



CRL OP(MD). No.12487 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12.02.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.12487 of 2022 and
Crl.M.P.No. 7905 of 2022**

J. Selvaraj

... Petitioner

Vs

1. The State Rep by its,
The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District,
(In Crime No.181/2015).

2. Jebas, Forest Ranger,
Forest Office,
Varusa Naadu,
Theni District.

3.C.Gurusamy

4.R.Kanchana

5.Petchimuthu

6.Mohandoss

... Respondents



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PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to call for the records relating to the order of the Learned Judicial Magistrate, Ambasmudram, Tirunelveli District dated 14.12.2021 Cr.M.P.No.1075 of 2016 in connection with Crime No.181 of 2015 on the file of the 1st Respondent Police and set aside the same as illegal and to direct the learned Judicial Magistrate, Ambasmudram to take cognizance the case without insisting the sanction order U/s. 197 of Cr.P.C.

For Petitioner : M/s. AS. Krishnan

For Respondents : M/s. P. Kottaichamy for R1
Additional Public Prosecutor

No appearance for R2 to R7

ORDER

This petition has been filed to set aside the order dated 14.12.2021 in Cr.M.P.No.1075 of 2016 and to direct the learned Judicial Magistrate, Ambasmudram to take cognizance of the case, without insisting the sanction order under Section 197 of Cr.P.C.

2.The case of the prosecution is that the petitioner is an employee of one Vasantharani, who is having 433 acres of land in Kattalamalai Estate and the petitioner being the employee has a right to cross the



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reserve forest for maintaining the land. While so, on 19.04.2013, it is alleged that on noticing that the forest officials were cooking some food, which containing animal content, the petitioner preferred a complaint against the officials. Since, after investigation, the same was closed as 'Mistake of fact', the petitioner has approached the jurisdictional court under Section 156(3) to register a case, which was also closed as Mistake of fact, as against which, the petitioner filed another complaint under Section 200 Cr.P.C., which came to be dismissed by the court below stating that sanction under Section 197 Cr.P.C was not obtained for prosecuting the Government officials. Against the dismissal of the said petition, the petitioner is before this court with this petition.

3.The learned counsel for the petitioner would submit that without application of mind, the order of dismissal came to be passed by the Court below on the ground that sanction under Section 197 Cr.P.C. was not obtained. He would further submit that as per the guidelines of the Apex Court, at any stage before passing any orders, sanction could be obtained and taking cognizance of the case is not a bar under Section 197 Cr.P.C. In order to substantiate his contention, the learned counsel has



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relied on a judgment of the Apex Court in Shadakshari v. State of Karnataka and another [2024 Livelaw (SC) 42] and accordingly, prays for interference.

4.The learned Government Advocate (Crl.side) would however submit that admittedly, the petitioner's complaint was registered and subsequently on completion of investigation, it was closed as 'mistake of fact' and subsequently, on a petition filed by the petitioner under Section 156(3) and 200 Cr.P.C., the court below has taken cognizance and rightly dismissed the case for want of sanction under Section 197 Cr.P.C. It is the further contention that as against the petitioner, a case has been registered by the officials in WLOR No.3/2013. Hence, no interference is warranted to the order of the learned Magistrate and prays for dismissal.

5. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

6. The issue involved in this petition is as to whether sanction under Section 197 Cr.P.C., to prosecute the Government officials is



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required or not. The petitioner's case is that during the course of employment, the respondents 2 to 6 were cooking food with animal content, which was noticed by the petitioner and when questioned, he was threatened by the officials. Rightly, the petitioner has preferred complaints before the respondent police, which was closed as mistake of fact. However, challenging the same, the petitioner filed a protest petition under Section 156(3) Cr.P.C., by way of private complaint, which was also closed as Mistake of Fact, thereafter, the petitioner has filed a complaint under Section 200 Cr.P.C., which was taken on file in CrI.M.P.No.1075/2016. It is seen that the said petition was dismissed for want of sanction under Section 197 Cr.P.C. It is pertinent to note here that the occurrence said to have happened, according to the petitioner, in the year 2013, whereas, the complaint came to be preferred only in the year 2015. It is also to be noted that a case has been registered against the petitioner WLOR No.3/2013 by the respondent officials and the driving license of the petitioner as well as his belongings were handed over to the learned Magistrate in CrI.M.P.No.6833/2014. When that being the position, if the petitioner intends to prosecute the officials by challenging their act, the petitioner has to necessarily obtain sanction



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under Section 197 Cr.P.C., which was rightly not obtained, from the department and on that ground alone, the court below has rightly dismissed the petition filed by the petitioner. It is also to be seen that the petitioner has slept for nearly about 2 years and preferred the complaint and the decision relied on by the petitioner (supra), will not come to the aid of the petitioner, for the simple reason, that in that case, the respondent/official therein, among other accused, fabricated documents while discharging his official duty. However, the facts in the present case was different as that of the relied on decision and in the present case, a case has been registered against the petitioner also by the officials. Accordingly, for all these reasons, no interference is warranted to the order dated 14.12.2021.

7. In the result, this criminal original petition is dismissed. Consequently connected Miscellaneous Petition is closed.

12.02.2024

NCC : Yes/No
Index : Yes/No
RR



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TO
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The Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District



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M.DHANDAPANI. J

RR

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IN
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