



WEB COPY



Crl.O.P.No.22646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.10.2023

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22646 of 2023
& Crl.M.P.Nos.15831 & 15834 of 2023

P.Kumaravel,
S/o.Late A.V.Pandian,
Aged about 58 years,
Plot No.2F, Block 1, Ceebros,
Shayamala Garden,
Arcot Road, Virugambakkam,
Chennai.

... Petitioner/Accused No.1

/versus/

T.Dinesh,
S/o.Justice S.Thangaraj (Retd),
Plot No.2239, AF Block, 6th Street,
11th Main Road, Anna Nagar,
Chennai – 600 040.

... Respondent/Complainant.

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
pleased to call for the records in C.C.No.83 of 2023 pending on the file of the
District Munsif-cum-Judicial Magistrate, Uthiramerur and quash the same.

For Petitioner : Mr.Abdul Saleem, Senior Counsel,
for M/s.AAV Partners.

For Respondent : Mr.T.Dinesh, Party-in-Person.



WEB COPY



Crl.O.P.No.22646 of 2023

ORDER

This Criminal Original Petition is filed by the 1st accused to quash the criminal complaint pending against the petitioner in C.C.No.83 of 2023, on the file of Judicial Magistrate, Uthiramerur.

2. The petitioner herein is the Chief General Manager (Retail Sales, Rural Marketing, South & West), Marketing Division Head Office, Indian Oil Corporation Limited Mumbai. The private complaint, on whose instant, the case been taken on file is son of a former Judge of this High Court, by name Justice Mr.S.Thangaraj. The complainant was a former dealer under the Indian Oil Corporation to run the petroleum outlet at Uthiramerur.

3. The complaint which is sought to be quashed is on the premises that, the complainant, who was granted dealership to run Indian Oil Corporation outlet had established the business of Petrol Bunk at Uthiramerur, in the land owned by his brother Gopi Shankar. The temporary license to run the bunk was issued on 20.02.2006. The Petrol bunk was supposed to be established in 6498 sq.ft of land. No Objection Certificate was issued by the District Collector and



from out of 6498 sq.ft of land owned by his brother Mr.Gopi Shankar, Indian Oil Corporation entered into a lease deed with him on 30.06.2008, to an extent of 5460 sq.ft. However, the rough sketch for entire 6498 sq.ft of land was enclosed along with the lease deed. The work order for constructing the infrastructure of the outlet was issued by the District Revenue Officer on 20.11.2006, thereafter, the construction work was delegated to the contractor.

4. The grievance of the complainant is that, the storage tank for the petroleum product was not properly constructed. There was pilferage and loss of petroleum stored in the tank. In this connection, while auditing the Petrol Bunk, the Officials have noted loss of petroleum stored in the storage tank. One of the Sale Officer of Indian Oil Corporation inspected the storage tank and found that, there was leakage in the pipeline. Due to erroneous construction of the tank foundation, he incurred heavy loss and stopped running the business from the month of October 2008. He was repeatedly requesting the Indian Oil Corporation Authorities to rectify the defect in the tank, leading to loss of Petroleum, due to suspected pipeline leakage and tilt tank. His request was not considered by the Indian Oil Corporation Authorities, even after 9 months. Therefore, he being a



Crl.O.P.No.22646 of 2023

member of Schedule Caste, gave a complaint to the National Commission for Schedule Caste. Enquiry was conducted by the Commission on 11.10.2010. The Commission report suggested to compensate the loss to the defacto complainant and to give dealership in an alternate place. Based on the said recommendation, the complainant, requested one Mr.Varaprasad Rao, CBM IOCL, to compensate the loss and to give dealership in alternate place but that was not considered. In this regard, there was continuous enquiry by the District Revenue Officer and at last, on 19.09.2011, order was passed. In the meantime, the No objection Certificate granted earlier was also cancelled. His appeal to the District Collector was not taken into consideration. Thereafter, the petitioner been moving the Courts by filing few Writ Petitions and other proceedings, including arbitration petitions.

5. While so, on 18.02.2017, he along with the land owner (his brother) and the Management of Indian Oil Corporation, organised removal of tank to examine how it was constructed. But without notice, the petitioner herein along with the Contractor Mahindiran, on 04.11.2018, at 11.00 a.m removed the tank using poclain. This was done with intention to erase evidence. In this regard,



he filed petition before the High Court and on the direction of the High Court, complaint was registered in Crime No.20 of 2020, for offence under Section 336, 427, 409, 420, 506(i) of I.P.C against this complaint and other complaints not properly taken up for investigation hence, narrating all these facts and alleging that, the grant of license was based on the rough sketch of the land including the larger extent of the land owned by his brother, the defacto complainant had sought for taking criminal action against the Officials of Indian Oil Corporation and Revenue Department Officials under I.P.C offences as well as under SC/ST Act.

6. The petitioner herein is arrayed as 1st accused and he seek interference of this Court to quash the above complaint on the ground that, it is a malicious prosecution, abuse of process of law and intentional misuse of law with ulterior motive. According to the petitioner, on the priority quota for SC/ST candidates, the petitioner was awarded dealership of Indian Oil Corporation outlet at Uthiramerur. The agreement between the Indian Oil Corporation and the complainant was entered on 13.08.2007. After running the business for nearly one year, for the reason best known, the respondent/complainant had stopped the operation of the outlet. The respondent made a request to award dealership within



CrI.O.P.No.22646 of 2023

the Chennai City limit, which was not permissible, as per the Indian Oil Corporation dealership Policy. Hence, his request was declined. Thereafter, he failed to resume the business and hence, the contract was terminated as per the provisions of the contract. The termination order was challenged by the complainant through arbitration proceedings by invoking arbitration clause in the contract. The arbitration petition was dismissed as withdrawn on 10.08.2009. On 19.09.2011, the petitioner, who was the dealer and his brother the owner of the land on their own, requested the District Revenue Officer to cancel the NOC issued in favour of Indian Oil Corporation and the same was entertained by the District Revenue Officer and he cancelled the NOC. A formal termination of the dealership was issued on 08.01.2013. Challenging the termination, once again, the defacto complainant initiated arbitration proceeding on 01.10.2013. The said arbitration proceedings ended in passing an award upholding the termination of the dealership. The award passed on 26.07.2016, is under challenge in Arbitration O.P.No.482 of 2017, initiated by the complainant.

