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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21804 of 2021

&

Crl.MP.No.11832 of 2021

1.Velusamy
2.K.Nagarathinam
3.Anoor Suresh
4.Muthukumar
5.Eswaramoorthy
6.Jegadeeshwaran
7.Periyasamy
8.Muthuraj
9.Senthil @ Senthilnathan
10.Mohan @ Mohanraj

... Petitioners

Vs.

1.State rep. by
The Inspector of Police,
Kangayam Police Station,
Tiruppur District.
Crime No.1118 of 2021

2.Ashok Babu

... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records relating to Crime No.1118 of 2021 on the file of the Inspector of Police, Kangayam Police Station, Tiruppur District and quash the same.

For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.E.Raj Thilak

Additional Public Prosecutor [For R1]

ORDER

The petitioner/accused in Crime No.1118 of 2021 for the offence under Sections 143, 447, 341 and 353 of IP C, filed this quash petition.



2.The defacto complainant, Assistant Executive Engineer, Public Works Department, Aayakattu Virivakka Ubakottam, Kangayam, Tiruppur District lodged a complaint on 01.10.2021 stating that on 31.08.2021 at about 11.30 a.m. in the office of the Public Works Department, Kangeyam, a meeting was held with the agriculturist in connection with release of water as per Parambikulam-Aliyar Irrigation Scheme. Though only limited farmers were called for the meeting, more than 100 farmers assembled in the office for the meeting and they made a demand for the release of water to be raised from 4.2 feet [113.00 cubic feet/ sec] to 4.5 feet [131.00 cubic feet/sec]. Further, they made a demand for the days of watering to be increased from 12 to 14 days, and for the fourth period, from 14 to 15 days. The officials informed that the possibility of making such arrangement to be decided after consulting other officials, the present form of release of water was in force from the year 2000 and suddenly, they cannot have a change. The farmers failed to agree to the reasoning given by the officials and they were adamant and forcing the officials of the Public Works Department to accept their demand. In the process, the Executive Engineer, Assistant Executive Engineer, Assistant Engineer and other Public Works Department officials were restrained, made claim that unless their demands are met, they will not allow PWD officials to move from office, the farmers also conducted a sit-in-darna, putting up shamiyana near the residential quarters, without any permission, assembled there and conducted a darna. Hence, a complaint was lodged.

3.The contention of the learned counsel for the petitioner is that the petitioners are beneficiaries under Parambikulam-Aliyar Irrigation Scheme. The entire Parambikulam Aliyar is divided into four zone irrigation pattern, the first zone of water for wetting was released and completed on 26.08.2021 and as the second zone of water was said to be released on 02.09.2021, the farmers who were benefited through the Scheme were called through their mobile phone to avoid over crowding for discussion. The meeting for Vellakoil branch canal discussion was held on 31.08.2021, the farmers were called informing in their mobile phone. As per the said scheme, the farmers were about to receive water from two shutters of Aliyar dam for 7.5 days, of 113.00 cubic feet per second, the same was not provided, the shutters were also not opened for prescribed number of days and in view of the same, the tail enders did not receive water. Aggrieved by the same, the petitioners along with other farmers demonstrated, held hunger strike on various days requesting release of water in a proper manner. Nearly 48000



acres of agricultural land depends on Vellakoil branch canal irrigation and as per the Parambikulam-Aliyar Project [Regulation of Water Supply] Act, the water was released for seven days and closed from the year 1994 to 2012. Now the Public Works Department officials instead of releasing water for 14 days, are releasing the water for three days per month which is inadequate for cultivation of crops. The petitioners were called individually by the PWD officials to attend the meeting, which was chaired by the Superintending Engineer, Executive Engineer, other officials of PWD, the Tahsildar, revenue officials, Deputy Superintendent of Police and other police officials also participated in the meeting. Had any such occurrence taken place, no police official, that too, at the rank of Deputy Superintendent of Police would have kept quiet and they would have acted immediately. The delay in giving the complaint is not explained. Since the officials got aggrieved by the agriculturist making demand and also not accepting the officials dictum, they were falsely implicated in this case.

