

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVING ORDER 15.06.2022	DATE OF PRONOUNCING ORDER 30.06.2022
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CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.OP.NO.28117 OF 2017

AND

CRL.MP.NO.15998 OF 2017

M.Thangavel (M/47/2017)
S/o.Maran,
No.5/121, Ayyamgadu,
Ramiyampalayam,
T.K.Palayam Post,
Avinashi 641655
Tiruppur District.

... Petitioner

Vs.

1. The State represented by
The Sub-Inspector of Police,
Tiruppur-South Police Station,
Tiruppur District.
(Crime No.4615 of 2011)
2. V.Sandhiya,
Tahsildar,
Tiruppur Town,
Tiruppur District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.279 of 2012 on the file of the Judicial Magistrate No.II, Tiruppur and quash the same as illegal.

For Petitioner : Ms.K.Nithyashree

For Respondents : Mr.C.E.Prathap (for R1)
Government Advocate

R2 - No appearance

O R D E R

Pursuant to the order made in C.M.P.No.7355 of 2022 in Crl.OP.No.28117 of 2017, this Criminal Original Petition was restored to file and arguments were heard on either side.

2.The Criminal Original Petition has been filed to call for the records pertaining to the proceedings in C.C.No.279 of 2012, on the file of the learned Judicial Magistrate No.II, Tiruppur and to quash the same as illegal.

3.The 2nd Respondent has lodged a complaint against the Petitioner and 32 others alleging that at the instigation of the Petitioner and 2 other accused, 30 people have entered the Taluk office without prior permission and caused law and order problem by preventing the 2nd Respondent from discharging her duties. On the said complaint, FIR No.4615/2011 was registered on 27.09.2011. Subsequently, charge sheet was also filed in C.C.No.279/2012 against the Petitioner and the 2 other accused. Hence the present Criminal Original Petition seeking to quash the proceedings in C.C.No.279 of 2012

4.Learned counsel for the Petitioner would contend that as per the complaint given by the 2nd Respondent, the Petitioner was not present at the place of occurrence of crime and it was alleged that he only instigated which resulted the crime scene. The 2nd Respondent/Defacto Complainant in her statement admitted that the said 30 persons have caused problem at the crime scene. The allegations made in the complaint are contradictory to the statement of the 2nd Respondent under Section 161(3) of IPC. However, the same was overlooked while filing charge sheet against the Petitioner.

5.The learned counsel for the Petitioner would contend that the Petitioner is a social activist and has been raising awareness among the socially backward community people. Therefore, the complaint given by the 2nd Respondent is politically motivated and present criminal case has been registered against the Petitioner without any basis. No prima facie case is made out against the Petitioner.

6.On perusal of the complaint and statement recorded from the 2nd Respondent during the investigation, which is culminated in filing of the final report, this Court finds that the Defacto Complainant is the Tahsildar, Tiruppur District. According to the complaint on 27.09.2011 at about 03.00 pm, 30 people belonging to Bhodhampalayam Village, at the instigation of member of Viludhugal Organisation viz., the Petitioner herein and two others, trespassed into the Tiruppur District Collector

Office, without prior permission and created law and order problem inside the Taluk Office and prevented the Tahsildar from attending her regular work and also attending the election work. After investigation, the Sub-Inspector of Police, Tiruppur-South Police Station, Tiruppur has filed a charge sheet under Section 353 of IPC. Section 353 of IPC reads as follows:

Section 353 - Assault or criminal force to deter public servant from discharge of his duty

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

7. Admittedly, the Defacto Complainant is a Tahsildar, the place of occurrence is the District Collectorate office at Tiruppur and plea of the Petitioner is that he is not present at the place of crime and other 30 members were not implicated in the final report and that he is not criminally intimidated the Defacto Complaint are all matter of evidence, that has to be gone into at the time of trial. There are complaint and the statement given by the Tahsildar, who is admittedly a public servant and lady officer.

8. The essential ingredients of Section 353 of IPC is made out and other averments made in this Petition are for the matter of trial and hence I am of the considered view that the issue that has been raised by Petitioner are only for the matter of evidence, which could be gone into only at the time of full fledged trial and hence, I am not inclined to grant the prayer sought for the Petitioner.

9. In fine, this Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Tiruppur.
2. The Chief Judicial Magistrate,
Tiruppur.
3. The Sub-Inspector of Police,
Tiruppur-South Police Station,
Tiruppur District.
4. The Public Prosecutor,
High Court,
Chennai 600 104.

CrI.OP.No.28117 of 2017
and
CrI.MP.No.15998 of 2017

AJB(CO)
RLP(25/07/2022)