



WEB COPY



Crl.O.P.(MD)No.22266 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.22266 of 2022
and Crl.M.P.(MD)No.15727 of 2022

1.Ayyappan

2.Saravanan

... Petitioners

Vs.

The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
(Crime No.39 of 2018)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the judgment dated 27.07.2022 in S.C.No.40 of 2018 on the file of the learned Principal District Judge, Theni to expunge the remarks made against the petitioners in the said judgment in Para No.34, 35 insofar as the directions given to the Government of Tamil Nadu to initiate disciplinary proceedings against the petitioners/PW 6 and PW 7 and also directing for recovery of a sum of Rs.2.00 lakhs from the petitioners/PW6 and PW 7 herein within a period of 6 months from the date of receipt of copy by allowing the above criminal original petition.

For petitioners : Mr.C.Jeganathan

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor



ORDER

WEB COPY

This criminal original petitio has been filed to expunge the remarks made against the petitioners in the judgment dated 27.07.2022 in S.C.No.40 of 2018 on the file of the learned Principal District Judge, Theni in Para No.34, 35 insofar as the directions given to the Government of Tamil Nadu to initiate disciplinary proceedings against the petitioners/PW 6 and PW 7 and also directing for recovery of a sum of Rs.2.00 lakhs from the petitioners/PW6 and PW 7 herein within a period of 6 months from the date of receipt of the said judgment.

2.The petitioners are the Block Development Officer and Deputy Block Development Officer of the local Panchayat. One Arivalagan damaged the public road to the extent of 100 meter and hence, the defacto complainant preferred a complaint, based on which, a case was registered in Cr.No.39 of 2018 for the offence punishable under Sections 294(b) IPC r/w Section 3(3) TNPPDL Act. The respondent Police, upon completion of investigation, filed charge sheet, which was taken on file in S.C.No.40 of 2018 by the learned Principal District Judge, Theni. Before the trial Court, the defacto complainant was examined as P.W.1 and the petitioners herein were examined as P.W.6 and P.W.7. P.W.1 to P.W.5, who are all eye witnesses to the occurrence, turned hostile, except



the petitioners herein. Therefore, the trial Court acquitted the accused.

The petitioners herein deposed before the trial Court that the accused caused damage to the tune of of Rs.2,00,000/-. Therefore, the learned trial Judge observed in the judgment that if the petitioners herein had taken immediate action, the accused will be punished in the manner known to law and due to the lethargic attitude of the petitioners, loss to the tune of Rs.2,00,000/- caused to the Government and thereby, issue a direction to the State Government to take appropriate disciplinary proceedings as against the petitioners and also ordered for recovery Rs.2 Lakhs from the petitioners. Challenging the same, the present petition came to be filed.

3.The learned counsel appearing for the petitioners submitted that the petitioners stood as witnesses before the trial Court as P.W.6 and P.W. 7 in S.C.No.40 of 2018. The learned Principal District Judge, Theni observed in the judgement in paragraph Nos.34 and 35 that if the petitioners took action immediately before complaint made by the defacto complainant, the damage will be prevented. He further submitted that already the defacto complainant set the law in motion and the petitioners herein stood as witnesses and thereby, direction to take appropriate action as against the petitioners for not preventing the



damage caused by the accused, is not sustainable one and with regard to the damage, it is duty of Panchayat President to make a complaint. He also submitted that before such observation made, no opportunity was given to the petitioner. In support of the contention, the learned counsel relied upon the decision of the Hon'ble Supreme Court in a case of ***Dr.Dilip Kumar Deka and another Vs. State of Assam and another*** reported in ***(1996) 6 SCC 234*** and judgment of this Court in Crl.O.P. (MD)No.38468 of 2004 dated 01.02.2007 and Crl.O.P.No.11154 of 1999 dated 13.08.1999.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners worked as Block Development Officer and Deputy Block Development Officer at the relevant point of time. If the petitioners have filed a complaint before the respondent police prior to the P.W.1's complaint, the investigation will be conducted in a proper manner. However, the petitioners instead of taking immediate action by filing complaint, stood as witnesses and a loss of Rs.2,00,000/- was caused to the Government. For which, the trial Court issued a direction to the State Government to initiate appropriate action as against the petitioners and hence, there is no need to interfere with the same. Accordingly, he prayed to dismiss the present petition.



WEB COPY



Crl.O.P.(MD)No.22266 of 2022

5.Heard the learned counsel on either side and perused the materials available in the record.

6.It is seen that the petitioners herein are the Government employees and they stood as witnesses in S.C.No.40 of 2018. As rightly pointed out by the learned Additional Public Prosecutor, if the petitioners filed a complaint prior to the P.W.1's complaint, the accused will be punished and due to the lethargic attitude of the petitioners herein, a loss was caused to the tune of Rs.2,00,000/- to the Government. Therefore, the learned trial Judge rightly observed that appropriate disciplinary proceedings has to be initiated as against the petitioners and therefore, this Court finds no infirmity in the judgment passed by the trial Judge. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

20.02.2024

Index : Yes/No
Internet : Yes/No
gns



WEB COPY



Crl.O.P.(MD)No.22266 of 2022

M.DHANDAPANI. J.

gns

To

- 1.The Principal District Judge,
Theni.
- 2.The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.22266 of 2022

20.02.2024