4. He further submitted that the question of invocation of Section 143 IPC would not occur in this case, since the petitioners and other farmers were called by the PWD officials in their mobile to attend the meeting. Once they are called for the meeting, it cannot be termed as an unlawful gathering. Further, the question of trespass also would not arise. The agriculturist making demand and having heated arguments with the PWD officials would not amount to wrongful restraint or deterring the public servant in discharging their duty. The farmers who are beneficiaries of the Scheme had some grievance, being called for the meeting and on coming to know about the meeting, came there and made their representation, this cannot be termed as an offensive, unlawful assembly, thereby restraining and deterring the public servant from discharging their duty. There is nothing to show that there was any use of criminal force or any assault on the public servant. Further, from the Committee resolution passed on 01.09.2021, it could be seen that the higher officials of PWD, revenue officials and police personnel were present and in their presence, the petitioners and other agriculturist signed the agreement. In such circumstances, the complaint which was lodged one month thereafter is a motivated one with ulterior motive and has got no relevance. The defacto complainant is none other than one of the officials of PWD, whose Superior and Senior Officers participated in the meeting, signed the resolution on 01.09.2021. Further, the peaceful Darna conducted in the residential complex of PWD officials would no way termed as an unlawful assembly deterring the public servants in discharging their duties, hence the petitioners cannot be proceeded for the



offences alleged in the FIR.

5. In support of his contentions, the learned counsel for the petitioners relied upon the judgment of this Court in the case of Jeevanandam and others vs. State rep. by the Inspector of Police, Karur District and another reported in 2018 (2) L.W. (Cr1.) 606 and the judgment of the Apex Court in the case of Manik Taneja and another vs. State of Karnataka and another reported in 2015 (7) SCC 423.

6. The learned Additional Public Prosecutor submitted that the case in Crime No.1118 of 2021 for the offence under Sections 143, 447, 341 and 353 IPC came to be registered on the complaint of the Assistant Executive Engineer, PWD, Aayakattu Virivakka Ubakottam, Kangayam, Tiruppur District. On 31.08.2021, message was sent to the farmers to attend the meeting with the PWD officials, they were specifically informed that only representatives should participate in the meeting, on the contrary, more than 100 farmers participated in the meeting, made unlawful demands against the normal procedure being followed. The farmers were explained that the demands made by them cannot be suddenly brought into force and the prevailing practice is followed from the year 2000, the same to be followed this year too. It is further submitted that for higher demand of water and modification in the Scheme, it is a consultative process to be had with several officials and other canal users, after studying the same, for the subsequent years, their demand would be considered. Failing to understand the same, the farmers restrained the Public Works Department officials and not allowed them to move from their place and forced them to accept their demand. Further, they also put up a shamiyana inside the office complex and conducted a sit-in Darna, raised slogans against the PWD officials. Hence, the PWD Engineer lodged a complaint and now the present petition is filed to quash the same. Hence, he sought for dismissal of this petition.

7. Considering the submissions made and on perusal of the materials placed on record, it is not in dispute that on 31.08.2021, the PWD officials called the farmers prior to release of irrigation water as per the Parambikulam-Aliyar Irrigation Scheme. The Vellakoil region is the fourth and the last region, normally prescribed quantity of water is released for a prescribed period. The grievance of the petitioners is that they were given the last priority, due to inadequate release of water the tail end farmers do not receive sufficient water, they are unable to irrigate the field and hence, they demanded adequate release of water with proper interval. This was taken as



offensive. Though initially it was rejected, after a sit-in Darna held outside the Office of the Public Works Department near the residential quarters in a democratic manner, an agreement was signed by the petitioners and the PWD officials on 01.09.2021. The PWD Officials in the rank of Superintending Engineer, Executive Engineer, Assistant Executive Engineer, Tahsildar, revenue officials, Deputy Superintendent of Police and other police personnel were present which is recorded in the agreement. This being the case, complaint was lodged after one month on 01.10.2021, no reason given for the delay in lodging the complaint. Further, from the submission and perusal of materials it is seen that the farmers made their legitimate demand for adequate and proper release of water for their agricultural activities, initially there seems to be some dispute but later the officials agreed and an agreement was entered. This agreement was entered in the presence of revenue officials, Deputy Superintendent of Police and other police personnel. Had there been any unlawful assembly, wrongful restraint and use of criminal force or assault, it cannot happen in the presence of Police officials or unnoticed by officials, in this case no police official or revenue official lodged any complaint immediately. Hence, this Court finds that the farmers' demand for release of water for irrigation cannot be termed as an offensive and no case can be proceeded against them, more so, it is an admitted case that they were called for the meeting, pursuant to the meeting agreement was signed by the farmers, PWD officials in the presence of revenue and police officials for release of water, as per Scheme.

8. Thus, on the above facts of the case this Court finds that no case made against the petitioners, warranting any investigation and continuation of investigation would amount to abuse of process of law.

9. In view of the above, the proceedings Crime No.1118 of 2021 against the petitioners on the file of the Inspector of Police, Kangayam Police Station, Tiruppur District is hereby quashed. The petition is allowed, accordingly. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-V)

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Sub Assistant Registrar



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1. The Inspector of Police,
Kangayam Police Station,
Tiruppur District.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.Guruprasad, Advocate SR.No.3174

CrI.O.P.No.21804 of 2021

MT (CO)
CB (08/04/2022)