



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.327 of 2018
and
Crl.M.P.No.4050 of 2018

P.A.Shahabudeen

... Petitioner

Versus

State rep. by
The Inspector of Police
Kavunthpadi Police Station
Erode District.
(Crime No.247 of 2013)

... Respondent

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the dismissal order made in C.M.P.No.512 of 2015 in C.C.No.127 of 2014 dated 26.09.2017 on the file of the Judicial Magistrate No.2, Gobichettipalayam.

For Petitioner : Mr.S.Kumara Devan

For Respondent : Mr.R.Kishore Kumar,
Government Pleader

O R D E R

The petitioner/ accused in C.C.No.127 of 2014 facing trial for the offence under Sections 153(A)(i)(b), 350, 430 and 417 IPC filed a discharge petition in Crl.M.P.No.512 of 2015. The same was dismissed by the learned II Judicial Magistrate, Gobichettipalayam by order dated 26.09.2017, against which the present Revision is filed.

2. The gist of the complaint is that the petitioner was encroaching upon the water channel passing through the village to the agricultural fields. Further the objection raised by others is not proper since the channel was passing only in poromboke land which is being used by the petitioner and other Muslim people as a pathway to reach the burial ground. They had also encroached upon common pathway and water channel. When the encroachment was attempted to be removed, the petitioner had called for jamath of his community people and created law and order problem and he regularly obstruct the Government officials from carrying on with their duties. Further he has been constantly calling for jamath



and propagating false allegations and creating hatred between two groups of people.

3. The learned counsel for the petitioner submitted that the pathway in S.No.359/5 leads to the burial ground of Muslims. One Palanisamy had claimed right over S.No.359/5 and S.No.359/6. The Tahsildar, Gobichettipalayam had conducted an enquiry and found that S.No.359/6 is the irrigated land which could be seen from the revenue records. Likewise S.No.359/5 is pathway leading to the burial ground and S.No.359/8 can be reached only using the pathway and there is no other connecting path. Hence rejected the claim made by said Palanisamy. The dispute was primarily on this aspect. The Tahsildar given a report in favour of the petitioner in Pa.Mu.No.5255/2015/B1 dated 28.12.2020. Hence, any continuation of proceedings against the petitioner is unwarranted.

4. The learned Government Advocate submitted that apart from this case, there are six other cases pending against the petition. Out of which, four cases ended in acquittal and the other cases are pending. The petitioner using his oratorical skill calling for Jammath and raising objections against the Revenue Officials and others to carry out official duty. The petitioner always propagate ill about the officials as though the officials are against them and for each and every action he has been imputing false, motivated reason against the officials and creating law and order problem due to the petitioner's aggressive speech. The contention that the Tahsildar report is in favour of the petition and the land belong to WAKF has to be proved by producing documents and the same has to be decided by the trial Court during trial. The petitioner produced VAO report and the learned Government Advocate has got some objections with regard to the same. Further he submits that these documents have to be brought in evidence through witness and proved in the manner know to law.

5. In view of the same, this Court is not inclined to entertain this Revision. Accordingly, this Criminal Revision is dismissed with liberty to the petitioner to raise all the points raised herein before the trial Court. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dsa



To

1. The Judicial Magistrate No.2, Gobichettipalayam.

2. The Inspector of Police
Kavunthpadi Police Station
Erode District.

3. The Public Prosecutor,
High Court, Madras.

Copy to:

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

+1 cc to Mr. S. Kumara Devan, Advocate Sr. NO. 29527

CrI.R.C.No.327 of 2018

SSN(CO)

A.SK(17/05/2022)