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Crl.O.P.No.27990 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.27990 of 2022

and

Crl.M.P.No.17191 of 2022

C.Kandasamy

... Petitioner

Vs.

1.State Rep. by
The Inspector of Police
Kangeyam Police Station,
Kangeyam, Tiruppur District.
(Crime No.391 of 2022)

2.M.Baskaran

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records concerned in Crime No.391 of 2022 on the file of the Inspector of Police, Kangeyam Police Station, Kangeyam, Tiruppur District and quash the same.

For Petitioner : Ms.T.Tamil Selvi
for Mr.C.Prakasam

For R1 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in Crime No.391 of 2022 on the file of the Inspector of Police, Kangeyam Police Station, Kangeyam, Tiruppur District, for the offence punishable under Section 430 of IPC.

2. The case of the prosecution is that the petitioner illegally took water from the PAP canal for commercial purpose, hence the complaint.

3. The learned counsel for the petitioner submitted that the petitioner was elected as Vice Chariman of the Kangeyam Municipality during the period 2017-2021. During such periods drinking water scarcity's area, the public made requests to supply drinking water from the petitioner's father's well situated at S.No.388/10, Kangeyam Village. To meet the requirements of the public, the petitioner used to supply drinking water to them free of cost, using the petitioner's own vehicles on the public road along the banks of the Parambikulam Aliyar Project scheme canal. Since, the Government of Tamilnadu implementing the Pambikulam- Aliyar Scheme for digging the canal, they acquired 1.5 acre of the petitioner's land and disbursed the



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compensation as a meager amount. At that time, officials assured that they can use the road laid along the banks of the PAP canal, as they have no other way to reach the main road. Having allowed them for more than 50 years to use the said road (Jeep Road). But now, due to a change of Chairmanship in the Kangeyam Municipality, the present Chairman, belonging to the ruling party, is insisting that the 2nd respondent issue communication in letter No.2/KO.05/AE-1/Kangeyam/2022 dated 30.05.2022 to the petitioner, stating that the petitioner is using the Jeep Road for commercial purpose and should not use it. If the petitioner used it, legal action will be taken against them. However, the petitioner never used the said road for commercial purpose. Due to political motivations, the 2nd respondent is supporting the present Chairman, even though the said jeep road is used by thousands of people. But the 2nd respondent restricts the petitioner alone, proving that the 2nd respondent acted upon instruction given by the present Municipal Chairman.

4. He further submitted that after receiving the above said communication dated 30.05.2022, the petitioner sent a legal notice to the 2nd respondent on 31.05.2022 and explained everything, clearly stating that the



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petitioner has been using the said road for more than 50 years and the public also uses it. However, no reply was given. On the other hand, the 2nd respondent, with the help of local police, preventing the petitioner from use the said jeep road, while thousands of public used the said road by plying vehicles. Furthermore, rice mill owners and coconut oil mill owners also used the same road. The present Municipal Chairman, who has 10 commercial water tank lorries, also uses the same jeep road and sells water to the commercial establishments. However, the 2nd respondent has not taken any action against them. He also submitted that the 2nd respondent quoted the Government Order as well as this Court order, noting that the petitioner's open Well is situated beyond the prohibited distance of 50 meters from PAP canal. Hence, as per the Government Order issued in the year 1967, if the open well is situated beyond 50 meters from the Canal, they can free from using the water. In fact, the petitioner not selling any water for commercial purpose. Hence, he prayed to quash the proceedings against him.

5. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that the petitioner illegally used the Parambikulam



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Aliyar Project Scheme Canal for commercial purpose by taking water from the prohibited area and selling the water to a third party. He further submitted that the case is only at the stage of FIR, and it needs detailed investigation. Hence, he raised a strong objection to quash the proceedings against the petitioner.

6. On considering the submissions made by the Government Advocate (Crl.Side) and the gravity of the offences committed by the petitioner, and as it needs detailed investigation, this Court declines to quash the proceedings in Crime No.391 of 2022, on the file of the Inspector of Police, Kangeyam Police Station, Kangeyam, Tiruppur District.

7. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. Consequently, the connected miscellaneous petition is closed.

09.01.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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To

1.The Inspector of Police
Kangeyam Police Station,
Kangeyam, Tiruppur District.
(Crime No.391 of 2022)

2.The Public Prosecutor,
High Court of Madras.

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and
Crl.M.P.No.17191 of 2022

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