



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

CRL.OP.No.5520 of 2017
and CRL.M.P.No.4121 & 4122 of 2017

Balasubramanian

...Petitioner

Vs

1.The State,

Rep by Sub Inspector of Police/Station House Officer,
Law & Order,
Bhuvanagiri Police Station,
Cuddalore District.

2.B.Ashok Kumar

...Respondents

Prayer Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, prayed to quash the charge sheet in C.C.No.204 of 2016 on the file of the District Munsif-Cum-Judicial Magistrate, Portonova.

For Petitioner : Mr.P.R.Thiruneelakandan

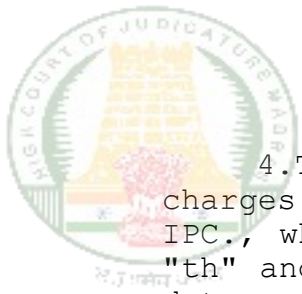
For R1 : Mr.L.Baskaran
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C.No.204 of 2016 on the file of the District Munsif-Cum-Judicial Magistrate, Portonova.

2.The fact of the case is that the petitioner has raised a question before the District Revenue Officer in the Public Grievance Meeting as to why the encroachments are not removed. The allegation against the petitioner is that he raised a question and behaved with the officers in an irrespectful manner, therefore, a complaint was lodged and the charges were framed under Section 353 IPC., against the petitioner.

3.Challenging the said charge sheet, the present Criminal Original Petition has been filed.



4. The learned counsel for the petitioner submitted that the charges against the petitioner were framed under Section 353 IPC., which would not attract merely for uttering the words "eP" "th" and those words could not be considered as a disrespect and deterred the public servants from discharging their duty. The petitioner has just raised a question as to why the encroachments are not removed, for which, the Officers could not answer but, lodged a complaint against the petitioner. Even as per the complaint, the charges have not been made out under Section 353 IPC. Therefore, he submitted that the charge sheet is liable to be quashed.

5. On the other hand, the learned Government Advocate appearing for the first respondent submitted that the petitioner behaved in an irrespective manner and prevented the officers from discharging their official duty. Therefore, a complaint was lodged against him and charges were framed under Section 353 IPC. He further submitted that, at this stage, the complaint cannot be quashed and a full-fledged trial has to be conducted, only then, a commission of offence by the petitioner can be determined. Further, prima facie it appears that there is a case against the petitioner for disturbing the public servant from discharging their duty. Hence, he prayed for the dismissal of the Criminal Original Petition.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the first respondent and perused the material available on record.

7. The root cause for lodging a complaint was that the petitioner behaved in an irrespective manner in the Public Grievance Meeting conducted by the District Revenue Officer. In the F.I.R and the charge sheet, it is stated that the petitioner raised a question as to why the encroachments are not removed by addressing the officer in singular subject i.e "eP" "th". The way of communication would differ from place to place and mere uttering those words would not attract Section 353 IPC., For better appreciation, Section 353 IPC., is extracted hereunder:

"Section 353. Assault or criminal force to deter public servant from discharge of his duty - Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with



imprisonment of either description for a term which may extend to two years, or with fine, or with both."

8.A perusal of Section 353 IPC would show that it would attract for an assault or criminal force to deter public servant from discharge of his duty. From F.I.R and the Charge sheet, it is clearly seen that there is no assault or criminal force to any person being a public servant in the execution of his duty as such public servant.

9.At this juncture, it would be appropriate to extract the provision of Section 351 IPC, which defines the meaning of assault, which reads as under:

"351.Assault - Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation - Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault."

10.A reading of Section 351 IPC., would clearly reveal that mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault. In the FIR and the charge sheet, it is clearly stated that the petitioner raised an issue in the Public Grievance Meeting as to why the encroachments are not removed and he used the singular words while addressing the officers. Apart from this, nothing has been stated neither in the complaint nor in the charge sheet about the indifferent behavior of the petitioner so as to the petitioner prevented the officer from discharging their duty. In the Public Grievance Meeting, in general, the people would raise their issues emotionally with regard to their sufferings, but it should not be in an indifferent and disrespectful manner. Even in the complaint nothing has been stated about the disrespectful attitude of the petitioner. If these type of complaints are entertained, no public will raise their voice against their grievance and they would be scared of raising their issues. At the worst, if any such persons cause nuisance in the meeting, such persons can be removed from that place but, in the present case, it does not



appear that the petitioner prevented the duty of the Government Officers. As there is no minimum averments that would attract the offence under Section 353 IPC., except uttering the singular words "eP" " th", which would not amount to an assault, it is clear that the complaint was motivated. Hence, this Court does not find force in the submission made by the learned Government Advocate.

11. In view of the above, this Criminal Original Petition stands allowed and the charge sheet in C.C.No.204 of 2016 on the file of the District Munsif-Cum-Judicial Magistrate, Portonova is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The District Munsif-Cum-Judicial Magistrate,
Portonova.
2. The Sub Inspector of Police/Station House Officer,
Law & Order,
Bhuvanagiri Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.

CRL.OP.No.5520 of 2017
and CRL.M.P.No.3850 of 2017

SSD (CO)
RVM(25/11/2021)