

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
03.08.2020	27.08.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **R. PONGIAPPAN**

CrI.O.P.[MD]No.15714 of 2018

and

CrI.M.P(MD) Nos.6969 and 6970 of 2018

Abdul Raheem

... Petitioner/Sole Accused

Vs.

The Executive Officer,
Ponnamaravathy Panchayat Union,
Ponnamaravathy Taluk,
Pudukkottai District.

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in S.T.C.No.6 of 2018 pending before the learned Judicial Magistrate, Thirumayam, Pudukkottai District and quash the same.

For Petitioner : Mr.G.Mathavan

For Respondent : Mr.C.Narendran

ORDER

This Criminal Original Petition has been filed seeking the relief to call for the records pertaining to the case in S.T.C.No.6 of 2018 pending before the learned Judicial Magistrate, Thirumayam, Pudukkottai District and quash the same as illegal.

2.The case of the petitioner is that the petitioner is having building within the limit of the Ponnamaravathy Panchayat Union. For the said building, the respondent levied tax in the year 2008-2009 in Tax receipt No.1809. Subsequent to that, the petitioner failed to pay the tax from the year 2009-2010 to 2017-2018. The respondent also issued a notice to the petitioner dated 24.05.2017 with demand to pay the arrear tax amount within three days from the date of the notice. The second notice was also issued on 01.06.2017. The third notice was also issued on 25.07.2017 and the same was received by the petitioner on 27.07.2017. But, till the date of filing of the petition, the tax amount was not paid by the petitioner. Therefore, the respondent instituted a private complaint before the learned Judicial Magistrate, Thirumayam, Pudukkottai District in S.T.C.No.6 of 2018.

3.The first submission made by the learned counsel appearing for the petitioner is that the respondent herein is not an



and taking cognizance under Section 190(1) (b) of Cr.P.C is not maintainable. The second submission made by the learned counsel for the petitioner is that after enacting the new law in the year 1994, which is called as Tamil Nadu Panchayat Act, filing complaint under the Tamil Nadu District Municipalities Act, is not correct and is barred by law. Therefore, the proceeding initiated by the respondent in S.T.C.No.6 of 2018, is liable to be quashed.

4.In respect of the first submission made by the learned counsel for the petitioner, it is necessary and useful to see Section 347 of the Tamil Nadu District Municipalities Act, 1920, which reads as follows:-

347. Persons empowered to prosecute:- (Save as otherwise expressly provided in this Act, no Court shall take cognizance of any offence) against the provisions of this Act, or of any rule, or by-law made under it unless complaint is made by the plice, or the (Executive authority) or by a person expressly authorised in this behalf by the council or the (executive authority) within three months of the commission of the offence. But nothing herein shall affect the provisions of the Code of Criminal Procedure, (1898) (Central Act V of 1898) in regard to the power of certain magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion.

5.Now here is the case, on going through the copy of the complaint instituted by the respondent, it is found that the respondent herein was designated as Executive Officer, Ponnamaravathy Town Panchayat, Ponnamaravathy Taluk, Pudukkottai District. Therefore, it is not in dispute, according to the said provision, that the respondent being the executive authority for the Town Panchayat, is a competent person and empowered to prosecute. Therefore, in no such a way, the complaint filed by the respondent, is against the provision, now stated by the petitioner.

6.In respect of the second submission, it is relevant to verify whether the Tamil Nadu Panchayats Act, 1994 applies to the Town Panchayat or not, for which, it is necessary to see Section 1 of the Tamil Nadu Panchayat Act, 1994, which reads as follows:-

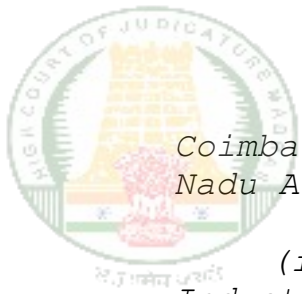
1.Short title, extent and commencement:- (1) This Act may be called the Tamil Nadu Panchayats Act, 1994.

(2) It extends to the whole of the State of Tamil Nadu except

(i) the City of [chennai];

(ii) the City of Madurai constituted under the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971):

(iii) the City of Coimbatore constituted under the



Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981);

(iv) the Municipalities, Town Panchayats and Industrial Townships constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920; and

(v) the Cantonments constituted under the Cantonments Act, 1924 (Central Act II of 1924)...

So in the provision No.IV, it is made clear that the Tamil Nadu Panchayats Act, 1990 would not apply to the area covered under the Town Panchayat. So it is the case herein also, the respondent has not committed any error in filing the complaint against the petitioner. Therefore, the grounds raised by the petitioner for quashing S.T.C.No.163 of 2018 is not in terms of the legal provisions enumerated in the Tamil Nadu District Municipalities Act, 1920. Accordingly, institution of the case against the petitioner, is not an abuse of process of law.

7.With the above observations, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

cp

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate,
Thirumayam, Pudukkottai.

CrI.O.P.[MD]No.15714 of 2018
and

CrI.M.P(MD) Nos.6969 and 6970 of 2018
27.08.2020

KK(07.09.2020) 3P 2C