

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.5958 of 2021

and

Crl.M.P Nos. 3853 & 3856 of 2021

1.Jayaram Venkatesan
2. P.Nakkeeran

...Petitioners

Vs.

State of Tamil nadu
Rep. By Inspector of Police,
J-10, Chemmanchery police station,
Chennai 600 119

.. respondent/
Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.731 of 2020 pending on the file of learned judicial magistrate II, Alandur, in crime No.248 of 2019, Chemmanchery police Station.

For Petitioners : Dr.V.Suresh

For Respondents : Mr.C.Raghavan

Government Advocate for R1

ORDER

On consent given by either side, this Criminal original petition is taken up for final disposal.

2. The petitioners have challenged the proceedings pending before the learned Judicial magistrate Court, Alandur in C.C.No.731 of 2020.

3. The case of the petitioners is that a police station came to be established in a water body. This was objected by the petitioners on the ground that the site in question was a water body and therefore, there cannot be any construction put up over the same. On such objections made by the petitioners, the respondent police proceeded to register an FIR in Crime No.248 of 2019 for an offence under Section 153 and 505 (1) (b) © of IPC. On completion of the investigation, a

final report has also been filed before the Court below for an offence under Section 447, 153 and 505 (1)(b) of IPC. Aggrieved by the same, the present Criminal original petition has been filed before this Court.

4. Heard the learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate for 1st respondent.

5. This is a classic case where the respondent police have misused their power and have initiated criminal prosecution against the petitioners, who were fighting to save a water body. According to the petitioners, a police station came to be constructed over a water body and the petitioners had materials to show that the concerned site has been classified as a water body in the revenue records. This Court has time and again held that no construction should be put up over a water body for any

purpose and it is also brought to the notice of this Court that the petitioners have already filed a public interest litigation in this regard and the same is pending.

6. If at all the respondent had any grievance, they should have established before the concerned Bench dealing with the Public Interest Litigation that the site in question is not classified as a water body. Instead, the respondent thought it fit to use their power and initiate criminal proceedings against the petitioners. The same clearly amounts to an abuse of process of law and requires interference of this Court. That apart, none of the offences mentioned in the final report are attracted and the continuation of the proceedings against the petitioners will amount to an abuse of process of Court.

7. In the result, the proceedings in C.C.No.731 of 2020

pending on the file of learned Judicial magistrate II, Alandur, is hereby quashed and accordingly, this Criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

29.03.2021

Index: Yes/No
Internet: Yes/No
rka

To

1. Judicial magistrate II, Alandur,

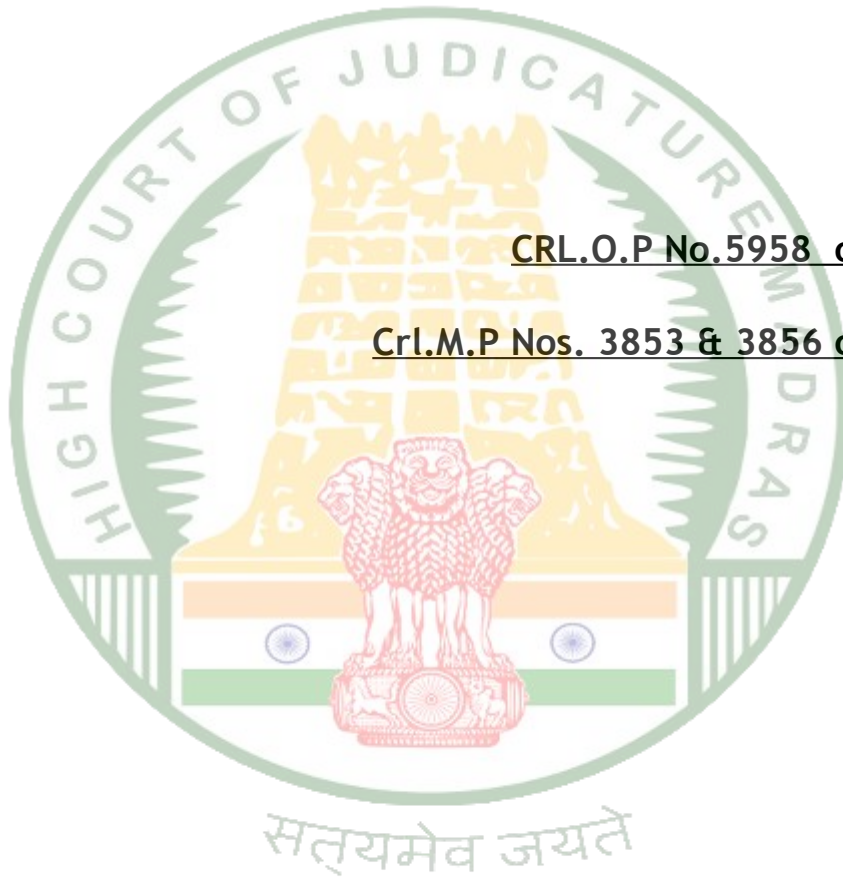
2. State of Tamil nadu
Rep. By Inspector of Police,
J-10, Chemmanchery police station,
Chennai 600 119

3. The Public Prosecutor,
High Court, Madras

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N.ANAND VENKATESH.J.,

rka



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