



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**
Crl.O.P. (MD) No.18813 of 2019

and

Crl.M.P. (MD) Nos.11052 & 11053 of 2019

S.Suresh Kumar

: Petitioner/Accused No.7

Vs.

1.The State represented by

The Deputy Superintendent of Police,

Periyakulam Division,

Jeyamangalam Police Station,

Theni District (Crime No.137 of 2018) :Respondent 1/Complainant

2.S.Amaravathi

: Respondent 2/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Special S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge (PCR) Cases, Theni and quash the same as against the petitioner concerned.

For Petitioner

: Mr.R.Saravanan

For R1

: Mr.S.Chandrasekar,

Additional Public Prosecutor.

ORDER

This criminal original petition has been filed to quash the proceedings in Special S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge (PCR) Cases, Theni.

2.The petitioner is facing trial in Spl.S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge (PCR) Cases, Theni for the offence under Sections 3(1)(f), 3(2)(va) of SC/ST (POA) Amendment Act, 2015 and Sections 465, 468, 477A, 120B, 466, 149 IPC. The brief facts of the case remains that the main accused, who are the trustees of Sri Krishna Educational Trust, who are running an Agriculture College, with help of the revenue officials corrected the entries in revenue records and had attempted to grab the property belonging to one Amaravathi. Based on the compliant given by the said Amaravathi, a case has been registered in crime No.137 of 2018 for the offence under Sections 3(1)(f), 3(2)(va) of SC/ST (POA) Amendment Act 2015 and Sections 465, 468, 477A, 120B, 466, 149 IPC. The respondent after completion of investigation



filed the final report in Spl.S.C.No.6 of 2019 before the trial Court. The petitioner is arrayed as A7. The charge against the petitioner is that he is the custodian of the village records and that he is the person responsible for the false entries made in the village records.

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3.The learned counsel would submit that the petitioner is an Ex-Service man and he was appointed as Village Administrative Officer on 14.04.2012 in the revenue department of the Tamil Nadu Government and that he has served as Village Administrative Officer in various Districts without any remarks for the past six years. The petitioner jointed duty at Kullapuram village only on 27.07.2015. The accused had claimed right over the property based on the corrections made in the 'A' register of the village records. Though the 'A' Register is kept in the VAO Office, corrections in the 'A' register can be done only by the Surveyor and not by the Village Administrative Officer. The petitioner was called for an enquiry by the respondent police with regard to the above said correction and the petitioner during the enquiry had stated that he had joined duty only on 27.07.2015 and that the changes have been made even prior to him assuming charge as Village Administrative Office at Kullapuram village. The main accused, who are the actual beneficiaries, based on the altered entries in the 'A' register had filed a suit in O.S.No.124 of 2014 against the defacto complainant even prior to his joining during 2015 and therefore, it shows that corrections in 'A' Register were pre-planned and committed in the year 2014 itself. By virtue of the changes made in the revenue records, the trustees of the Sri Krishna Educational Trust constructed a compound wall encroaching the lands in S.No.1493/1 belonging to the defacto complainant. Further, the Advocate Commissioner's report filed in O.S. No.124 of 2014 reveals that the compound wall of the Agriculture College was constructed within 2 years before 05.12.2015 and the trustees also constructed pucca building, which was approximately 4 years old.

4. The learned counsel would submit that the petitioner is not responsible for the corrections made in the 'A' Register and that during pendency of the trial, the second respondent and the accused, who are actual beneficiaries, have entered into a compromise and by virtue of the joint compromise memo, the proceedings in respect of other accused, has been quashed in CrI.O.P.(MD)No.8042 of 2019 on 12.06.2019. The learned counsel would further submit that even as per the averments in the charge sheet, it is stated by the Tahsildar, Periyakulam that an enquiry was conducted and the enquiry is not conclusive as to who has made the false entries in the village records. Since, because the petitioner was stated to be the custodian of the documents during the relevant time, the petitioner has been made as a scapegoat and he has been included as a accused. He would further submit that the defacto complainant and the other main accused have entered into a compromise and proceedings against them has been quashed by this Court in CrI.OP.(MD).No.8042 of 2019 dated 12.06.2019 and the petitioner is the only accused who is now



facing the charges. When there is no concrete materials available to fix the responsibility, the petitioner cannot be allowed to face the trial and the entire proceedings is nothing but abuse of process of law and thereby would seek to quash the proceedings.

5. The learned Additional Public Prosecutor appearing for the first respondent would submit as per the charge sheet the corrections were stated to have been made in 'A' Register some time prior to 05.12.2015. However, he would fairly concede that no specific date has been stated and there is no specific material available with regard to the exact date when the corrections were stated to be made in 'A' Register and the person who is responsible for the corrections made. Even as per averments in the final report, the report of the Tahsildar is not conclusive as to the person who has made the corrections and the petitioner has been impleaded, since he was the custodian of the village records during the relevant period.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is the case of the prosecution that he assumed charge only on 27.07.2015. It is seen that though the charge sheet says that the entries have been made prior to 05.12.2015, there is no material to show when exactly the corrections were made and who is the person responsible for the same. It is an admitted case that based on the corrections made in 'A' Register, the main accused had filed the suit in O.S.No.124 of 2014 on the file of the District Munsif, Theni as early as in the year 2014 by placing reliance on the entries in the 'A' Register, which is prior to the petitioner assuming charge as Village Administrative Officer.

8. Further, the proceedings in respect of all other accused has been quashed and the petitioner is the only person facing trial. The learned Additional Public Prosecutor has submitted that there is no specific evidence with regard to the actual date when the records were tampered. When such being so, this Court is of the view that no useful purpose will be served in keeping the proceedings in S.C.No.6 of 2019 pending against the petitioner.

9. Accordingly, this criminal original petition is allowed and the proceedings in S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge (PCR) Cases, Theni is quashed. Consequently, connected miscellaneous petitions are closed.

10. It is made clear that this Court has quashed the criminal proceedings, since because the proceedings against the main accused has been quashed and it is stated by the learned Additional Public Prosecutor that there is no available materials to show when exactly the records have been tampered so as to fix the responsibility. It is a serious case of tampering of Government records. In the further opinion of this Court, the authorities concerned should



conduct an appropriate and detailed enquiry to fix the responsibility on the person/persons who are responsible and who have tampered with the revenue records and appropriate criminal prosecution should be launched against them. Therefore, this Court directs the District Collector to appoint an enquiry officer to conduct an enquiry with regard to the tampering made in the "A" register of Kullapuram Village, Periyakulam Taluk to fix the responsibility and initiate appropriate criminal prosecution against the person/persons responsible for tampering revenue records. The enquiry should be initiated within four(4) weeks from the date of receipt of the copy of the order and the enquiry shall be concluded within four(4) months from the date of initiation of enquiry and thereafter to take appropriate action based on the outcome of the enquiry.

11. Registry is directed to mark a copy of this order to the District Collector, Theni for immediate and appropriate action.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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 District Collector,
Theni. Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-7200[F] dated 19/02/2020)

Cr1.O.P. (MD) No.18813 of 2019
18.02.2020