



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.22204 OF 2021

&

CRL.MP.NOS.12052 AND 12054 OF 2021

M.N.Bopana

... Petitioner

.Vs.

1. The State Rep. by
The Inspector of Police,
Kolacombai Police Station,
The Nilgiris.
Crime No.8 of 2021.

... Respondent/Complainant

2. Subathira,
The Village Administrative Officer,
Melur-I, Kullakamby Post,
The Nilgiris - 643 218.

... Respondent/Defacto
Complainant

PRAYER:-

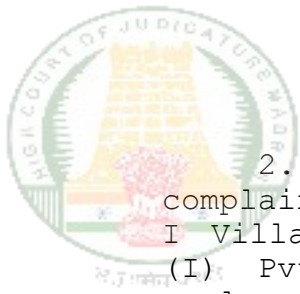
Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records relating to STC.No.625 of 2021 on the file of the Judicial Magistrate, Coonoor, The Nilgiris and quash the same.

For Petitioner : Mr.B.Kumar
Senior Counsel
For Mr.S.Ramachandran

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor
[For R1]

ORDER

The petitioner/accused in STC.No.625 of 2021 for the offence under Section 353 of IPC, filed this quash petition.



WEB COPY

2. The gist of the complaint is that the defacto complainant, who is the Village Administrative Officer of Melur-I Village, within whose jurisdiction the Craigmores Plantation (I) Pvt. Ltd. is situated. Applications received from the employees of the Tea Estate, seeking income certificate, community certificate, nativity certificate, legal heir certificate, etc. To make enquiry on these applications, the Village Administrative Officer has to necessarily visit the applicants' residences which is situated within the Estate, but the Village Administrative Officer not allowed to enter and hence, there was delay in issuing the certificates. Further the Tahsildar and the Revenue Inspector conducted inspection on 11.12.2020 to 15.12.2020 to find out where there is any violation in following the Standard Operation Procedure mandated to curtail Covid-19, on inspection finding there was violation in sanitizing the factory, its machineries handle, telephone, computer, tap, etc. the factory was sealed. On sealing of the factory, it was necessary to monitor the Factory, VAO attempted to enter into the factory and she was not given permission. The petitioner who is the Executive Director of the Estate used abusive words, instructed not to allow the VAO inside the factory and hence, complaint was lodged.

3. The contention of the learned senior counsel for the petitioner is that the date of occurrence is shown as from 12.08.2020 to 23.12.2020, the case was registered five months thereafter only on 13.01.2021 and the reason for the delay in lodging a complaint not explained. The Craigmores Plantation Tea Estate was inspected by the higher officials of District Administration and allegations made that the Management of the Tea Estate was not adhering to the Covid-19 Protocols, hence the factory premises was sealed by the authority, and production activities were stopped. Further, as per the Disaster Management Act, the VAO is not empowered to conduct subsequent inspection after the factory is sealed. On sealing the factory, Craigmores Plantations (I) Pvt. Ltd. filed a writ petition in W.P.No.1326 of 2021 and this Court on 31.03.2021 passed an order appointing an Advocate Commissioner to inspect and file a report, verify whether all protocols mandated by the government for containment of spread of Covid-19 followed. This being so, the revenue authorities issued another notice under the provisions of Tamil Nadu Encroachment Act, 1905 alleging that the Craigmores Plantation (I) Pvt. Ltd., is obstructing free flow of water in the canal passing through the Estate and threatened to remove the bridge connecting the Estate and the road. Again the Estate had to approach this Court, file a writ petition in W.P.No.4183 of 2021, the Division Bench of this Court was pleased to grant interim order on 23.02.2021. The revenue authorities invoking Section 138 of Cr.P.C. directed the Craigmores Plantation to open up the private road for public usage. Challenging the same,



Craigmore Plantation (I) Pvt. Ltd. filed a revision in Crl.R.C.No.151 of 2021 and this Court set aside the order passed by the Special Divisional Magistrate. Earlier to this proceedings, in the year 2015 the Craigmore Plantations (I) Pvt. Ltd. filed petitions in W.P.No.23529 of 2015, W.P.No.36716 of 2015, W.P.No.9182 of 2016 and Crl.R.C.No.892 of 2015, resisted the arbitrary action of the authorities and also obtained order in its favour. Thus, there have been long tussel between the authorities over opening up of the private road of the Tea Factory to be used as a public road and also questioning the usage of canal water for domestic use. It is further submitted that the Estate was paying rent to the Forest Officials for its usages. Thus, with vengeance a false case was foisted against the petitioner. Further, on going through the statement of witnesses, nowhere it is seen that the petitioner obstructed or caused any deterrent to the public servant to carry on with his official duty.

4. The learned Additional Public Prosecutor submitted that on the complaint of the Village Administrative Officer, a case in Crime No.8 of 2021 for the offence under Section 353 of IPC was registered on 13.01.2021. Earlier to it, on the complaint of the defacto complainant, initially C.S.R.No.119 of 2020 was assigned on 23.12.2020 and after enquiry, FIR registered. On registration of FIR, statement of witnesses were recorded. L.W.1 is the Village Administrative Officer, L.W.2 is the Watchman of the Estate, L.W.3 is the tea boy who used to go to the office of Village Administrative Officer in whose presence observation mahazar and rough sketch was prepared, L.W.4 is the Village Assistant and L.W.5 is the Revenue Inspector, both of them accompanied the Village Administrative Officer when she lodged the complaint on 23.12.2020 and C.S.R. was assigned. L.W.6 is the Special Sub-Inspector of Police who registered FIR in this case, L.W.7 is the Investigating Officer, examined the witnesses, recorded the statements, visited the scene of occurrence, prepared observation mahazar and charge sheet in this case came to be filed listing L.w.1 to L.W.7. Further, the Trial Court on perusal of the charge sheet finding prima facie case made out, taken the case on file and issued summons to the petitioner. Hence, he sought for dismissal of this petition.

5. Considering the submissions made and on perusal of the materials placed before this Court, it is seen that the petitioner is the Executive Director of the Tea Estate, the complaint is that the petitioner obstructed and used disrespectful words against the Village Administrative Officer and the Village Assistant/L.W.4, who states that only after getting permission from the petitioner, they would be allowed inside the Factory. This has offended the defacto complainant and complaint was allowed. Admittedly, the Tea Estate and the



factory is a private property, having restriction for entry and exit of the factory premises for security and various other reasons. It is the prerogative of the owner of the property to have restrictions of ingress or egress, more so, when the spread of Covid-19 was virulent, at that time, having restriction of entry cannot be termed as an obstruction, admittedly there is no assault or criminal force employed to deter the public service in discharging duty. Thus, on the above facts of the case, this Court finds that no case was made out against the petitioner warranting prosecution and continuation of prosecution would amount to abuse of process of law.

6. In view of the above, the proceedings in STC.No.625 of 2021 pending against the petitioner, on the file of the Judicial Magistrate, Coonoor, The Nilgiris, is hereby quashed. The petition is allowed, accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Judicial Magistrate,
Coonoor, The Nilgiris.
2. -Do Thro The Chief Judicial Magistrate,
Nilgiris.
3. The Inspector of Police,
Kolacombai Police Station,
The Nilgiris.
4. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.22204 OF 2021

SVI (CO)
PBS/31/03/2022