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CrI.O.P.(MD)No.21621 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P(MD)No.21621 of 2024

and

CrI.M.P.(MD)Nos.13390 and 13391 of 2024

1.Suresh

2.Rani @ Rani Ammal

3.Manikandan

... Petitioners

-Vs-

1.The State rep. by its

The Inspector of Police,

Tiruchendur Temple Police Station,

Thoothukudi District.

(Crime No.141 of 2024)

2.RS.Venkatesh

... Respondents

Prayer: Criminal Original Petition - filed under Section 528 of Bharatiya
Nagarik Shuraksha Sanhita, to call for the records and quash the same in
STC No.179 of 2023 on the file of the learned Judicial Magistrate,
Tiruchendur.

For Petitioners : Mr.D.S.Haroon Rasheed

For R1 : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to quash the
proceedings in STC No.179 of 2023 on the file of the learned Judicial
Magistrate, Tiruchendur.



2. The case projected against the petitioners is that the petitioners are the lease holder of the shops belonging to Arulmigu Subramaniasamy Temple, Tiruchendur. The defacto complainant is the Assistant Commissioner in that temple. When the defacto complainant asked the petitioners to vacate the shops on completion of their lease period and when the defacto complainant attempted to lock and seal the shop, the petitioners wrongfully restrained the defacto complainant and deter the temple authorities from discharging their official duty. Hence, the complaint had been lodged and case has been registered and on completion of investigation, charge sheet has been registered.

3. The learned counsel appearing for the petitioner contented that the petitioners are running the shop after obtaining proper license and the petitioners are paying the monthly rent regularly without any default. He further submitted that the lease is in force up to 05.06.2024. The defacto complainant without issuing any notice and when the lease period is not over, had attempted to lock and seal the shop and asked the petitioners to vacate the shop by using his force. Hence, the petitioners restrained the defacto complainant and there arose a wordy quarrel between the petitioners and the temple officials. He further submitted that after the incident, the petitioner was permitted to continue to be lessees. Having permitted the petitioners to continue as lessees, initiating criminal



proceeding against the petitioners is nothing but an abuse of process of law.

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4.The learned counsel for the petitioners in support of his submission has relied upon the judgment of this Court made in **CrI.O.P. (MD)No.10932 of 2019 dated 20.01.2022**, wherein this Court by relying upon the case in *Jeevanantham and others vs. State, rep by the Inspection of Police reported* in 2018 (2) L.S. (CrI.,) 606 had held that there existed some hindrance for the movement of the general public for some time that by itself does not constitute an offence of wrongful restraint. He further relied upon the judgment of the Hon'ble Supreme Court in the case of *Manik Taneja and another vs. State of Karnataka and another [2015 (7) SCC 423]*, in which it has been held that the essential ingredients of the offence under Section 353 IPC is that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty.

5.The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case, on the complaint of the defacto complainant, a case has been registered and after investigation,

L.W.1 to L.W.5 were examined and charge sheet has also been filed.



The temple authorities had asked the petitioners to vacate the shop on completion of their lease period and there arose some wordy altercation. He fairly submitted that except the wordy altercation, there have been no use of force by the petitioners.

6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.Admittedly, the petitioners are lease holders under the second respondent/defacto complainant, who is serving as an Assistant Commissioner, Arulmighu Subramania Swami Temple, Tiruchendur, Thoothukudi District. After the expiry of the lease period, the petitioners were directed to hand over the shop. However, they continued to stay there without abiding by the directions of the temple authorities. However, the petitioners are paying the monthly rent and the same has been received by the temple authorities. On 03.12.2021, the petitioners were directed to vacate the shop and the petitioners resisted for the same. After 03.12.2021, the petitioners continued to be recognized as lessee and the lease amount has also been collected from the petitioners.



8.In view of the said continuance, this Court is of the view that the act of the petitioners on 03.12.2021 showing some resistance for vacating the shop shall be condoned. Further, apart from raising objection, the petitioners have not used any force or threat to the temple authorities and none of the witnesses have stated that the petitioners have restraint to move on the direction.

9.In view of the above, the proceedings in S.T.C.No.179 of 2023 on the file of the learned Judicial Magistrate, Tiruchendur is hereby quashed and this Criminal Original Petition is allowed. consequently, connected miscellaneous petitions are closed.

10.12.2024

Index : Yes/No

Internet : Yes/No

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To

1. The Inspector of Police,
Tiruchendur Temple Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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