

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.11.2020
PRONOUNCED ON : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.897 of 2020

Ambigabathi ... Petitioner / Petitioner

Vs.

State of by Inspector of Police,
Vaduvoor Police Station, Vaduvoor,
Thiruvarur District.
Crime No.1267 of 2020. ... Respondent / Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the dated 10.09.2020 passed in CrI.M.P.No.1694 of 2020 on the file of the Judicial Magistrate No.I, Mannargudi and to allow the above Criminal Revision.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

This Criminal Revision has been filed to set aside the order dated 10.09.2020, made in CrI.M.P.No.1694 of 2020, passed by the learned Judicial Magistrate No.I, Mannargudi.

2.The gist of the case is that one Nehru, Deputy Block Development Officer (Nutritious Meal), Block Development Office, Needamangalam has lodged a complaint to the respondent on 24.08.2020, at about 16.00 hours, stating that on 21.08.2020 in the mid night, some miscreants from Edakeelaiyur Village demolished the building of the Noon Meal Centre and Kitchen, which was catering to nearly 100 students, who are studying in Panchayat Union Primary School, Edakeelaiyur. The respondent Police, on receipt of the complaint, registered an FIR in Crime No.1267 of 2020, for offence under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

3. During investigation, on 24.08.2020, the defacto complainant, Deputy Block Development Officer (Nutritious Meal), Needamangalam; Srinivasan, the Deputy Block Development Officer (Admin), Needamangalam; Venkatesh, Assistant Engineer, Block Development Office, Needamangalam; Kalaiselvan, Block Development Officer, Block Development Office, Needamangalam; Kamaraj and Muthu, who are the villagers from Edakilaiyur in Pambaliyar Street, were examined. During investigation, it came to light of the involvement of Thangadurai son of Selvaraj, who is the husband of Panchayat Union President Mallika; Panchayat President Mallika, Jayakumar wife of Jagadeesan; Muruganantham son of Alagiri; Premkumar son of Nallathambi; Yogeswaran son of Gunasekaran; Arivalagan son of Kaliyamoorthy in commission of offence. They were joined together and demolished and brought down the Noon Meal Centre and its Kitchen and caused disappearance of the public property by engaging JCB vehicle driven by one Pandiyan. The tractor and tipper bearing registration number TN 50 AR 0390 of the petitioner were used to clear the demolished materials.

4. During investigation, the eight named persons who were arrayed as accused, approached this Court and got anticipatory bail in CrI.O.P.No.13612 of 2010, dated 03.09.2020. The vehicle of the petitioner bearing registration number TN 50 AR 0390 was seized by the respondent Police and produced before the learned Judicial Magistrate No.I, Mannargudi, which is assigned C.P.No.114 of 2020 and another vehicle bearing registration number TN 51 AH 8996 was assigned as C.P.No.95 of 2020. The petitioner, who is the owner of the vehicle, has filed a petition before the learned Judicial Magistrate No.I, Mannargudi seeking return of his vehicle. The learned Magistrate, by order dated 10.09.2020 in CrI.M.P.No.1694 of 2020, dismissed the petitioner, against which the present revision.

5. The learned counsel for the petitioner submitted that the vehicle was seized from the custody of the petitioner and produced before the learned Judicial Magistrate No.I, Mannargudi. The learned counsel further submitted that the vehicle was not used for transportation of demolished materials from the scene of occurrence. The learned Magistrate had dismissed the petition for the reason that the offence under the Tamil Nadu Public Property (Damage and Loss) Act, is triable by the Court of Sessions and he has no power to return the property. In this case, during investigation, none of the witnesses have stated about the vehicle of the petitioner being used for the commission of offence.

6. The learned counsel for the petitioner further submitted that the petitioner is using the vehicle only for agriculture purpose and not involved in the case as alleged by the

prosecution. Since the Panchayat President is known to him, the respondent Police implicated the vehicle of the petitioner in this case. Further, the vehicle is kept in the open space exposing to vagaries of weather, thereby the value the vehicle would get diminished. Hence, he prayed to set aside the order of the Court below and allow the revision.

7.The learned Additional Public Prosecutor appearing for the respondent submitted that the FIR in Crime No.1267 of 2020 came to be registered on the complaint of the defacto complainant-Nehru, Deputy Block Development Officer (Nutritious Meal), Needamangalam. On information, the defacto complainant had gone to the place of occurrence and found the noon meal centre and its kitchen completely demolished and debris were removed by the accused by using the petitioner's vehicle bearing registration number TN 50 AR 0390. Further, the JCB vehicle, which was used for demolishing the noon meal building is identified and the vehicle is yet to be seized. It is further submitted that the investigation shows that the petitioner actively participated in commission of offence with the other accused. The owner and driver of the tractors and JCB vehicle are to be arrayed as accused. The reason for demolition of the noon meal building is not for the reason the building is old and its damage. The Panchayat of Edakilaiyur Village on 02.08.2020 passed a resolution in No.48/2020, in which it was decided to demolish the noon meal building, which has become old and damaged and to obtain necessary order from Panchayat Union. Strangely, the Agenda for the resolution is dated 03.08.2020. Agenda is on a latter day to the resolution and thereby, proving to the fact that the accused had created document latter, to cover their illegal act. The alteration report to be filed including the relevant penal provisions.

