



CrI.OP.No.11570 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.11570 of 2020

and

CrI.MP.Nos.4666 and 4667 of 2020

Sankaran

... Petitioner

Vs.

1. The Inspector of Police,
T.R.Pattinam P.S
Karaikal (Cr.No.103 of 2020)
2. Ramachandiran Santhosh
Executive Engineer,
Puducherry Power Corporation Ltd.,
T.R.Pattinam, Karaikal.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records on the file of the 1st respondent police and quash the complaint in Crime No.103 of 2020 pending investigation on the file of the 1st respondent police,

For Petitioner : Mr.L.Pachiyappan

For Respondents : Mr.V.Balamurugane
Additional Public Prosecutor
(Pondicherry) for R1
: Mr.M.Karthikeyan for R2



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ORDER

This Criminal Original Petition has been filed to call for the records on the file of the 1st respondent police and quash the complaint in Crime No.103 of 2020 pending investigation on the file of the 1st respondent police,

2. The case of the prosecution is that one car shed was erected in the southern side of old Project Office building of Puducherry Power Corporation Limited situated at T.R.Pattinam, Karaikal premises for parking the official cars using steel pipes and asbestos sheets as top with 6.5 x 4.5 meters in size to be stolen. The said shed was constructed in the year 1998 at a cost of Rs.21,588/-. On verification of the spot, it is noticed that the erected structure was cut and taken from the premises. On further enquiry, it was ascertained that the above car shed was dismantled on 25.05.2020 by one Thiru.M.Nagalingam who is running M/s.Amman Fabricators along with two others namely Tvl.Senthil and Sudakaran by cutting down the entire structure by utilizing the current/ power illegally from the Old Project Office building premises using power tool and they removed the steel pipes and asbestos sheet from the place



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and re-erected a closed car parking shed by utilizing these materials nearer to the main entrance Gate of PPCL Staff Quarters premises on 21.05.2020 itself. The defacto complainant further alleged that no permission was given by the PPCL authorities for dismantling and re-erecting of car shed from the project Office building nearer to the Main Entrance Gate of PPCL staff quarters premises for personal gains of the petitioner who is working as Wireman, PPCL, T.R.Pattinam, Karaikal.

3. The learned counsel for the petitioner has submitted that the petitioner is employed as a Wireman in PPCL, T.R.Pattinam, Karaikal. He is living in residential quarters in TR.Pattinam, Karaikal. He is an activist and questions the management in respect of irregularities and he also made several applications seeking for information under the Right to Information Act to check the irregularities being committed by the officials. While that being so, the petitioner /Government had taken steps in respect of seeking information of grant of advance increments and the up gradation of the post occupied by the second respondent who is the defacto complainant herein. Infact, the Government of Puducherry has noticed the irregularities in the grant of advance increments and the up



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gradation of the post occupied by second respondent without the approval of the Government and thereafter directed reversion and recovery of amount paid to him was ordered to be recovered by official Memorandum dated 13.03.2017. To wreck vengeance for the said action taken by the petitioner, he lodged the present complaint as if there was theft of materials when there was no removal of any material. It is alleged that the petitioner, without getting prior permission, shifted the car parking. Even according to the defacto complainant, originally, the car shed was situated in the southern side of the old Project Office building of Puducherry Power Corporation Limited situated at T.R.Pattinam, Karaikal premises for parking the official cars using steel pipes and asbestos sheets. The steel pipes and asbestos sheets were removed from the place and a closed car shed was re-erected by utilizing these materials nearer to the main entrance Gate of PPCL Staff Quarters premises.

4. It is relevant to extract the provisions of Sections 378 of IPC are follows:.

“Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person’s consent, moves that property in order to such



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taking, is said to commit theft”.

Accordingly, any movable property removed without the owners consent would amount to theft. In the case on hand, the petitioner is working as a Wire Man in the Puducherry Power Corporation Limited. The parking shed was originally erected in the southern side of the old project building of Puducherry Corporation Ltd. Thereafter, it was shifted to the main entrance of Puducherry Power Corporation Staff Quarters. Therefore, there is absolutely no theft of immovables. The present complaint has been lodged only on vengeance of the petitioner and nothing else. In this regard, it is relevant to refer the judgement reported in **(1992) SCC CrL. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

7. *Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously*



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instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the present complaint is nothing but only to wreck vengeance on the petitioner and falsely foisted as against the petitioner and it cannot be sustained as against the petitioner since no offence is made out.

8. Accordingly, this Criminal Original Petition stands allowed and the FIR in Crime No.103 of 2020 on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petitions are closed.

16.06.2022

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Vv

To

1. The Inspector of Police,
T.R.Pattinam P.S
Karaikal



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2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

Vv



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