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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.29073 OF 2017
AND CRL.M.P.NO.16411 OF 2017

1.Gurumoorthy

2.Sivakumar

...Petitioners/
Accused 1 & Accused 2

.Vs.

1. State rep.by
The Inspector of Police,
Manalurpettai Police Station,
Manalurpet,
Villupuram District.
(Crime No.219 of 2016)

... 1st Respondent/
Complainant

2.Akilan
S/o.Silambarasan
Sub-Inspector of Police,
Manalurpettai Police Station,
Tirukoilur Taluk,
Villupuram District.

...2nd Respondent/
Defacto Complainant

PRAYER:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to P.R.C.No.30 of 2017, pending on the file of the learned Judicial Magistrate Court, Tirukoilur and quash the same.

For Petitioners	: Mr.A.E.Lakshminarayanan
For Respondents	: Mr.S.Vinoth Kumar Government Advocate(Crl.side) for R1 R2-No appearance



ORDER

This Criminal Original Petition has been filed to quash P.R.C.No.30 of 2017, pending on the file of the learned Judicial Magistrate Court, Tirukoilur.

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2. The case of the prosecution is that the accused have demolished the old police station with JCB on 17.08.2016 at about 10 a.m and caused damage to the tune of Rs.10,00,000/- and thereby, committed offence under Sections 448, 186 of IPC and Section 3 of TNPPDL Act.

3. The main contention raised by the learned counsel for the petitioners is that the A-1 is the Post Master and A-2 was the Postal Assistant at the relevant point of time, now, he is serving as a Postmaster. It is his contention that the land situated in Survey No.265/1, where the police station originally situated was allotted to the Post Office by the Town Panchayat vide its Resolution No.28, dated 06.07.2016. He further submitted that as the old police station building was in a dilapidated condition, the entire police station was shifted to a new building and in the year 2000, new police station was constructed and subsequently, the vacant land was allotted to the Post Office. When an inspection was to be carried out by the higher officials, the petitioners being the employees of the Post Office have undertaken the work of leveling the land allotted to post office, for which, they have been prosecuted as if they have caused damaged to the police station. He further submitted that the resolution allowing the land by the Town Panchayat is also placed on record and shifting of police station to the new building in the year 2000 is not disputed. The entire prosecution has been initiated on the basis of the Special report given by the Sub-Inspector of Police, as if there was damage caused to the police station. It is not the case of the prosecution that the land, on which, the old police station was functioning belong to them. It is the case of the panchayat that the old police station was functioning and it was vacated long back during the year 2000 and new building has been constructed.

4. Therefore, when the Town Panchayat has officially allotted the land to Post Office only in order to levelling the land and some old debris have been removed, it cannot be stated that there was a huge damage to the existing police station. It is to be noted that the materials collected by the prosecution during the course of investigation annexed in the CD file indicate that the portion of the dilapidated building was removed for the purpose of inspection. Further the statement of the witnesses also would indicate that only on the strength of allotment by the Town Panchayat, such leveling was made.



Therefore, this Court is of the view that at no stretch of imagination, the offence would be constituted against the petitioners, as the police station is not in existence and operating at that point of time.

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5. Accordingly, this Criminal Original Petition is allowed and the PRC No.30 of 2017 stands quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

nr/RR

To

1. The Judicial Magistrate Court,
Tirukoilur.
2. Do thro-The Chief Judicial Magistrate,
Villupuram.
3. The Inspector of Police,
Manalurpettai Police Station,
Manalurpet,
Villupuram District.
4. The Public Prosecutor
High Court, Madras.

+1cc to Mr.A.E.Lakshminarayanan, Advocate, S.R.No.67742

Crl. O.P. No.29073 of 2017
and CRL.M.P.No.16411 of 2017

KJ(CO)
PM/04/01/2022