

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1083 of 2020

V.C.Anbarasan

.. Petitioner/Petitioner
Defacto Complainant

...vs...

1.C.K.Chandran
2.Govindasamy
3.E.Kannasamy
4.Umapathy
5.Dhatchinamoorthy
6.Vignesh
7.Mahendran
8.L.S.Mohan
9.S.Vasanthi

.... Respondents/Respondents 1 to 9/
Accused Nos.1 to 9

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records passed in C.M.P.No.1527 of 2018 in Un No. CC Nil of 2018 dated 5.8.2019 by the Judicial Magistrate, Vaniyambadi, Vellore District and set aside the same and thereby allow the Criminal Revision case and consequently direct the trial Court to conduct further hearing on the petition in C.M.P.No.1527 of 2018 in Un No. CC Nil of 2018 filed by the petitioner for further investigation by the investigating officer of Vaniyambadi Taluk Police Station.

For Petitioner : Mr.T.Sundaravadanam

O R D E R

This Criminal Revision Case has been filed against the order dated 05.08.2019 passed by the learned Judicial Magistrate, Vaniyambadi, Vellore District.

2. The case of the petitioner is that as per auction conducted on 15.02.2016, the petitioner is the existing lessee for the period 01.07.2016 to 30.06.2021, for catching the grown fishes in Chettiappanur Kottu Road Lake. During the lease period, the respondents 1 to 7 have illegally entered into the said lake and fished out the entire yield by catching the grown fishes. Therefore, the petitioner made a complaint before the jurisdictional Police Station on 26.10.2017, but, the same was kept in abeyance. Thereafter, the petitioner filed a petition in CrI.OP.No.25657 of 2017 before this Court

seeking for a direction to the respondent/police to register the said complaint and the same was ordered on 24.11.2017. Based on the said direction, the concerned jurisdictional police registered the case in Crime No.485 of 2017 and filed a closure report before the learned Magistrate. Based on which, the learned Magistrate closed the complaint. Challenging the said order, the petitioner filed a protest petition before the learned Judicial Magistrate, Vaniyambadi, Vellore District and the same was dismissed on the sole ground that there was no sufficient grounds to institute criminal case against the respondents. Aggrieved over the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that while the fishing rights of the petitioner was in existence, the Panchayat Union issued a fresh auction notice on 15.12.2017 and conducted auction on 27.12.2017. Challenging the said auction, the petitioner filed a petition in W.M.P.No.37971 in W.P.No.28422 of 2017 before this Court. This Court, by order dated 28.12.2017 stayed the auction held on 27.12.2017. Subsequently, the District Collector, Vellore cancelled the said auction process on 25.01.2018. Hence, the petitioner has got fishing rights from 2016 to 2021 for a period of five years on subject to payment of 10% rise of lease fee. During the said lease period, the respondents 1 to 7 have illegally entered into the lake and fished out the entire yield by catching fishes. Therefore, the petitioner preferred the complaint before the jurisdictional police, but, they have not named the accused who have involved in the above offence of theft and submitted a closure report before the learned Magistrate. Subsequently, the petitioner filed protest petition along with sufficient documents, however, the learned Magistrate failed to consider the said documents, dismissed the petition and hence, the same warrants interference in the hands of this Court.

4. Mr.K.Madhan, learned Government Advocate (Crl.Side) submitted that without impleading the jurisdictional police, the petitioner filed a petition C.M.P.No.1527 of 2018 before the Magistrate and also approached this Court by way of Revision.

5. Heard Mr.T.Sundaravadanam, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the respondent police and also perused the materials available on record.

6. Admittedly, the petitioner filed a complaint before the jurisdictional police on 26.10.2017 against the respondents 1 to 7 and the case was registered in Crime No.485 of 2017 on the file of the Vaniyambadi Taluk Police Station, Vaniyambadi, Tirupattur District. After investigation, the respondent/police filed closure report before the learned Magistrate. Based on which, the learned Magistrate closed the

complaint and also sent summons to the petitioner. After receiving the summons, the petitioner filed protest petition. After hearing of both parties, the learned Magistrate found that the petitioner has not produced any sufficient documents to establish his case, dismissed the petition.

7. On a careful perusal of the records, it would reveal that the petitioner filed a petition in W.M.P.No.37971 in W.P.No.28422 of 2017 seeking for cancellation of the auction held on 27.12.2017. This Court by order dated 28.12.2017 stayed the auction held on 27.12.2017 and also confirmed the lease by holding rights of the petitioner. Further, in the year 2017, the Panchayat Union conducted auction, which means, the Panchayat Union got rights over the said lake from the year 2017, but, the petitioner taken the lease for a period of five years i.e 2016 to 2021. Further, the date of occurrence is 26.10.2017 and the respondents under the impression that the petitioner's rights for catching fish was ended by 26.10.2017 and conducted the auction. However, this Court confirmed the lease by holding the rights of the petitioner. Therefore, as on date the petitioner has got fishing rights for a period of five years from 01.07.2016 onwards.

8. In the light of the above facts and circumstances, the order dated 05.08.2019 in C.M.P.No.1527 of 2018 passed by the Judicial Magistrate, Vaniyambadi, Vellore District is set aside. However, the petitioner is at liberty to give a fresh complaint before the jurisdictional police within a week from the date of receipt copy of this order. On receipt of the same, the jurisdictional police is directed to register the case and investigate the matter and file a charge sheet before the concerned learned Magistrate within a period of three months from today. Since one or other way, the proceedings are pending before the Courts, the period of limitation is exempted for filing a fresh complaint in the present case on hand. The Superintendent of Police, Thirupattur District is directed to monitor the investigation and ensure that the charge sheet should be filed within three months from today.

9. With the above direction, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Vaniyambadi,
Vellore District.

2.The Superintendent of Police,
Thirupattur District.

3.The Inspector of Police,
Vaniyambadi,
Thirupattur District.

4.The Public Prosecutor,
High Court,
Madras.

5.The Superintendent of Police,
Vellore.

6.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.T.Sundaravadanam, Advocate SR.5584

Cr1.R.C.No.1083 of 2020

AK(CO)
CB(03/03/2021)



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