8.It is further submitted that the investigation is not yet completed and if this Court orders to return the vehicle, it would affect the case and possibility of other accused to escape from the clutches of law.

9.This Court has considered the rival submissions and perused the materials available on record and had an occasion to peruse the case diary in Crime No.1267 of 2020.

10. perusal of the Case Diary, it is seen that the complaint has been lodged by the Deputy Block Development Officer (Nutritious Meal), Block Development Office, Needamangalam on 24.08.2020. On the same day, an FIR in Crime No.1267 of 2020 came to be registered. The witnesses namely the defacto complainant; Srinivasan, Deputy Block Development Officer (Admin), Block Development Office, Needamangalam; Venkatesh, Assistant Engineer, Block Development Office, Needamangalam; Kalaiselvan, Block Development Officer, Block

Development Office, Needamangalam and the villagers viz., Kamaraj and Muthu from Edakeelaiyur were examined and Observation Mahazar were prepared. During investigation sofar, eight persons were arrayed as accused and they immediately approached this Court, obtained anticipatory bail in CrI.O.P.No.13612 of 2020, dated 03.09.2020.

11.From the order dated 03.09.2020 in CrI.O.P.No.13612 of 2020, it is seen that the petitioners therein are elected local body members and submitted that the building was in dilapidated condition and on the fear that it would cause damage to the general public, they demolished the building without understanding the consequences. The learned Additional Public Prosecutor represented that the petitioners therein have demolished the old government building by passing a resolution in the panchayat, without obtaining prior permission from the Block Development Officer. Considering the same and also the damaged amount has been repaid, this Court granted anticipatory bail to the petitioners. On perusal of the Case Diary, there is no materials to show whether any amount for the damages was paid. Thus, the accused had obtained the anticipatory bail. Further, it is seen that there is a letter dated 28.11.2018 written by the Head Master of Panchayat Union Primary School, Edakeezhaiyur to the Regional Educational Officer, Needamangalam that due to cyclone, damage has been caused to the noon meal centre and its kitchen. Despite the same, no repair work done. The noon meal centre and kitchen was in usage till it was brought down illegally. Now, the noon meal centre and kitchen is functioning in make shift thatched shed. Further, there is a resolution dated 02.08.2020, in which, in No.48/2020, it is mentioned that the noon meal building is damaged and to be demolished and necessary orders were awaited from the Panchayat Union Office and the same was approved. Further, Agenda for the meeting is also found. The Agenda of the meeting is dated 03.08.2020 and the resolution is dated 02.08.2020. Obviously, it is a got-up document to cover up the illegal demolition caused by the accused. This gains credence, for the reason that by order dated 15.06.2020 in Na.Ka.No.1425/2020/A3, Edakilaiyur Panchayat was allotted Rs.22,65,000/- for construction of Panchayat Office.

12.From the Rough Sketch, it is seen that the noon meal centre is situated in the prominent place abutting the main road which was identified by the Panchayat President and its members to construct new Panchayat Office. Since the noon meal centre was obstruction for their design, the same has been demolished without providing alternate building for the noon meal centre and without getting approval from the Panchayat Union Office. The procedure for demolition of old government building is that the Union Engineer would inspect the building and give certificate about the stage of the building whether the damage

could be repaired or otherwise and the certification of the Union Engineer to be forwarded to the District Collector and the District Collector to pass order for the demolition. In this case, circumventing all these procedural aspects, the Elected Members of the local body have taken the law into their own hands, demolished the noon meal centre and its kitchen at the dead night on 21.08.2020 to construct the Panchayat Office. By their act, they deprived food from the noon meal centre for the students, who are studying in the Panchayat Union Primary School, Middle and High School. This noon meal is bringing the students for education. Further, the JCB vehicle, which is involved in demolition of the noon meal centre, though identified, it is yet to be seized and some more accused are to be apprehended.

13. In view of seriousness of the offence committed by the accused persons and attempt made by them to cover up the misdeeds, this Court directs the District Collector, Tiruvarur to conduct a spot inspection, restore the Noon Meal Centre and, review the progress of the case and take necessary steps in this regard. The Superintendent of Police, Tiruvarur is directed to entrust the investigation to the Officer in the rank of the Deputy Superintendent of Police and to personally monitor the investigation, if needed visit the scene of occurrence and give proper direction. Further, the District Collector, Tiruvarur is to immediately make arrangement for construction of the noon meal centre for the students.

14. The above direction is necessitated since the accused, who are the elected local body members, had taken the law into their own hands, which affects the needy, poor and marginalized students, who are deprived of dinning their food. In the result, this Criminal Revision stands dismissed for the present.

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ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

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To

1. The Judicial Magistrate Court No.I,
Mannargudi.

2. The District Collector,
Tiruvarur.

WEB COPY

- 3.The Superintendent of Police,
Tiruvarur.
- 4.The Inspector of Police,
Vaduvoor Police Station, Vaduvoor,
Thiruvarur District.
- 5.The Public Prosecutor,
High Court, Madras.
- 6.DO The Chief Judicial Magistrate,
Tiruvarur.

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RLP[CO]
MK:19/12/2020



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