7. In the said circumstances, having found that, his attempt to arm twist the Indian Oil Corporation Authorities by using his background failed, the



CrI.O.P.No.22646 of 2023

respondent/complainant started adopting a dubious device of lodging complaints under SC/ST Act. On 27.03.2017, the respondent made a complaint to Teynampet Police Station and the same was closed, after enquiry. Thereafter, on his instance, F.I.R in crime No.20 of 2020 was registered at Uthiramerur Police Station against this petitioner and others for I.P.C offences. After due enquiry, this complaint was closed as mistake of fact on 30.01.2020. Then he started indulging in slanderous propaganda against the Indian Oil Corporation officials and others. Therefore, the petitioner was constrained to move the High Court, for direction to issue restrain order. In the petition filed in O.P.No.482 of 2017, the Hon'ble High Court passed order restraining the respondent from making reckless statement and publication. This order dated 21.01.2021, though in force, the petitioner continues to circulate damaging messages against the Indian Oil Corporation Officials including Judges of the High Court.

8. While facts are being so, the petitioner made a third attempt of filing the complaint on 13.03.2021, before the Uthiramerur Police Station, in Crime No.137 of 2021, for offence under SC/ST Act. The said complaint came to be quashed in O.P.Nos.7345 and 8385 of 2021 by the High Court, on 19.10.2022.



CrI.O.P.No.22646 of 2023

Having failed in all these arm-twisting attempt, the petitioner, on 14.12.2022, had filed the impugned private complaint under Section 200 of Cr.P.C., for prosecuting the Officials of Indian Oil Corporation under I.P.C and SC/ST Act, alleging that, the incident which happened on 04.11.2018, attracts offence under the provisions of I.P.C and SC/ST Act.

9. The defacto complainant appeared in party-in-person, had made his submission to sustain his complaint. According to the defacto complainant, his primary grievance is in respect of improper construction of storage tank through the contractor, which was the cause for loss and refusal of his request to give dealership in an alternate place at Chennai. He never addressed in any of his earlier proceedings about the defective construction of tank. He though claims that those informations are available in the file of Indian Oil Corporation, but not been produced by Indian Oil Corporation and now they claim that, those records are non-traceable. The proceedings of the Additional Chief Secretary, Transport Commissioner and Road Safety, dated 29.04.2021, is relied upon by him, to substantiate his complaint and the offence committed by the Indian Oil Corporation, in respect of that, no action been taken. Hence, he has filed the



private complaint.

WEB COPY

10. The examination of documents produced by the petitioner and the respondent/complainant disclosed that the defacto complainant, who was identified for dealership had offered his own brother's land for establishing the unit. Based on his consent, the proposal to grant license been processed. On an understanding that, 5440 sq.ft leased to Indian Oil Corporation, reserving around 1000 sq.ft of land remains adjacent to that which is owned by the brother of the respondent will also be used in case of necessity. However, after the Petrol bunk become functional, for some reason, Mr.Gopi Shankar, the brother of the complainant had caused notice to Indian Oil Corporation alleging that, the additional extent of 1000 sq.ft been wrongly occupied by Indian Oil Corporation and it has to be vacated within 10 days. Due to that, the defacto complainant was not able to run the bunk and was the primary cause for the defacto complainant herein to close the bunk. Thereafter, the defacto complainant had been inventing one reason or another for his failure to continue the dealership. In fact, the petitioner and his brother have jointly requested the District Revenue Officer, to cancel the NOC issued in favour of Indian Oil Corporation, to run the petrol bunk in that place. This happened in the year 2011. The Arbitration proceeding



CrI.O.P.No.22646 of 2023

initiated by the defacto complainant in the year 2009 and another in the year 2013,

both not ended in favour of the defacto complainant. The appeal against the subsequent arbitration award filed by the defacto complainant is pending before the High Court in O.P.No.482 of 2017. The attempt of the defacto complainant to give criminal colour to the civil transaction is obvious. The civil dispute which commence from the formal termination in the year 2013 ended after the arbitration proceedings ended against the him. The respondent had preferring appeal against the arbitration award and same pending. While so, from 2017 till December 2022, thrice the complainant had attempted to give a criminal colour to a purely civil transaction. The defacto complainant under the grab of protecting the public safety and his safety, has now started blowing the bugle, after 4 years of the termination of his contract. This Court is of the view that, this is a clear abuse of process of law and misuse of statutory provision by the defacto complainant. Therefore, ***Criminal Original Petition is allowed.*** The case in C.C.No.83 of 2023, pending on the file of the District Munsif-cum-Judicial Magistrate, Uthiramerur, is hereby quashed. Consequently connected Miscellaneous Petitions are closed.



CrI.O.P.No.22646 of 2023

19.10.2023

Index :Yes/No.

Internet :Yes/No.

Speaking Order/Non-Speaking Order
bsm

Copy to:-

1. The District Munsif-cum-Judicial Magistrate, Uthiramerur.



WEB COPY



Crl.O.P.No.22646 of 2023

Dr.G.Jayachandran, J.

bsm

Crl.O.P.No.22646 of 2023

19.10.2023

Page No.12/12