which impugned demand has been raised is stated to be non existence. Therefore, the present proceedings are nothing but clear abuse of process of law and are liable to be quashed.

3. Per contra, Mr.A.N.Thambidurai, the learned Special

Public Prosecutor appearing for the respondent would submit that though this Court had given enough opportunities to file counter, the respondent did not turn down and on instruction he submitted that the respondent lodged complaint for the offence punishable under Sections 306, 308 and 320 of Tamil Nadu District Municipalities Act, 1920 for the allegation that the petitioner failed to pay the property tax for the property comprised in door Nos.21/7, 21/8 and 21/9 situated at Thamma Street, Natrampalli Town Panchayat. After repeated reminders, the petitioner did not make any payment for property tax and as such the respondent lodged complaint under Section 200 Cr.P.C. He further submitted that on perusal of records submitted by the petitioner herein, by the settlement deeds dated 03.03.2011 and 18.03.2011, the above said properties were settled in favour of his wife and also registered as document Nos.471 of 2011 and 612 of 2011 with the Office of the Sub Registrar, Natrampalli, Dharmapuri District. Thereafter all the revenue records were also mutated in the name of his wife Mrs.Indhumathi by the proceedings dated 25.03.2017 for all the properties on the file of the respondent and ordered to assess the property tax in the name of the petitioner's wife. He further submitted that however the respondent submitted to proceed as against the wife of the petitioner herein.

3.1 Heard Mr.Caldwell Justine, the learned counsel for the petitioner and Mr.A.N.Thambidurai, the learned Special Public Prosecutor appearing for the respondent.

4. The petitioner is the sole accused in all the complaints lodged by the respondent herein for the offence punishable under Sections 306, 308 and 320 of Tamil Nadu District Municipalities Act, 1920 alleging that the petitioner failed to pay house tax for the year 2016-2017 and 2017-2018 for the property comprised in door Nos.21/7, 21/8 and 21/9 situated at Thamma Street, Natrampalli Town Panchayat. On perusal of records found that all the properties were originally owned by the petitioner herein and thereafter by the settlement deeds dated 03.03.2011 and 18.03.2011, settled all the properties in favour of his wife. Both the settlement deeds were registered as document Nos.471 of 2011 and 612 of 2011 on the file of the Sub Registrar, Natrampalli, Dharmapuri District. Thereafter it was duly informed to the respondent herein and also requested the respondent to carry out necessary changes in the records of Town Panchayat so that in future the house tax and other revenue dues will be assessed in the name of his wife, Mrs.Indhumathi.

5. On receipt of the requisite fee, the respondent by the communication dated 25.03.2017 ordered to change the property tax assessment in the name of his wife namely Mrs.Indhumathi vide proceedings in MM.No.50 dated 25.03.2017. Thereafter the

petitioner's wife Mrs.Indhumathi had paid property tax in her name as assessed by the respondent for the period 2016-2017 relating to the above said properties. The property tax were duly collected by the respondent and also issued receipt dated 28.03.2017. Thus, the wife of the petitioner became absolute owner of the subject properties and no more property stood in the name of the petitioner herein. Even then, the respondent without application of mind, without even verifying his own records issued demand notice in the name of the petitioner and demanding the house tax for the above said houses for the year 2016-2017 and 2017-2018. The demand notices were also challenged by the petitioner before this Court in WP.No.34948 of 2019 and this Court by an order dated 18.12.2019 stayed the demand notice. The respondent on the basis of the demand notice, the present impugned complaint have been initiated as against the petitioner for the offence under Sections 306, 308 and 320 of Tamil Nadu District Municipalities Act, 1920 by way of private complaint under Section 200 of Cr.P.C.

6. On perusal of the settlement deeds and mutation of records, show that no property stood in the name of the petitioner and thus, the demand of house tax itself is illegal and as such the present impugned complaint initiated in pursuant to the demand notice also illegal and initiated without application of mind. Therefore, the proceedings initiated as against the petitioner cannot be sustained since no properties stood in the name of the petitioner herein. That apart, the wife of the petitioner also paid property tax for the assessment year 2016-2017, which was duly accepted and acknowledged by the respondent herein vide receipt dated 28.03.2017.

7. In view of the above discussion, the proceedings are nothing but clear abuse of process of court and all are liable to be set aside. Accordingly, all the criminal original petitions are allowed and the entire proceedings in STC.Nos.92, 93 and 94 of 2019 respectively on the file of the Judicial Magistrate-III, Tirupattur are quashed. However, the respondent is at liberty to proceed as against the original owner of the property in the manner known to law, if any offence committed under Tamil Nadu District Municipalities Act, 1920.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.3,
   Thirupattur

2. The Executive Officer,
   Natrampalli Selection Grade Town Panchayath,
   Natrampalli Taluk,
   Vellore District

+1cc to Mr.A.N.Thambidurai, Advocate, SR30660

CRL.O.P.Nos.280, 2010 & 2013 of 2020

CO(RSI)
BDL/19/01/2021