



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.07.2021

DELIVERED ON : 09.09.2021

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CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Cr1.O.P. (MD) No.202 of 2021

CRL.M.P. (MD) .No.62 of 2021

- 1.Christober @ Maria Sahaya Christopher
- 2.Kavaskar @ Gavaskar
- 3.John Milton
- 4.Antony Dalvin @ Antony Dalphin
- 5.Antony Raj ... Petitioners/Accused No.1 to 5

Vs.

1. The Inspector of Police,  
Panagudi,  
Tirunelveli,  
Crime No.252 of 2020. ... Respondent/ Complainant
- 2.Akila Maheswari,  
Revenue Inspector,  
Palavoor,  
Radhapuram,  
Tirunelveli. ... Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in Crime No.252 of 2020 on the file of the Inspector of Police, Panankudi Police Station, Tirunelveli District and quash the same.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.R.M.Anbunithi  
Additional Public Prosecutor

### **O R D E R**

This petition has been filed seeking quashment of Crime No.252 of 2020 on the file of the first respondent.



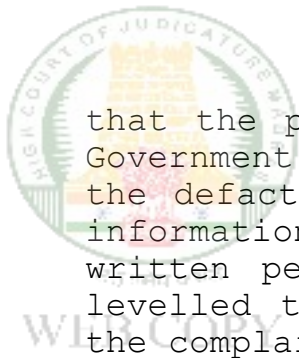
2. The case of the prosecution is that the defacto complainant is working as the Revenue Inspector in Palavoor and on 12.06.2020 at about 02.30 p.m., she received an information that illegal mining activities were going on in Survey No.1402 which belongs to the Government classified as Government Poramboke land. Hence, she went to the spot along with the Revenue Officials and found that from the above said land, the accused persons leveled the south portion of the land using the excavated sand in tempo bearing Registration No.TN 74 AV 6646 and JCB bearing Registration No.TN 72 AJ 5897. When that was questioned by the defacto complainant, she was criminally intimidated and threatened. She was prevented from discharging her duty. Based on the complaint given by the defacto complainant, a case in Crime No.252 of 2020 has been registered for the offence punishable under Sections 147, 447, 294(b), 353, 332, 506(2) of IPC against these petitioners.

3. Seeking quashment of the same, this petition has been filed mainly on the ground that the petitioners are the social activists, who are running a Kava Welfare Association. On 06.06.2020, the petitioners herein applied for permission before the District Collector, Tirunelveli District for leveling the soil and planting saplings. So, the permission was orally granted and the petitioners started their work on 08.06.2020. The Block Development Officer, Vallioor has felicitated the function and an assurance was given to the effect that the Revenue Officials will co-operate with the petitioners for the good cause. So, absolutely, there was no occurrence as stated by the defacto complainant. Due to previous enmity, the defacto complainant has given a false complaint against them.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor for the respondents.

5. It appears that a social act by good samaritans turned out to be misdeed in the opinion of the defacto complainant. So, this sentence will describe the entire factual position.

6. Perusal of the entire records shows that the petitioners are running a Kava Welfare Association and they are social activists, engaging in preserving the environmental resources. Further, it appears that when they tried to level Kanmai, the defacto complainant came there and prevented them. Even as per the complaint given by the defacto complainant, it is seen that the petitioners had tried to level the pits which were created by illegal sand mining activities, by taking the sand from another portion of the same land. Further, it appears that no written permission has been sought for carrying out this activity. But, however, they have given a letter to the Block Development Officer only to make arrangements for supplying water to irrigate the plants. So, this letter shows



that the petitioners took steps to level Kanmai. Further, it is a Government Poramboke land as stated by the defacto complainant and the defacto complainant visited the place of occurrence on getting information from the Village Administrative Officer. Even though the written permission was not there, the petitioner appears to have levelled the pit. So, this created some problem and consequently, the complaint has been lodged.

7. The learned counsel appearing for the petitioner would submit that none of the allegations mentioned in the complaint attract any of the ingredients of the offence alleged against the petitioners. So, according to him, Sections 147, 148 will be attracted, only if there is any material to show that the petitioner constituted an unlawful assembly. As mentioned above, the petitioner assembled in that area not for conducting any unlawful activity or committing any offence as defined under Section 141 IPC.

8. Reading of the complaint shows that none of the ingredients mentioned in the First Information Report under Section 141 IPC are attracted to the allegations made in the complaint.

9. The next offence is under Section 294B. In the First Information Report, it has been stated that she was verbally abused in filthy language. But this allegation is highly improbable.

10. The next offence is under Section 353 IPC. The petitioners did not engage themselves in preventing the defacto complainant from discharging their official duty. She made an enquiry with regard to activity which has been responded by the petitioners. So, this will not amount to prevent the defacto complainant from discharging her official duty.

11. The next offence is under Section 506 (2) IPC. In the complaint, it has been stated that she was criminally intimidated. From the facts and circumstances of the case, the question of criminal intimidation would not have arisen at all.

12. When a specific quarry raised by this Court with regard to the permission, the learned counsel appearing for the petitioner would submit that they got oral permission from the District Collector for levelling the pits that was not liked by the defacto complainant. Because of that only, a false complaint has been given. But, however, this is a factual position that cannot be taken into account and the occurrence mentioned in the complaint is highly improbable. A good samaritans should not be visited with criminal liability. If permitted, then this will drive them away from social involvement and social activity. This will do more harm to the society than good. So, continuance of the proceedings against these petitioners will amount to abuse of process of law. Hence, the proceedings in Crime No.252 of 2020 pending on the file of the first respondent stands quashed.



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13. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

ssb

To

1. The Inspector of Police,  
Panagudi,  
Tirunelveli.
2. Revenue Inspector,  
Palavoor,  
Radhapuram,  
Tirunelveli.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Cr1.O.P. (MD) No.202 of 2021  
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RD(22.09.2021) 4P 4C