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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9471 of 2018

Sunderrajan

... Petitioner

Vs.

1.Prabakaran  
Block Development Officer  
Manampoondi Block Development Office,  
Manampoondi Village,  
Tirukovilur Taluk.

2. Radhakrishnan  
Revenue Inspector,  
Mugaiyur.

3. Sathiyamoorthy  
Village Administrative Officer,  
Alambadi Village,  
Tirukovilur Village.

4. Saravanan

5. Vivekanandan

6. Nandagopal

7. Vaithiyanathan

8. Sandiyagu

9. Lakshmanan

10. Nirmala

11. Dhanam

12. Malathy

13. Ravichandran

14. Sivakumar @ Kumar



15. Rajamani

16. Elumalai

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed by the learned Additional Sessions Judge, Villupuram, in Crl.R.P.No.40 of 2015 dated 13.12.2017 and subsequently direct the Additional Sessions Judge, Villupuram to revert back the CMP.No.2685 of 2015 to the learned Judicial Magistrate, Tirukoilur for conducting a fresh trial.

For Petitioner : Mr.K.Gangadaran

For Respondent : Mr.G.Arul Murugan  
For R4 to R12  
Mr.P.Rajavel For R14 to R16

#### ORDER

The petitioner has filed this petition against the order passed by the learned Additional Sessions Judge, Villupuram in Crl.R.P.No.40/2015 dated 13.12.2017 whereby the learned Additional Sessions Judge has confirmed the order passed by the learned Judicial Magistrate, Thirukovilur, Villupuram, who refused to accept the private complaint lodged by the petitioner against the respondents herein.

2. The case of the petitioner is as follows:

The petitioner is a resident of Alambadi Village, Thirukovilur, Villupuram District. The petitioner's father filed a suit in OS.No.87 of 2014, on the file of the learned District Munsif, Thirukovilur and obtained an order of permanent injunction against the respondents 1 to 3, restraining them from entering into the said property.

3. On 27.10.2014, at about 10.00 am, the respondents 1 to 3 came to the suit property and brought along a JCB machine. The petitioner showed the respondents about the order of the trial Court which was passed a restraint order. However, the respondents showered abuse on the petitioner and his family members using filthy language and assaulted women-folk of the petitioner. The respondents 1 to 3 asked the respondents 14 to 16, who are the private persons, claim to be contractors, brought by respondents 1 to 3. The respondents 14 to 16 also attacked the family members of the petitioner. The petitioner, therefore, lodged a private complaint before the learned Judicial Magistrate, Thirukovilur in CMP.No.2685 of 2015. However, the same was rejected by the learned Judicial Magistrate by order dated 21.05.2015. The learned Judicial



Magistrate has observed that the petitioner ought to have obtained prior sanction from the Government under Section 197 of Cr.P.C. before preparing a complaint against the respondents 1 to 3, who are the Government officials. As against the said order, the petitioner has preferred an appeal before the learned Additional Sessions Judge, Villupuram. The said order was taken on appeal in CrI.R.P.No.40 of 2015 and the learned Additional Sessions Judge, Villupuram confirmed the order of the learned Judicial Magistrate, which has resulted in filing of this original petition before this Court.

4. The learned counsel for the petitioner would vehemently argue that though the petitioner was armed with an interim order passed by the learned Judicial Magistrate, Thirukovilur. The official respondents did not show any respect of the same and allowed the contractors to lay the road in the petitioner's property. The respondents 1 to 3 also instigated the respondents 14 to 16 who attacked the family members of the petitioner. Since the respondents 1 to 3 knowingly disobeyed the order of the learned District Munsif, a private complaint is very much admissible and the Courts below erred in rejecting the same. Hence, the learned counsel prays to allow this petition.

5. The learned counsel for the respondents supported the impugned order and contended that the petitioner ought to have obtained prior sanction from the Government.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondents and perused the materials available on record.

7. It is elementary that when a private complaint is lodged against the Government servants, necessary prior sanction has to be obtained from the Government. In the absence of such prior sanction, the Magistrate is not empowered to take cognizance of such complaint. It is the specific contention of the petitioner that despite showing the interim order granted in favour of his father by the learned District Munsif, Thirukovilur, the respondents 1 to 3 who are working as revenue officials had showed a scant disregard for the same and went ahead with laying of roads using contractors. If really, such was the case, the petitioner should have got prior sanction from the Government and section 197 of Cr.P.C. and then, lodged a private complaint.

8. This Court does not find any illegality or infirmity in the order passed by the Court below and therefore, the Criminal Original Petition is dismissed accordingly.

9. However, liberty is granted to the petitioner to approach the Government and take steps to obtain necessary sanction



against the respondents 1 to 3 as per Section 197 of Cr.P.C. The petitioner is also granted liberty to file a complaint against the other respondents before the respondent police.

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Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Sessions Judge, Villupuram.
2. The Judicial Magistrate, Tirukoilur.
3. The District Munsif, Tirukoilur
4. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.P.Rajavel, Advocate, S.R.No.38908  
+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.38967  
+1cc to Mr.K.Gangadaran, Advocate, S.R.No.39008

Cr1.O.P.No.9471 of 2018

SSD(CO)  
CT(20/09/2021)